

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02D .0404

DEADLINE FOR RECEIPT: Friday, June 14, 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:

I don't see any abbreviations in (a). Please consider removing "abbreviations" and make this a complete sentence to make it clear when these definitions will apply. A suggestion would be something like "The definitions set forth in this Paragraph shall apply to this Rule."

Please put the definitions in (a) in alphabetical order.

In (a)(2), please verify that 136-44.1 is the correct cross reference. I don't read this statute as pertaining to this definition.

(a)(4) is missing a closing quotation. In addition, why is "municipal system" in parenthesis? Is this another way of saying "non-state municipal highway"?

In (a)(4), please double check the capitalization of "Non-State system Municipal Highway"

In (a)(4), please change "which" to "that" in "which is not part"

In (a)(8), please add commas before and after "including paved shoulders and on-street parking" and change "but does not include" to "but not including"

In (a)(9), please add a comma before and after "or tunnels"

Overall, please consider revising this Rule to be in active voice. For example, in (b)(1), "The Department shall patch and resurface pavement." In (b)(2), "The municipality shall repair pavement cuts made for utility repair or other purposes under the control of the municipality." (b)(9), consider saying "The Department shall maintain, repair, and replace guard rails on highway system streets and highways." In (b)(10)(A), "The Department shall maintain street lighting on freeways, interstate systems, and other controlled access highways if determined to be necessary for public safety." In (b)(11), "The Department and the municipality shall ensure that traffic lanes are kept open. In the event that any traffic lanes are blocked for any reason, the Department and the municipality shall ensure that the blockage is signed or flagged."

Amber May
Commission Counsel

Date submitted to agency: Friday, May 31, 2019

In (b)(3), what is meant by “the approval”? IS this more of a contractual thing or is this a true approval process?

In (b)(3), please delete or define “proper” in “proper signs”

In (b)(3), when would flagmen be necessary?

In (b)(5)(C), how is the written approval to be obtained and how will it be determined whether it will be granted?

In (b)(7)(A), what is meant by “provided herein”? This Subparagraph? This Rule?

(b)(7)(B)(ii) seems to be missing something. Please review and revise as necessary.

In (11), please change “insure” to “ensure”

In (11), delete or define “properly” in “properly signed”

Why is 143B-350 included in your History Note? These appear to be under the authority of the Department.

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: Friday, May 31, 2019

1 19A NCAC 02D .0404 is readopted as published in 33:16 NCR 1717-1720 with changes as follows:

2
3 **19A NCAC 02D .0404 MAINTENANCE WITHIN MUNICIPALITIES**

4 (a) Definitions and Abbreviations. ~~The following is a listing of definitions to provide greater understanding of this~~
5 ~~Rule:~~

- 6 (1) ~~Municipality~~ “Municipality” means an incorporated city or town within the State of North Carolina.
- 7 (2) ~~The State Highway System~~ highway system includes those streets and highways as described in
8 G.S. 136-44.1.
- 9 (3) ~~State Municipal System Street or Highway is~~ “State municipal system street” or “State municipal
10 street highway” mean any street or highway on the ~~state~~ State highway system within a municipality.
11 ~~Note: See G.S. 136-66.1(1)~~
- 12 (4) ~~Non State System Municipal Street or Highway (Municipal System) is~~ “Non-State municipal street”
13 or “Non-State system Municipal Highway (municipal system) mean any street or highway accepted
14 by the municipality which is not a part of the ~~state~~ State highway system. ~~[Note: See G.S.~~
15 ~~136-66.1(2)]~~
- 16 (5) ~~A Rural Highway or Street is~~ “Rural highway” or “Rural street” means a highway or street on the
17 ~~state~~ State highway system outside the limits of a municipality.
- 18 (6) ~~Board~~ “Board” means the Board of Transportation.
- 19 (7) ~~Maintenance~~ “Maintenance” means routine care or upkeep to keep roads, ~~streets~~ streets, or highways
20 in the existing condition and with the existing traffic carrying capacity.
- 21 (8) ~~Pavements are~~ “Pavement” means the paved portion of streets including paved shoulders and ~~on~~
22 ~~street~~ on-street parking areas but does not include sidewalks and driveways.
- 23 (9) ~~Storm Drainage or Storm Sewers means~~ “Storm drainage” or “Storm sewers” mean a system of
24 underground pipes, culverts, conduits or tunnels including drop inlets and catch basins, designed to
25 convey water from surface areas to eventual disposal into outfall streams.
- 26 (10) ~~Open Drainage~~ “Open drainage” means drainage systems utilizing open side ditches, tail, lateral and
27 outfall ditches to convey surface water to outfall streams.
- 28 (11) ~~Cross Pipe Lines are~~ “Cross pipe lines” means pipe lines under the roadway surface, designed to
29 convey water from one side of a street or highway to the other.
- 30 (12) ~~Shoulder is~~ “Shoulder” means earthen, soil, clay, gravel or turf section of pavement support
31 extending from outer pavement edge to the bottom of side ditch, including shoulder sections which
32 are paved.
- 33 (13) ~~Sidewalk~~ “Sidewalk” means paved walkway, paved or unpaved, parallel to streets or highways.

34 ~~(b) Maintenance Responsibility.~~

- 35 (1) ~~The streets and highways comprising a part of the state highway system, at all times, are the~~
36 ~~responsibility of the Department of Transportation and this overall responsibility is not shifted to~~
37 ~~the municipality by reason of their assumption, under reimbursable contract, of maintenance,~~

1 construction, or improvement on behalf of the Department of Transportation as outlined in G.S.
2 136-66.1.

3 (2) ~~The cost of municipal maintenance is paid for out of funds allocated by the Board for this purpose.~~

4 (3) ~~The Department of Transportation within its discretion may enter into contracts with municipalities
5 for the purpose of maintenance, repair, construction, reconstructing, widening or improving state
6 system streets within municipalities.~~

7 (4) ~~The maintenance of state system streets may be performed by the municipality by a continuing
8 agreement with the Department of Transportation on a reimbursement basis. Such an agreement
9 may be executed covering all or part of maintenance operations on all or a part of the state system
10 streets within the limits of the municipality involved.~~

11 ~~(e) Policies and responsibilities.~~ (b) Responsibilities.

12 (1) Patching and resurfacing of pavements ~~is~~ are the responsibility of the ~~Department.~~ Department of
13 Transportation.

14 (2) Repairs for pavement cuts for utility repair and other purposes by or under the control of the
15 municipality shall be the responsibility of the municipality. The Division of Highways ~~district~~
16 ~~engineer, or his designated representative, District Engineer, or the District Engineer's designated~~
17 representative shall be notified in writing 48 hours in advance of any pavement cut and approval
18 must be obtained prior to making the cut. Pavement cuts due to emergencies ~~shall~~ may proceed as
19 necessary with the Division of Highways ~~district engineer~~ District Engineer, or the District
20 Engineer's designated representative being notified as soon as possible after the emergency is
21 discovered and the pavement cut is made or anticipated.

22 ~~Note: See G.S. 136-93.~~

23 (3) If the maintenance of any ~~state~~ State highway system street is performed by the municipality, then
24 it shall be the responsibility of the municipality, subject to the approval and direction of the
25 ~~Department of Transportation, Department,~~ to install and maintain proper signs, ~~barriades~~
26 barriades, and other safety devices of like ~~nature~~ nature, and to furnish flagmen when necessary;
27 all shall be performed in accordance with G.S. 136-130, the Manual for Uniform Traffic Control
28 Devices (MUTCD).

29 (4) An encroachment agreement is required for the initial installation of any utility on the ~~state~~ State
30 highway system right-of-way right-of-way by the municipality as well as by utility companies and
31 individuals.

32 (5) ~~Drainage:~~ Drainage.

33 (A) The maintenance of roadway ditches including median drainage, where applicable, and
34 cross drainage pipes, ~~outfalls~~ outfalls, and structures ~~is~~ shall be the responsibility of
35 ~~Department of Transportation~~ within the highway right-of-way right-of-way or within a
36 drainage easement area.

(B) The maintenance of storm drainage and storm sewer systems draining ~~state~~ State highway system streets ~~is within the highway right-of-way or within a drainage easement area shall~~ be the responsibility of the ~~Department, Department of Transportation, within the highway right-of-way or within a drainage easement area.~~ Where systems draining ~~state~~ State highway system streets are enlarged and expanded to accommodate drainage from municipal streets, the initial cost and the maintenance cost shall be borne jointly by agreement.

(C) Attachments to drainage structures—~~Written~~ shall require the written approval of the ~~Department of Transportation is required~~ prior to any utility or other attachment being made to any bridge or structure on the ~~state~~ State highway system. ~~Approval is also necessary shall be required~~ before turning any utility under or through a bridge or drainage structure on the ~~State highway system.~~ Highway System.

(6) ~~Sidewalks.~~ The maintenance of sidewalks is a municipal responsibility.

(7) ~~Roadside Maintenance.~~ Roadside Maintenance.

(A) ~~Freeways, interstate and other controlled access highways.~~ All planting, plant maintenance, mowing, erosion control, and litter pickup ~~are on freeways, interstate, and other controlled access highways shall be~~ the responsibility of the ~~Department, Department of Transportation,~~ except as otherwise provided herein.

(B) Non-controlled Access Surface Streets

(i) ~~Without sidewalk or pedestrian space (paved or unpaved).~~ Erosion control, machine mowing, ~~litter pickup~~ litter pickup, and the maintenance of trees over the entire width of ~~right of way~~ right-of-way without sidewalk or pedestrian space, paved or unpaved, shall be the responsibility of the ~~Department, Department of Transportation.~~ Maintenance of shrubs or other planting ~~is also over the entire width of right-of-way without sidewalk or pedestrian space, paved or unpaved, shall be~~ the responsibility of the ~~Department of Transportation~~ subject to the provision providing for specific planting projects as outlined in Part (7)(C) of this Paragraph.

(ii) ~~With sidewalk or pedestrian space (paved or unpaved).~~ ~~Since the~~ The area outside of the curbs or within and beyond the sidewalk or pedestrian ~~space~~ space, paved or unpaved, is used almost exclusively for pedestrians, and the maintenance of such areas ~~is~~ shall be the responsibility of the municipality.

(C) ~~Specific planting projects on state highway system right of way.~~ Should the municipality desire more extensive planting than is provided by the ~~Department, Department of Transportation,~~ a plan for such proposed planting shall be submitted to the ~~Department of Transportation~~ and ~~shall be~~ considered a construction or improvement item. An individual permit and agreement on ~~Department of Transportation~~ and municipal responsibilities for

planting and plant maintenance ~~will~~ shall be required in each instance, covering not only financial responsibility but also the furnishing of personnel, equipment and materials for performing plant maintenance and associated hand mowing operations.

(D) ~~Proposed planting by civic organizations.~~ Civic organizations desiring to provide more extensive planting of trees and shrubs in the municipality on Department of Transportation ~~right-of-way~~ right-of-way than is provided by the Department of Transportation shall handle negotiations through the municipality as outlined in Part (7)(C) of this Paragraph.

(8) ~~Snow and Ice Control.~~ Snow and Ice Control.

(A) The responsibility for clearing ~~state~~ State highway system streets ~~is~~ shall be the responsibility of the ~~Department.~~ Department of Transportation; however, municipalities may, with the concurrence of the ~~Division Engineer.~~ division engineer, execute an agreement with the Department of Transportation providing for reimbursement by the Department of Transportation to the municipality for the assumption of this responsibility.

(B) The removal of snow from sidewalk areas ~~is~~ shall not be the responsibility of the ~~Department.~~ Department of Transportation.

(9) ~~Guard Rail.~~ The maintenance, ~~repair~~ repair, and replacement of guard rail on ~~Highway System~~ State highway system streets and highways ~~is~~ shall be the responsibility of the ~~Department.~~ Department of Transportation.

(10) ~~Street Lighting.~~ Street Lighting.

(A) ~~Freeways — Interstate System and Other Controlled Access Highways.~~ Where in the judgment of the Department of Transportation street lighting on freeways, interstate system, and other controlled access highways is necessary, the maintenance and the electric current necessary for the operation of the lighting system shall be the responsibility of the ~~Department.~~ Department of Transportation.

(B) ~~Other System Streets.~~ The maintenance and the electric current for lighting systems on streets or highways other than as referred to in Part (10)(A) of this Paragraph ~~is~~ shall be the responsibility of the municipality, unless otherwise provided for by specific agreement.

(C) The installation of street lighting systems by the municipality on ~~state~~ State highway system streets within the ~~right-of-way~~ right-of-way may be allowed by the Department of Transportation by encroachment agreement only.

(11) ~~Blocking of Traffic Lanes.~~ In order to provide for the safe movement of traffic, it ~~is~~ shall be a joint responsibility between the Department of Transportation and the municipality to insure that traffic lanes be kept open and if blocked at any time for any reason that such blockage is properly signed or flagged.

History Note: Authority G.S. 136-66.1; 136-93; 143B-346; 143B-350(f); 143B-350(g);
Eff. July 1, 1978;

- 1 *Amended Eff. November 1, 1993;*
- 2 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02D .0406

DEADLINE FOR RECEIPT: Friday, June 14, 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:

Overall, please review this Rule for purposes of clarity – would it make more sense in a different order? When would this Rule be applicable? Practically speaking, when would this Rule apply? Is this when a governing body of a municipality wants to construct a sidewalk under 136-66.1(4)? Then they will need “consent” of the Department through a proposed sidewalk?

Throughout this Rule, please change your “will” back to “shall” in (b) and (c).

Please consider revising (a) as follows: (a) ~~When [If] The Department shall replace any sidewalk torn up as a result of a highway construction project having to do with the widening of an existing street. street requires that an existing sidewalk be torn up to make room for the widening, the Department of Transportation shall replace the sidewalk.~~

In (b), what is meant by “proposed sidewalk”? What planning process? Why will the Department assess this information? Again, I’m a bit confused as to when this Rule may apply.

In (c), what is a “pedestrian facility”? What is a “major highway project planning report”?

In (d), what is the “lead government entity or other local sponsor”? If this is related to sidewalks under 136-66.1, that says “governing body of a municipality.”

Why is 143B-350 included in your History Note? These appear to be under the authority of the Department.

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: Friday, May 31, 2019

1 19A NCAC 02D .0406 is readopted as published in 33:16 NCR 1717-1720 as follows:

2
3 **19A NCAC 02D .0406 CONSTRUCTION AND MAINTENANCE OF SIDEWALKS**

4 (a) ~~When~~If a highway construction project having to do with the widening of an existing street requires that an
5 existing sidewalk be torn up to make room for the widening, the Department ~~of Transportation~~ shall replace the
6 sidewalk.

7 (b) The Department ~~shall~~ will evaluate the need for proposed sidewalks in the planning process. The Department
8 ~~shall~~ will assess information provided by the local government, Transportation Advisory Committee, and ~~departmental~~
9 Departmental engineering studies.

10 (c) The Department ~~shall~~ will analyze the existing and projected future need for a pedestrian facility in every major
11 highway project planning report. The Department may construct a sidewalk if the need is documented and funding is
12 available.

13 (d) ~~The Department and the local sponsor shall negotiate financial responsibilities for a new sidewalk based on~~
14 ~~planning studies.~~

15 (e) The Department shall execute a pedestrian facilities maintenance agreement specifying responsibility for long
16 term maintenance with the lead government entity or other local sponsor prior to construction for a proposed sidewalk.

17
18 *History Note: Authority G.S. 136-66.1; 143B-346; 143B-350(f); 143B-350(g); 23 U.S.C. § 133; 23 U.S.C. § 217;*
19 *Eff. July 1, 1978;*
20 *Amended Eff. May 1, 1999; December 29, 1993.*
21 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02D .0601

DEADLINE FOR RECEIPT: Friday, June 14, 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:

In (a), what is a "qualifying vehicle"? Is there a cross-reference available?

In (a), please change "oversize/overweight permits" to "oversize or overweight permits", assuming that's what is meant. Alternatively, is this the actual name of the permit? If so, I think it's fine.

In (a), are the contents of the application set forth elsewhere in rule or statute? If not, please provide the substantive requirements in rule. Also, are these applications the same as set forth in (c)? If so, please delete "applications for permits shall be submitted to the Central Permit Office unless the application is for a house move permit." This information is repetitive of (b) and (c).

In (b), are the contents of house move permits application set forth elsewhere in rule or statute? If not, please provide the substantive requirements in rule.

In (b), please change "will" to "shall" on line 15. Also, what factors will be used in determining whether to approve or deny a house move permit? I understand they will use the route of travel and dimensions of the structure, but for what? Will they evaluate the safety?

In (b), change "dimension(s)" to "dimensions"

In (c), are the contents of the application set forth elsewhere in rule or statute? If not, please provide the substantive requirements in rule.

Please consider revising (c) as follows:

(c) Applicants shall submit ~~Permits for movements of the following shall require the applicant to submit to the Central Permit office, 10 business days prior to the anticipated date of movement,~~ a written application, the fee specified in G.S. 20-119(b), and documentation of any ~~variances;~~ variances ~~to the Central Permit Office~~ at least 10 business days prior to the anticipated date of movement for any of the following:

(1) ~~the gross weight of the load is [of]~~ 132,000 pounds or more;

Amber May
Commission Counsel

Date submitted to agency: Friday, May 31, 2019

- (2) the width of the load is 15 feet or more;
(3) a mobile or modular unit with a width of 16 feet and a gutter edge of 3 inches; and
(4) a width of 16 feet and 11 [inches] inches, unless the permit [shall be] is for house moves in accordance with Paragraph (b) of this Rule. [moves.]

What are (c)(1) and (2) applicable to? The load? Please note that I've addressed this in my suggestion.

In (c)(4), please add a comma after "inches"

In (c)(4), please change "shall be" to "is" and provide a cross-reference to paragraph (b) of this Rule (assuming that's what you mean.) Please note that I've addressed this in my suggestion

Please consider revising (d) as follows: (d) Applicants shall submit [Permits for movements with a vehicle or vehicle combination height greater than 14 feet, but not equal to or greater than 15 feet, shall require the applicant to submit to the Central Permit Office, two business days prior to the anticipated date of movement.] a written application, the fee specified in G.S. 20-119(b), and documentation of [variances:] variances to the Central Permit Office at least two business days prior to the anticipated date of movement of a vehicle or vehicle combination of a height greater than 14 feet, but not equal to or greater than 15 feet.

Please put your cited authority in numerical order.

Why are you citing 143B-350? 20-119 appears to give authority for these permits to the Department.

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

1 19A NCAC 02D .0601 is amended as published in 33:18 NCR 1886-1889 as follows:

2
3 **19A NCAC 02D .0601 ~~PERMITS AUTHORITY, APPLICATION AND ENFORCEMENT~~ PERMIT**
4 **APPLICATION AND ADMINISTRATION**

5 (a) ~~The Chief Engineer's office Engineer or his designee shall issue oversize/overweight permits for qualifying~~
6 ~~vehicles. Applications for permits shall be submitted to the Central Permit Office unless the application is for a house~~
7 ~~move permit. Irrespective of the route shown on the permit, a permitted vehicle shall travel an alternate route:~~

- 8 (1) ~~if directed by a law enforcement officer with jurisdiction;~~
9 (2) ~~if directed by an official traffic control device to follow a route to a weighing device; and~~
10 (3) ~~if the specified route on the permit is detoured by an officially erected highway sign, traffic control~~
11 ~~devices, or law enforcement officer, the driver of the permitted vehicle shall contact the Central~~
12 ~~Permit Office or the issuing field office for house move permits as soon as reasonably possible for~~
13 ~~clearance of route or revision of the permit.~~

14 (b) ~~House move permit applications shall be submitted to the Department division and district offices. The~~
15 ~~Department's division and district offices will approve or deny house move permit applications after reviewing the~~
16 ~~route of travel and dimension(s) of the structure to be moved. House move permit applications shall be submitted at~~
17 ~~least two working days prior to the anticipated date of movement. Prior to application for an oversize or overweight~~
18 ~~permit, the vehicle or vehicle combination and the commodity in transport shall be reduced or loaded to the least~~
19 ~~practical dimensions and weight. Application for permits with the exception of house move permits shall be made to~~
20 ~~the Central Permit Office. Applications for permits shall be submitted in writing to the Central Permit Office for~~
21 ~~consideration of approval for moves exceeding:~~

- 22 (1) ~~a gross weight of 132,000 pounds with the fee specified in G.S. 20-119(b) at least ten working days~~
23 ~~prior to the anticipated date of movement;~~
24 (2) ~~a width of 15' with documentation for variances at least ten working days prior to the anticipated~~
25 ~~date of movement with the exception of a mobile/modular unit with maximum measurements of 16'~~
26 ~~wide unit and a 3" gutter edge; a width of 16' 11" with the exception of house moves is required to~~
27 ~~be submitted with the fee specified in G.S. 20-119(b) with documentation for variances at least ten~~
28 ~~working days prior to the anticipated date of movement; or~~
29 (3) ~~a height of 14 feet at least two working days prior to the anticipated date of movement.~~

30 (c) ~~Permits for movements of the following shall require the applicant to submit to the Central Permit office, 10~~
31 ~~business days prior to the anticipated date of movement, a written application, the fee specified in G.S. 20-119(b), and~~
32 ~~documentation of any variances:~~

- 33 (1) gross weight of 132,000 pounds or more;
34 (2) width of 15 feet or more;
35 (3) mobile or modular unit with a width of 16 feet and a gutter edge of 3 inches; and
36 (4) width of 16 feet and 11 inches unless the permit shall be for house moves.

1 Upon completion of an engineering study for moves exceeding a gross weight of 132,000 pounds, a surety bond to
2 cover potential damage to highways and bridge structures shall be required for overweight permits if the engineering
3 study shows potential for damage to highways and bridge structures along the particular route of the requested permit.

4 (d) Permits for movements with a vehicle or vehicle combination height greater than 14 feet, but not equal to or
5 greater than 15 feet, shall require the applicant to submit to the Central Permit Office, two business days prior to the
6 anticipated date of movement, a written application, the fee specified in G.S. 20-119(b), and documentation of
7 variances. ~~The North Carolina licensed mobile or modular home retail dealer shall maintain records of all mobile or~~
8 ~~modular units moved by authority of an annual permit for a minimum of four years from the date of movement. The~~
9 ~~records shall be available for inspection and audit by officers of the Division of Motor Vehicles. Monthly reports~~
10 ~~shall be submitted by the dealer to the Central Permit Office on a form furnished by the Department of Transportation.~~
11 ~~Failure to comply with any requirement may be grounds for denying, suspending, or revoking Manufacturer's License,~~
12 ~~Dealer's License, or both issued by the Division of Motor Vehicles as specified in Chapter 20 of the Motor Vehicle~~
13 ~~Law, Title 19A NCAC 03D .0219, or North Carolina oversize or overweight permit privileges.~~

14 (e) The issuance of any permit shall not imply nor guarantee the vertical clearance of the permitted load and the
15 permittee shall be responsible for ensuring all vertical clearances prior to movement. ~~Law enforcement officers may~~
16 ~~perform on-site inspections of mobile or modular homes ready for shipment at the point of manufacture or at the dealer~~
17 ~~lot for compliance with Chapter 20 of the General Statutes, dealer and manufacturer regulations, permit regulations,~~
18 ~~and policy. Notification of violations shall be submitted by enforcement personnel to the Central Permit Office.~~

19 (f) The Department shall accept cash, certified check, money order, company check, or credit card in consideration
20 for the fees specified in G.S. 20-119(b). No personal checks shall be accepted. ~~The penalties provided in this Rule~~
21 ~~are in addition to the penalties provided for in Chapter 20 of the North Carolina General Statutes.~~

22 (g) ~~Permits may be declared void by the Chief Engineer or his designee upon determination that such~~
23 ~~overdimension/overweight permit was being used in violation of the General Statutes of North Carolina, Permit Rules~~
24 ~~or restrictions stated on the permit.~~

25 (h) ~~Permits may also be denied, revoked or declared invalid as stated in Rule .0633 of this Section.~~

26
27 *History Note:* Authority G.S. 20-119; 136-18(5); 20-360; 20-361; 20-367; 20-369; 20-371; 143B-346; 143B-
28 350(f);

29 *Eff. July 1, 1978;*

30 *Amended Eff. November 1, 1993; October 1, 1991;*

31 *Temporary Amendment Eff. January 10, 2002; October 1, 2000;*

32 *Amended Eff. December 1, 2012; April 1, 2009; August 1, 2002;*

33 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September*
34 *6, 2016;*

35 *Amended Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02D .0602

DEADLINE FOR RECEIPT: Friday, June 14, 2019

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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 that the following technical changes be made:

Please consider making (a) a complete sentence to provide some introduction to the Subparagraphs. Please keep in mind that we read rules without titles, so please consider providing information as to when this Rule would apply in (a)?

In (a)(1), since this appears to be internal management, please consider deleting "be issued on authorized forms"

In (a)(1), delete or define "detailed" in "detailed description"

In (a)(2), by "may be issued"? Do you mean "may be issued in accordance with this Section"? Is the intent here to just say that if the item can't be broken down, you all still may issue a permit?

In (a)(2), please change "which" to "that" in "which cannot"

In (a)(2), what is meant by "legal requirements"? Do you mean in accordance with this Rule?

In (a)(5), what is "overlength consideration"? Is this essentially a variance of the requirements regarding the maximum length of 105 feet? If so, please consider revising this to make it more clear. Same question for (a)(6) and "overheight considerations"? Also, are both of these applicable to houses as well? Perhaps setting the parameters in (a) and making clear when this applies would help address this.

In (b), what is an annual trip permit? Is this a generally recognized term within your community? If not, please consider making this a complete sentence to provide some information as to what these are and when this would apply or be appropriate. Same thought for (c), (d), (e), (f) and (g).

In (c)(1) and (e)(2) , delete or define "detailed" in "detailed route"

In (d)(5)(F), delete or define "proper" in "proper documentation"

Amber May

Commission Counsel

Date submitted to agency: Friday, May 31, 2019

In (f), please consider providing the cross-reference to the housemover information in rule and/or statute.

In (f)(2), please change "shall be" on line 12 in "shall be owned" and "shall be to" to "is"

In (g)(2), please change "shall not" in "shall not extend" to "does not"

In (g)(3) are the substantive requirements of the monthly report set forth elsewhere in rule or statute? If not, please provide this information.

Why is 143B-350 included in your History Note? These appear to be under the authority of the Department.

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: Friday, May 31, 2019

1 19A NCAC 02D .0602 is readopted as published in 33:18 NCR 1886-1889 as follows:

2
3 **19A NCAC 02D .0602 PERMITS ISSUANCE AND FEES** **PERMITS – ISSUANCE REQUIREMENTS**

4 (a) General

5 (1) Permits shall be issued on authorized forms, designate the qualifying movement and permitted route
6 of travel, and evidence the consideration of vertical clearances, work zones, and safety. The route
7 of travel shall include the origination location, a detailed description of the exact route, including
8 applicable county and state road numbers and routes, and the destination location for the movement.
9 The maximum weight permitted on a designated route shall be determined by the bridge capacity of
10 the bridges to be crossed during movement. Movements exceeding weight limits for highways or
11 bridge structures shall be denied if considered by the Department to be unsafe or if the movement
12 may cause damage to the highway or bridge structures. If the Department determines that the
13 permitted movement may cause damage to the highway, bridge structures, or any other State
14 property, the permittee shall be required to obtain a surety bond to cover the estimated cost of
15 damages. A permit issued by the Department shall not be valid for travel over municipal streets,
16 defined as streets or highways not maintained by the State of North Carolina.

17 (2) Prior to applying for an oversize/overweight permit, the applicant shall be responsible for reducing
18 and loading the item, commodity, or combinations thereof to the least possible dimensions and
19 weight. Permits may be issued for movements of items or commodities which cannot be loaded,
20 divided, dismantled, or disassembled to meet legal requirements.

21 (3) One item or commodity shall qualify for overweight considerations. Multiple items or commodities
22 shall not qualify for an overweight permit.

23 (4) One item or commodity or multiple items or commodities loaded in-line shall qualify for overwidth
24 considerations. If loaded side-by-side, multiple items or commodities shall not exceed eight feet,
25 six inches in width.

26 (5) One item or commodity of continuous length shall qualify for overlength considerations. The
27 maximum length for a vehicle or vehicle combination shall be 105 feet. Approval may be given by
28 the Central Permit Office for permitted loads in excess of 105 feet after review of the geographic
29 route of travel, consideration of local construction projects, and evaluation of the other dimensions
30 of the load.

31 (6) One item or commodity shall qualify for overheight considerations. If piled or stacked, multiple
32 items or commodities shall not exceed 13 feet, 6 inches.

33 ~~Permits may be issued for movements of loads which cannot be reasonably divided, dismantled or disassembled, or~~
34 ~~so loaded to meet legal requirements. Permits are issued on authorized forms with appropriate designation for~~
35 ~~qualifying moves on the most direct route of travel to the destination after consideration of vertical clearances, work~~
36 ~~zones, and other factors to ensure safe movement. A permit issued by the Department is not valid for travel over~~
37 ~~municipal streets (defined as streets or highways not maintained by the State of North Carolina).~~

1 (b) Annual Trip Permits

- 2 (1) Annual permits shall be valid for 12 months from the effective date of the permit. Annual trip
3 permits shall require an escort for vehicle and vehicle combinations that exceed 12 feet in width.
- 4 (2) Annual permits may be issued for unlimited movement on all North Carolina highways, as permitted
5 by the posted road and bridge limits, and without the requirement of an escort for the following:
6 (A) vehicle and vehicle combinations transporting non-divisible commodities;
7 (B) vehicle and vehicle combinations transporting a non-divisible commodity with a minimum
8 extreme wheelbase of 51 feet;
9 (C) self-propelled equipment with four or five axles; and
10 (D) non-property hauling vehicles with permanently attached equipment, a minimum wheel
11 base of 30 feet, the capability of traveling at highway speeds of 45 miles per hour, the
12 operational purpose of traveling to and from a non-highway job, and a special mobile
13 equipment license issued by the Division of Motor Vehicles.
- 14 (3) Dimensions for vehicle and vehicle combination permits issued pursuant to Subparagraph 2 of this
15 Paragraph shall not exceed:
16 (A) a width of 12 feet;
17 (B) a height of 13 feet, 6 inches; and
18 (C) a length of 105 feet.
19 (D) Part A of Subparagraph 2 within this Paragraph shall not exceed the length as set forth in
20 G.S. 20-115.1(b) and G.S. 20-116(e), and gross weights and axle weights as set forth in
21 G.S. 20-118(b)(1)(2)(3).
22 (E) Parts B, C, and D of Subparagraph 2 within this Paragraph shall not exceed a gross weight
23 of 90,000 pounds, and axle weights of 20,000 pounds for steer axle, 25,000 pounds for
24 single axle, 50,000 pounds for tandem axle, 60,000 pounds for tridem axle, and 68,000
25 pounds for axle groupings of four or more.
- 26 (4) Annual permits may be issued for unlimited movement on all North Carolina highways, as permitted
27 by the posted road and bridge limits, and with the requirement of an escort for vehicles and vehicle
28 combinations transporting farm equipment. Dimensions for vehicle and vehicle combination
29 permits issued pursuant to this Subparagraph shall not exceed:
30 (A) a width of 14 feet;
31 (B) a height of 13 feet, 6 inches; and
32 (C) a weight as set forth in G.S. 20-118(b)(3).
- 33 (5) Annual permits may be issued with the requirement of an escort for mobile or modular homes if
34 transported from a manufacturer to a North Carolina mobile or modular home dealership, or if
35 transported from a North Carolina licensed mobile or modular home retail dealer to the transporter
36 for the delivery of mobile or modular homes. Permitted mobile or modular homes shall be
37 authorized to travel on designated routes approved by the Department considering construction work

1 zones, highway lane widths, origin and destination, and other factors to ensure safe movement.
2 Dimensions for vehicle and vehicle combination permits issued under this subparagraph shall not
3 exceed:

4 (A) a width of 14 feet;

5 (B) a roof overhang of 12 inches, unless the unit width shall be 16 feet, in which case the gutter
6 edge shall not exceed 3 inches;

7 (C) a height of 13 feet, 6 inches; and

8 (D) a weight as set forth in G.S. 20-118(b)(3).

9 ~~Single trip permits may include a return trip to origin if requested at the time of original issuance and the return trip~~
10 ~~can be made within the validation of such permit. No single trip permit request shall be issued for a time period to~~
11 ~~exceed 30 days. Annual permits (blanket) are valid 12 months from the effective date of the permit.~~

12 (c) Single Trip Permits

13 (1) Single trip permits shall be issued to the registered owner of the vehicle and valid for 10 calendar
14 days for a single, one-way trip. Single trip permit applications shall include the exact origin, detailed
15 route, and exact destination, including applicable county and state road numbers and routes. A return
16 trip shall only be considered for a single trip permit if the return trip is requested within the original
17 permit application. No single trip permit shall be issued for a time period that exceeds 30 days.

18 (2) Single trip permits for vehicle and vehicle combinations with non-divisible overwidth loads are
19 limited to a maximum width of 15 feet and the conditions specified in this Rule.

20 (3) Single trip permits shall not be restricted by overall length limitations, except the total combination
21 length of mobile homes shall not exceed 105 feet.

22 (4) Single trip permits shall not authorize a vehicle or vehicle combination height in excess of the
23 vertical clearances on the authorized route.

24 ~~The Department of Transportation shall collect a fee as specified in G.S. 20-119(b). Only cash, certified check, money~~
25 ~~order, company check, or credit card shall be accepted. No personal checks shall be accepted. The Department shall~~
26 ~~bill permittees with established credit accounts monthly for permits issued for the previous month.~~

27 (d) Non-divisible Loads

28 (1) The maximum single trip and annual permit weight allowed for a vehicle or vehicle combination,
29 not including off-highway construction equipment, shall be:

30 (A) 20,000 pounds for steer axles;

31 (B) 25,000 pounds for single axles;

32 (C) 50,000 pounds for tandem axles;

33 (D) 60,000 pounds for tridem axles;

34 (E) 68,000 pounds for axle groupings of four or more; and

35 (F) an engineering study is required for axle groupings of five or more that exceed 68,000
36 pounds.

- (2) The maximum single trip and annual permit gross weight allowed for a vehicle or vehicle combination, not including off-highway construction equipment, shall be:
- (A) 70,000 pounds for a three-axle single vehicle;
 - (B) 90,000 pounds for a four-axle single vehicle;
 - (C) 94,500 pounds for a five-axle single vehicle;
 - (D) 112,000 pounds for a five-axle vehicle combination;
 - (E) 108,000 pounds for a six-axle single vehicle;
 - (F) 120,000 pounds for a six-axle vehicle combination;
 - (G) 122,000 pounds for a seven-axle single vehicle;
 - (H) 132,000 pounds for a seven-axle vehicle combination; and
 - (I) determined upon the completion of an engineering study for axle-vehicle combinations of 7 or more if their gross weight exceeds 132,000 pounds.
- (3) The maximum permit weight allowed for self-propelled off-highway construction equipment with low pressure or low flotation tires shall be:
- (A) 37,000 pounds for a single-axle vehicle; and
 - (B) 50,000 pounds for a tandem-axle vehicle;
- (4) The maximum permit gross weight allowed for self-propelled off-highway construction equipment with low pressure or low flotation tires shall be:
- (A) 70,000 pounds for a two-axle single vehicle;
 - (B) 80,000 pounds for a three-axle single vehicle; and
 - (C) 90,000 pounds for a four-axle single vehicle.
- (5) An overweight permit with a specified route shall be available for a vehicle combination consisting of a power unit and trailer hauling a sealed ship container. No permit shall be issued in accordance with this subparagraph unless the vehicle combination shall be:
- (A) traveling to or from a designated seaport, whether in-state or out-of-state;
 - (B) transported by marine shipment;
 - (C) licensed for the maximum allowable weight for the 51-foot extreme wheelbase measurement as specified in G.S. 20-118;
 - (D) equal to or less than the maximum width, height, and length dimensions as specified in G.S. 20-116;
 - (E) a vehicle combination with at least five axles; and
 - (F) in possession of and able to furnish for inspection the proper documentation of the sealed commodity being transported.

(e) Superload Permits

- (1) Superload permits shall be available for vehicle or vehicle combinations with axles or axle groupings that exceed the weight limitations provided by this Rule, a gross weight that exceeds 132,000 pounds, or a maximum width in excess of 15 feet. The Chief Engineer or the Chief

Engineer's designee may authorize the issuance of a superload permit after analysis of the proposed load and evaluation of the proposed route of travel.

- (2) Superload permits shall be issued to the registered owner of the vehicle and valid for 10 calendar days for a single, one-way trip. Superload permit applications shall include the exact origin, detailed route, and exact destination, including applicable county and state road numbers or routes. A separate permit application shall be required for return trips.

(f) Houses

- (1) Applications for permits to move buildings or structures in excess of 15 feet in width shall be made by a licensed housemover. Housemover license applications and supporting documentation are issued and renewed by the Central Permit Office.

- (2) An individual shall not be required to acquire a housemover license prior to applying for a permit if the power unit and building shall be owned by the permittee and the movement shall be to or from property individually owned by the permittee.

(g) Mobile or Modular Homes

- (1) Mobile or modular home units shall not exceed a length of 76 feet and the total vehicle combination length shall not exceed 105 feet.

- (2) A 14-foot-wide mobile or modular home unit may be transported with a bay window, room extension, or porch if the protrusion shall not extend beyond the maximum roof overhang of 12 inches or the total width of overhang on the applicable side of the home. An extender shall be placed on the front and rear of the mobile or modular home with a length to extend horizontally equal to but not beyond the outermost edge of the mobile or modular home's extension. The extenders shall have retro-reflective sheeting, sized at a minimum of 4 inches, that shall be Type III high intensity, encapsulated lens, or Type IV-high performance, prismatic, with alternating fluorescent yellow and black diagonal stripes that slope towards the outside of the home with a minimum area of 288 square inches. The bottom of the extenders shall be 6 feet to 8 feet above the road surface. The top of each extender shall have mounted a 5-inch, amber-colored, flashing beacon.

- (3) The North Carolina licensed mobile or modular home retail dealer shall maintain records of all mobile or modular units moved by authority of an annual permit for a minimum of four years from the date of movement. The records shall be available for inspection and audit by any officer, employee, or contractor of the North Carolina Division of Motor Vehicles. Monthly reports shall be submitted by the mobile or modular home retail dealer to the Central Permit Office on a form furnished by the Department. Failure to comply with any requirement shall be grounds for denying, suspending, or revoking Manufacturer's License, Dealer's License, and any North Carolina oversize/overweight permit privileges.

History Note: Authority *G.S. 20-119; 136-18(5); 20-360; 20-361; 20-367; 20-369; 20-371; 143B-346; 143B-350(f);*

1 *Eff. July 1, 1978;*
2 *Amended Eff. December 29, 1993; October 1, 1991; April 1, 1984; April 11, 1980;*
3 *Filed as a Temporary Rule Eff. October 1, 2000;*
4 *Amended Eff. August 1, 2002;*
5 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02D .0607

DEADLINE FOR RECEIPT: Friday, June 14, 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:

In (a), what are the “vehicles and vehicle combinations subject to this Section”? IN accordance with what? Is there a cross-reference available (I realize that it may not make sense to list out all of the kinds of vehicles, but I assume that there’s a statute or rule that make this clear.) I am assuming that this relates to oversize/overweight vehicles, but I don’t see anything that says that for this Section in its entirety.

In (a)(1), please consider breaking this Rule into a further list form for purposes clarity. For example, when do lines 7-8 apply? I assume here you may that any oversize/overweight vehicle that is not a 16 foot wide mobile or modular home shall me made between sunrise and sunset from Monday to Saturday. I note that here, you are missing the Monday to Saturday part (like you have on lines 9-10.) Please review and revise if necessary.

In (a)(3), line 33, by “may be authorized”, do you mean “shall be authorized if the overhang is less than 10 feet in length and meets all other requirements of this Subparagraph”? If not, how will this determination be made?

In (a)(7), just to be clear, in order for something to be loaded or parked, there has to be permission from the issuing office AND an emergency? And this can only occur after the office confirms that an emergency has occurred? Please review and clarify if needed.

In (a)(7), can you provide some examples of an “emergency condition”?

In (a)(9), what are official signs?

Thank you for providing the factors that the District Engineer is to use to determining whether to grant a request to cut vegetation. The way that I read this, signs can’t be cut in any event since the factors used don’t seem to go to signs. If that is correct, please consider rewording this to make that clear. A suggestion would be to pull out signs and make it its own sentence.

In (b), tires of the size specified by what? The manufacturer of the vehicle?

Amber May
Commission Counsel
Date submitted to agency: Friday, May 31, 2019

In (b), what are the “required number of axles”?

*Why is the reference to the Board of Transportation minutes including as authority?
Please remove this reference.*

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

1 19A NCAC 02D .0607 is readopted as published in 33:18 NCR 1886-1889 as follows:

2
3 **19A NCAC 02D .0607 ~~PERMITS WEIGHT, DIMENSIONS AND LIMITATIONS~~ PERMITS -**
4 **MOVEMENT AND TRAVEL REQUIREMENTS**

5 (a) Movement of all vehicles and vehicle combinations subject to this Section shall adhere to the following
6 requirements.

7 (1) Movement shall be made between sunrise and sunset. Sunday travel may be authorized from sunrise
8 to sunset after consideration of the vehicle or vehicle combination dimensions. Movement shall be
9 permitted Monday through Saturday from 9:00 a.m. to 2:30 p.m. for 16-foot-wide mobile or modular
10 home units with a maximum 3-inch gutter edge. Movement of a 16-foot-wide mobile or modular
11 home unit with a maximum 3-inch gutter edge may occur after 2:30 p.m., but not beyond sunset, if
12 the unit shall be traveling on an approved route as determined by an engineering study and exported
13 out-of-state. Considerations of safety and traffic flow may require the issuing office to impose
14 additional time restrictions or allowances.

15 (2) No movement shall be permitted for a vehicle or vehicle combination after 12:00 p.m. on the
16 weekday preceding and until 12:00 p.m. on the weekday following Independence Day,
17 Thanksgiving Day, and Christmas Day. If Independence Day, Thanksgiving Day, or Christmas Day
18 fall on a Saturday or Sunday, travel is restricted from 12:00 p.m. on the preceding Friday until 12:00
19 p.m. on the following Monday.

20 (3) Continuous travel occurring 24 hours a day, each day per year, shall not be authorized for vehicle
21 or vehicle combinations with a gross weight in excess of 112,000 pounds. Self-propelled equipment
22 may be authorized for continuous travel if the overhang is less than 10 feet in length. The overhang
23 shall be marked on both sides and end with high-intensity, glass-bead, retro-reflective sheeting tape.
24 Each side of the self-propelled equipment shall be marked 24 inches from the road surface at the
25 nearest feasible center point, between the steer and drive axles. The sheeting tape shall be 2 inches
26 by 12 inches. Any rear overhang shall display a mounted brake light and flashing amber light, 8
27 inches in diameter with a minimum candlepower of 800 watts.

28 (4) Permitted vehicles owned or leased by the same company or permitted vehicles originating at the
29 same location shall travel no less than two miles apart. Convoy travel shall not be authorized except
30 as directed by law enforcement escort or permit office.

31 (5) Blades of construction equipment and front-end loader buckets shall not extend more than 14 feet
32 across the roadway. A blade, bucket, or other attachment that is an original part of the manufactured
33 equipment may be removed and hauled with the equipment without being considered a divisible
34 load.

35 (6) Permitted vehicle or vehicle combination movements shall not travel at a speed in excess of the
36 posted speed limit. The issuing office shall be permitted to impose speed restrictions below the
37 posted speed limit considering safety and load. A towing unit and mobile or modular home

combination shall not exceed a maximum speed of 60 miles per hour. The driver of the permitted vehicle shall avoid creating traffic congestion by relinquishing the traffic way when a buildup of traffic occurs.

(7) The object to be transported shall not be loaded or parked on the highway right of way without permission from the office that originally issued the permit and after confirmation of an emergency condition.

(8) No movements shall be made when visibility is less than 500 feet. Moves shall not be made when travel conditions are considered unsafe by the Division of Highways, State Highway Patrol, or other law enforcement officers having jurisdiction. Movement of a mobile or modular unit that exceed a width of 10 feet shall be prohibited if wind speed gusts are in excess of 25 miles per hour.

(9) The mover shall be responsible for any expenses, arrangements, or approvals associated with removing or replacing any obstructions, including traffic signals, signs, and utility lines. Trees, shrubs, or official signs shall not be cut, trimmed, or removed without approval from the Division of Highways District Engineer having jurisdiction over the area involved. In determining whether to grant approval, the District Engineer shall consider the species, age, and appearance of the tree or shrub in question and its contribution to the aesthetics of the area.

~~The State Highway Administrator or his designee may issue a vehicle specific single trip permit for vehicle and vehicle combinations with non-divisible overwidth loads limited to a maximum width of 15 feet under the conditions specified in this Rule. The State Highway Administrator or his designee may authorize the issuance of a permit for movement of load width in excess of 15 feet in accordance with 19A NCAC 02D .0600 after analysis of the proposed load and evaluation of the proposed route of travel. However, a mobile or modular unit is limited to a maximum width of 16 feet and a 3 inch gutter edge.~~

(b) Movement of all vehicles and vehicle combinations subject to this Section shall adhere to the following safety requirements.

(1) A yellow banner measuring a total length of 7 feet x 18 inches high bearing the legend "Oversize Load" in 10-inch black letters 1.5-inch-wide brush stroke shall be displayed in one or two pieces totaling the required length on the front and rear bumpers of a permitted vehicle and vehicle combination with a width greater than 10 feet. A towing unit mobile or modular home combination shall display banners of the size specified bearing the legend "Oversize ----- feet Load" identifying the actual width of the unit in transport. Escort vehicles shall display banners as specified in this Subparagraph with the exception of length to extend the entire width of the bumpers.

(2) Red or orange flags measuring 18 inches square shall be displayed on all sides at the widest point of load for all loads in excess of 8 feet 6 inches wide, but the flags shall be mounted so as not to increase the overall width of the load.

(3) All permitted vehicles and vehicle combinations shall be equipped with tires of the size specified and the required number of axles equipped with operable brakes in good working condition as

provided in North Carolina Statutes and Motor Carrier and Housing and Urban Development (HUD) regulations.

(4) Rear view mirrors and other safety devices on towing units attached for movement of overwidth loads shall be removed or retracted to conform with legal width when unit is not towing or hauling such vehicle or load.

(5) Flashing amber lights shall be used as determined by the issuing permit office.

An annual oversize and overweight permit may be issued as follows:

(1) ~~for unlimited movement without the requirement of an escort on all North Carolina highways, where permitted by the posted road and bridge limits, for vehicle and vehicle combinations transporting a general non-divisible commodity which has a minimum extreme wheelbase of 51 feet and does not exceed:~~

~~(A) width of 12 feet;~~

~~(B) height of 13 feet, 6 inches;~~

~~(C) length of 105 feet;~~

~~(D) gross weight of 90,000 pounds; and~~

~~(E) axle weights of 20,000 pounds steer axle, 25,000 pounds single axle, 50,000 pounds tandem axle, 60,000 pounds tridem axle and 68,000 pounds for a four or more axle grouping.~~

(2) ~~for unlimited movement without the requirement of an escort on all North Carolina highways, where permitted by the posted road and bridge limits, for four or five axle self-propelled equipment or special mobile equipment, defined as a non-property hauling vehicle, which has permanently attached equipment, that is operated on the highway only for the purpose of traveling to and from a non-highway job and is licensed as special mobile equipment by the Division of Motor Vehicles, capable of traveling at a highway speed of 45 miles per hour which has a minimum wheel base of 30 feet and which does not exceed:~~

~~(A) width of 12 feet;~~

~~(B) height of 13 feet, 6 inches;~~

~~(C) length of 105 feet;~~

~~(D) gross weight of 90,000 pounds; and~~

~~(E) axle weights of 20,000 pounds steer axle, 25,000 pounds single axle, 50,000 pounds tandem axle, 60,000 pounds tridem axle and 68,000 pounds for a four or more axle grouping.~~

(3) ~~for unlimited movement with the requirement of an escort vehicle on all North Carolina highways, where permitted by the posted bridge and load limits, for vehicles and vehicle combinations transporting farm equipment and which does not exceed:~~

~~(A) a width of 14 feet;~~

~~(B) a height of 13 feet 6 inches; and~~

1 (C) ~~—— a weight as set forth in G.S. 20-118(b)(3).~~

2 (4) ~~—— with the requirement of an escort for mobile or modular homes with a maximum height of 13 feet 6~~

3 ~~inches being transported from a manufacturer to a North Carolina mobile or modular home~~

4 ~~dealership with a unit width not to exceed 14 feet with an allowable roof overhang not to exceed a~~

5 ~~total unit width of 12 inches or 16 feet with a 3 inch gutter edge. These mobile or modular homes~~

6 ~~shall be authorized to travel on designated routes approved by the Department of Transportation~~

7 ~~considering construction work zones, highway lane widths, origin and destination or other factors~~

8 ~~to ensure safe movement.~~

9 (5) ~~—— with the requirement of an escort to a North Carolina licensed mobile or modular home retail dealer~~

10 ~~and the transporter for delivery of mobile or modular homes not to exceed a maximum unit width~~

11 ~~of 14 feet with a total roof overhang not to exceed 12 inches and a height of 13 feet 6 inches. The~~

12 ~~annual permit shall be valid for delivery of mobile or modular homes within a maximum 25-mile~~

13 ~~radius of the dealer location. Confirmation of destination for delivery shall be carried in the~~

14 ~~permitted towing unit readily available for law enforcement inspection.~~

15 (6) ~~—— for unlimited movement without the requirement of an escort on all North Carolina highways, where~~

16 ~~permitted by the posted road and bridge limits, for vehicle and vehicle combinations transporting~~

17 ~~non-divisible commodities which do not exceed:~~

18 (A) ~~—— width of 12 feet;~~

19 (B) ~~—— length as set forth in G.S. 20-115.1(b) and G.S. 20-116(e) but not to exceed 105 feet;~~

20 (C) ~~—— height of 13 feet 6 inches;~~

21 (D) ~~—— gross weight and axle weights as set forth in G.S. 20-118(b)(1)(2)(3).~~

22 (e) ~~A 14 foot wide mobile or modular home unit may be transported with a bay window, room extension, or porch~~

23 ~~providing the protrusion does not extend beyond the maximum 12 inches of roof overhang or the total width of~~

24 ~~overhang on the applicable side of the home. An extender shall be placed on the front and rear of the mobile or~~

25 ~~modular home with a length to extend horizontally equal to but not beyond the extreme outermost edge of the home's~~

26 ~~extension. The extenders shall have retro-reflective sheeting, a minimum of 4 inches, which shall be Type III high~~

27 ~~intensity (encapsulated lens) or Type IV high performance (prismatic) with alternating fluorescent yellow and black~~

28 ~~diagonal stripes sloping towards the outside of the home with a minimum area of 288 square inches. The bottom of~~

29 ~~the extenders shall be 6 feet to 8 feet above the road surface with a 5 inch amber flashing beacon mounted on the top~~

30 ~~of each extender.~~

31 (d) ~~The maximum weight permitted on a designated route is determined by the bridge capacity of bridges to be crossed~~

32 ~~during movement. The route traveled from an origin to a destination must be included within one permitted route of~~

33 ~~travel. Moves exceeding weight limits for highways or bridge structures shall be denied if considered by the issuing~~

34 ~~agent to be unsafe or if they may cause damage to the highway or structure. A surety bond shall be required if the~~

35 ~~Department determines it is necessary to cover the cost of potential damage to pavement, bridges or other damages~~

36 ~~incurred during the permitted move.~~

37 (e) ~~The maximum permissible weights for non-divisible loads are as follows:~~

- (1) ~~The maximum single trip and annual permit weight allowed for a vehicle or vehicle combination not including off highway construction equipment is:~~
- (A) ~~Steer Axle~~ ~~20,000 pounds;~~
 - (B) ~~Single axle~~ ~~25,000 pounds;~~
 - (C) ~~Tandem axle~~ ~~50,000 pounds;~~
 - (D) ~~Tridem axle~~ ~~60,000 pounds;~~
 - (E) ~~Four or more axle group~~ ~~68,000 pounds;~~
 - (F) ~~Five or more axle group exceeding 68,000 pounds requires an engineering study;~~
 - (G) ~~Three axle single vehicle may have a maximum gross weight up to 70,000 pounds;~~
 - (H) ~~Four axle single vehicle may have a maximum gross weight up to 90,000 pounds;~~
 - (I) ~~Five axle single vehicle may have a maximum gross weight up to 94,500 pounds;~~
 - (J) ~~Five axle vehicle combination may have a maximum gross weight up to 112,000 pounds;~~
 - (K) ~~Six axle single vehicle may have a maximum gross weight up to 108,000 pounds;~~
 - (L) ~~Six axle vehicle combination may have a maximum gross weight up to 120,000 pounds;~~
 - (M) ~~Seven axle single vehicle may have a maximum gross weight up to 122,000 pounds;~~
 - (N) ~~Seven axle vehicle combination may have a maximum gross weight up to 132,000 pounds;~~
- ~~and~~
- (O) ~~Seven or more axle vehicle combination with a gross weight exceeding 132,000 pounds requires an engineering study.~~
- (2) ~~The maximum permit weight allowed for self propelled off highway construction equipment with low pressure or low flotation tires is:~~
- (A) ~~Single axle~~ ~~37,000 pounds;~~
 - (B) ~~Tandem axle~~ ~~50,000 pounds;~~
 - (C) ~~Two axle single vehicle may have a maximum gross weight up to 70,000 pounds;~~
 - (D) ~~Three axle single vehicle may have a maximum gross weight up to 80,000 pounds; and~~
 - (E) ~~Four axle single vehicle may have a maximum gross weight up to 90,000 pounds.~~
- (3) ~~A vehicle combination consisting of a power unit and trailer hauling a sealed ship container may qualify for a specific route overweight permit provided the vehicle:~~
- (A) ~~Is going to or from a designated seaport (to include in state and out of state) and has been or shall be transported by marine shipment;~~
 - (B) ~~Is licensed for the maximum allowable weight for a 51 feet extreme wheelbase measurement specified in G.S. 20-118;~~
 - (C) ~~Does not exceed maximum dimensions of width, height and length specified in G.S. 20-116;~~
 - (D) ~~Is a vehicle combination with at least five axles; and~~
 - (E) ~~Has proper documentation (shippers bill of lading or trucking bill of lading) of sealed commodity being transported available for law enforcement officer inspection.~~

1 ~~(f) Overlength permits shall be limited as follows:~~

2 ~~(1) Single trip permits are limited to 105 feet inclusive of the towing vehicle. Approval may be given~~
3 ~~by the Central Permit Office for permitted loads in excess of 105 feet after review of geographic~~
4 ~~route of travel, consideration of local construction projects and other dimensions of the load;~~

5 ~~(2) Mobile or modular home units shall not exceed a length of 76 feet and a total overall length inclusive~~
6 ~~of the towing vehicle of 105 feet; and~~

7 ~~(3) Annual (blanket) permits shall not be issued for lengths to exceed 105 feet.~~

8 ~~(g) An Overheight Permit Application for heights in excess of 14 feet must be submitted in writing to the Central~~
9 ~~Permit Office at least two working days prior to the anticipated date of movement. An Overheight Permit Application~~
10 ~~for heights 14 feet and less must be submitted in writing or verbally to the Central Permit Office. The issuance of the~~
11 ~~permit does not imply nor guarantee the clearance for the permitted load and all vertical clearances shall be checked~~
12 ~~by the permittee prior to movement underneath.~~

13 ~~(h) Movement of all vehicles and vehicle combinations subject to this Rule shall be made as follows:~~

14 ~~(1) Movement shall be made between sunrise and sunset Monday through Saturday. Sunday travel may~~
15 ~~be authorized from sunrise to sunset after consideration of the overall permitted dimensions.~~
16 ~~Exception: A 16 foot wide mobile or modular home unit with a maximum 3 inch gutter edge is~~
17 ~~restricted to travel from 9:00 a.m. to 2:30 p.m. Monday through Saturday. A 16 foot wide unit is~~
18 ~~authorized to continue operation after 2:30 p.m., but not beyond sunset, when traveling on an~~
19 ~~approved route as determined by an engineering study and the unit is being exported out of state.~~
20 ~~Additional time restrictions may be set by the issuing office if it is in the best interest for safety or~~
21 ~~to expedite flow of traffic.~~

22 ~~(2) No movement is permitted for a vehicle and vehicle combination after noon on the weekday~~
23 ~~preceding the six holidays of New Year's Day, Memorial Day, Independence Day, Labor Day,~~
24 ~~Thanksgiving Day and Christmas Day until noon on the weekday following a holiday. If the~~
25 ~~observed holiday falls on the weekend, travel is restricted from 12:00 noon on the preceding Friday~~
26 ~~until 12:00 noon on the following Monday.~~

27 ~~(3) Continuous travel (24 hours a day, 7 days a week, 365 days per year) is authorized for any vehicle~~
28 ~~and vehicle combination up to but not to exceed a permitted gross weight of 112,000 pounds~~
29 ~~provided the permitted vehicle has no other over legal dimension of width, height or length included~~
30 ~~in the permitted move. Exception: Self propelled equipment may be authorized for continuous~~
31 ~~travel with overhang (front or rear or both) not to exceed a total of 10 feet provided overhang is~~
32 ~~marked with high intensity glass bead retro reflective sheeting tape measuring 2 inches by 12 inches~~
33 ~~displayed on both sides and the end of the extension and on each side of the self propelled vehicle~~
34 ~~24 inches from the road surface at nearest feasible center point between the steer and drive axles.~~
35 ~~Any rear overhang must display a mounted brake light and a flashing amber light, 8 inches in~~
36 ~~diameter with a minimum candlepower of 800 watts.~~

- (4) ~~Permitted vehicles owned or leased by the same company or permitted vehicles originating at the same location shall travel at a distance of not less than two miles apart. Convoy travel is not authorized except as directed by law enforcement escort.~~
- (5) ~~If blades of construction equipment or front end loader buckets cannot be angled to extend no more than 14 feet across the roadway, they shall be removed. A blade, bucket or other attachment that is an original part of the equipment as manufactured may be removed and hauled with the equipment without being considered a divisible load.~~
- (6) ~~The speed of permitted moves shall be that which is reasonable and prudent for the load, considering weight and bulk, under conditions existing at the time; however, the maximum speed shall not exceed the posted speed limit. A towing unit and mobile or modular home combination shall not exceed a maximum speed of 60 miles per hour. The driver of the permitted vehicle shall avoid creating traffic congestion by periodically relinquishing the traffic way to allow the passage of following vehicles when a build up of traffic occurs.~~
- (7) ~~The object to be transported shall not be loaded or parked, day or night, on the highway right of way without permission from the office issuing the permit after confirmation of an emergency condition.~~
- (8) ~~No move shall be made when weather conditions render visibility less than 500 feet for a person or vehicle. Moves shall not be made when travel conditions are considered unsafe by the Division of Highways, State Highway Patrol or other Law Enforcement Officers having jurisdiction. Movement of a mobile or modular unit exceeding a width of 10 feet is prohibited when wind velocities exceed 25 miles per hour in gusts.~~
- (9) ~~All obstructions, including traffic signals, signs and utility lines shall be removed prior to and replaced after the move at the expense of the mover, provided arrangements for and approval from the owner is obtained. Trees, shrubs, or official signs shall not be cut, trimmed or removed without approval from the Division of Highways District Engineer having jurisdiction over the area involved. In determining whether to grant approval, the district engineer shall consider the species, age and appearance of the tree or shrub in question and its contribution to the aesthetics of the area.~~
- (10) ~~The Department of Transportation may require escort vehicles to accompany oversize or overweight loads. The weight, width of load, width of pavement, height, length of combination, length of overhang, maximum speed of vehicle, geographical route of travel, weather conditions and restricted time of travel shall be considered to determine escort requirements.~~
- (i) ~~Additional safety measures are as follows:~~
- (1) ~~A yellow banner measuring a total length of 7 feet x 18 inches high bearing the legend "Oversize Load" in 10 inch black letters 1.5 inch wide brush stroke shall be displayed in one or two pieces totaling the required length on the front and rear bumpers of a permitted vehicle and vehicle combination with a width greater than 10 feet. A towing unit mobile or modular home combination shall display banners of the size specified bearing the legend "Oversize — feet Load" identifying~~

- 1 ~~the actual width of the unit in transport. Escort vehicles shall display banners as specified in this~~
2 ~~Subparagraph with the exception of length to extend the entire width of the bumpers;~~
3 (2) ~~Red or orange flags measuring 18 inches square shall be displayed on all sides at the widest point~~
4 ~~of load for all loads in excess of 8 feet 6 inches wide but the flags shall be mounted so as not to~~
5 ~~increase the overall width of the load;~~
6 (3) ~~All permitted vehicles and vehicle combinations shall be equipped with tires of the size specified~~
7 ~~and the required number of axles equipped with operable brakes in good working condition as~~
8 ~~provided in North Carolina Statutes and Motor Carrier and Housing and Urban Development (HUD)~~
9 ~~regulations;~~
10 (4) ~~Rear view mirrors and other safety devices on towing units attached for movement of overwidth~~
11 ~~loads shall be removed or retracted to conform with legal width when unit is not towing or hauling~~
12 ~~such vehicle or load; and~~
13 (5) ~~Flashing amber lights shall be used as determined by the issuing permit office.~~

14
15 *History Note:* Authority G.S. 20-116; 20-118; 20-119; 136-18(5); Board of Transportation Minutes for February
16 16, ~~1977~~ 1977, and November 10, 1978;
17 Eff. July 1, 1978;
18 Amended Eff. October 1, 1994; December 29, 1993; October 1, 1991; October 1, 1990;
19 Temporary Amendment Eff. January 10, 2002; December 31, 2000; October 1, 2000;
20 Amended Eff. August 1, 2012; June 1, 2010; April 1, 2009; August 1, 2002;
21 Readopted Eff. July 1, 2019.

1 19A NCAC 02D .0612 is repealed through readoption as published in 33:18 NCR 1886-1889 as follows:

2
3 **19A NCAC 02D .0612 PERMITS - HOUSE MOVES**

4
5 *History Note: Authority G.S. 20-119; 20-360; 136-18(5); 150B-21.3A;*

6 *Eff. July 1, 1978;*

7 *Amended Eff. November 1, 1993; October 1, 1991; April 1, 1984; January 1, 1979;*

8 *Filed as a Temporary Rule Eff. October 1, 2000;*

9 *Amended Eff. August 1, ~~2002~~, 2002;*

10 *Repealed Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02D .0633

DEADLINE FOR RECEIPT: Friday, June 14, 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:

In (a), is there a cross-reference available? Perhaps 20-367?

In (a), how will it be determined whether to deny the application and for how long? The factors set forth in Subparagraphs (1) through (3)? Also, what is your specific authority to deny an application for a period of time?

I'm a bit confused as to what is going on with (b) and (c) in light of 20-374(b) which provides opportunity for a hearing in front of the Secretary. Are (b) and (c) in addition to the option in 20-374? Is the Chief Engineer that Secretary's designee for purposes of 20-374? In this instance, is the person appealing the revocation of the Chief Engineer's office to the Chief Engineer's Office? Are appeal rights different for houses under 20-374 and other oversize/overweight vehicles under 20-119? Please review and revise as necessary so as to not contradict statute.

Please make (d) a complete sentences to provide some sort of introduction to the Subparagraphs.

Please add "or" at the end of (d)(2)(B).

In (d)(2)(c), what is meant by "as soon as reasonably possible"?

Why is 143B-350 included in your History Note? These appear to be under the authority of the Department.

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: Friday, May 31, 2019

1 19A NCAC 02D .0633 is readopted as published in 33:18 NCR 1886-1889 as follows:

2
3 **19A NCAC 02D .0633 ~~DENIAL; REVOCATION; REFUSAL TO RENEW; APPEAL; INVALIDATION~~**
4 **PERMITS – DECISIONS, APPEALS, AND ENFORCEMENT**

5 (a) A permit that is revoked or voided by the Chief Engineer's office shall be surrendered without any refund of fees.
6 An oversize or overweight permit application may be denied for a period of up to six months upon written
7 documentation that the applicant operated in violation of any of the rules contained in this Section, or any state or
8 local law or any rule or ordinance regulating the operation of oversize or overweight vehicles. Repeated violations
9 may result in a permanent denial of the right to use State highway system for transportation of oversize/overweight
10 loads or vehicles. An oversize/overweight permit may be revoked and considered void by the Chief Engineer's office
11 upon inspection and written documentation that the permittee:

12 (1) violated either the terms and conditions of the permit, state or local laws, or ordinances regulating
13 the operation of oversize and overweight vehicles;

14 (2) misrepresented, fraudulently obtained, altered, or used in an unauthorized manner any information
15 on the permit application; and

16 (3) operated or is currently operating a vehicle or vehicle combination in violation of the General
17 Statutes of North Carolina, these rules, the authorized route of travel, time of movement, escort
18 requirements, axle weights, number of axles, or any other conditions of the permit.

19 ~~An oversize or overweight permit may be revoked and considered void by the Chief Engineer or his designee upon~~
20 ~~inspection and written documentation that the permittee violated the terms and conditions of the permit, or state and~~
21 ~~local laws and ordinances regulating the operation of oversize and overweight vehicles. A permit may also be revoked~~
22 ~~or considered void if information on the permit application is misrepresented, if the permit is obtained fraudulently, if~~
23 ~~the permit is altered, or if the permit is used in an unauthorized manner. Permits may be revoked or considered void~~
24 ~~by the Chief Engineer or his designee if the vehicle or vehicle combination is found by a law enforcement officer to~~
25 ~~be operating in violation of the authorized route of travel, time of movement, escort requirements, axle weights,~~
26 ~~number of axles, or any other special conditions of the permit that may damage North Carolina highway infrastructure~~
27 ~~or create unsafe travel conditions for the motoring public. A permit that is determined by the Chief Engineer or his~~
28 ~~designee to be revoked or void must be surrendered without consideration for refund of fees to the law enforcement~~
29 ~~officer for delivery to the Chief Engineer or his designee.~~

30 (b) ~~No permit application shall be denied or renewal refused or an issued permit revoked~~ denied, renewal refused,
31 permit revoked, or considered void unless the Chief Engineer's office provides verbal or written
32 ~~notice of the denial of permit request or revocation of the issued permit has been furnished to the permittee. The~~
33 ~~permittee may appeal in writing to the Chief Engineer's office~~ Engineer or his designee within 10 business days of
34 ~~the permittee receiving notice, receipt of a verbal or written notice of such denial or revocation. The~~ If a hearing is
35 requested, pursuant to G.S. 20-374, the Chief Engineer's office ~~Engineer or his designee shall send a~~ provide the
36 permittee with written notice, sent by certified mail, return receipt requested, not no fewer than 10 business
37 days prior to the scheduled date of the hearing. The Chief Engineer's office ~~Engineer or his designee shall provide to~~

1 ~~the permittee a written decision~~ decision, sent by certified mail, return receipt requested, ~~to the permittee~~ within 10
2 ~~business days~~ from the date of the hearing.

3 (c) A permittee who ~~has had~~ has permit privileges suspended or revoked by the Chief ~~Engineer's office~~ Engineer or
4 ~~his designee may~~, may make a written appeal to the Secretary of Transportation within 15 days following the date
5 ~~listed on the return receipt. notification of the adverse action, make written appeal to the Secretary of Transportation~~
6 ~~for review of the suspension or revocation.~~ The Secretary of Transportation or the Secretary's designee may affirm
7 or set aside the suspension or revocation based on a review of the written appeal, the suspension or revocation decision,
8 as well as any available documents, exhibits or other evidence bearing on the appeal. The individual appealing shall
9 be advised of the final disposition of the action within 21 days following receipt of the appeal.

10 (d) Enforcement.

11 (1) Law enforcement officers may perform on-site inspections at the point of manufacture or dealer lot
12 for mobile or modular homes ready for shipment. Notification of violations shall be submitted by
13 enforcement personnel to the Central Permit Office.

14 (2) Irrespective of the route shown on the permit, a permitted vehicle shall travel an alternate route if:
15 (A) directed by a law enforcement officer with jurisdiction;
16 (B) directed to follow a specific route, for weighing purposes, by an official traffic control
17 device;
18 (C) the specified route on the permit is detoured by an officially erected highway sign, traffic
19 control devices, or law enforcement officer. If the specified route on the permit is detoured
20 by an officially erected highway sign, traffic control device, or law enforcement officer,
21 the driver of the permitted vehicle shall contact the Central Permit Office or the issuing
22 field office for house move permits as soon as reasonably possible for clearance of route
23 or revision of the permit.

24 ~~An oversize or overweight permit application may be denied for a period of up to six months upon written~~
25 ~~documentation that the applicant operated in violation of any of the rules contained in this Section, or any state and~~
26 ~~local law or any rule or ordinance regulating the operation of oversize or overweight vehicles. Repeated violations~~
27 ~~may result in a permanent denial of the right to use the N.C. State Highway System of roads for transportation of~~
28 ~~oversize or overweight loads or vehicles.~~

29
30 *History Note: Authority G.S. 20-119; 20-360; 20-361; 20-367; 20-369; 20-371; 136-18(5); 143B-346; 143B-*
31 *350(f);*
32 *Eff. July 1, 1978;*
33 *Amended Eff. November 1, 1993; October 1, 1991; April 1, 1984; April 11, 1980;*
34 *Temporary Rule Eff. October 1, 2000;*
35 *Amended Eff. December 1, 2012; April 1, 2009; August 1, 2002;*
36 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02D .0643

DEADLINE FOR RECEIPT: Friday, June 14, 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 the July 1, 2003 date still required? I understand why it was needed when this Rule was last amended in April 1, 2003, but this rule appears to say that if an escort vehicle is needed, bring your credentials, making the date both unnecessary and irrelevant.

On line 5, delete or define "readily" in "readily available"

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: Friday, May 31, 2019

1 19A NCAC 02D .0643 is readopted as published in 33:18 NCR 1886-1889 as follows:

2
3 **19A NCAC 02D .0643 ESCORT VEHICLE DRIVER CERTIFICATION**

4 On or after July 1, 2003, when an escort vehicle is required, escort vehicle drivers shall be certified in accordance with
5 19A NCAC 02D .0644. Certification credentials shall be carried in the vehicle and shall be readily available for
6 inspection by law enforcement officials with jurisdiction.

7
8 *History Note: Authority G.S. 20-119;*
9 *Temporary Adoption Eff. March 11, 2002;*
10 *Eff. April 1, 2003;*
11 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02D .0644

DEADLINE FOR RECEIPT: Friday, June 14, 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 note that as written, I have some clarity concerns. After reading this Rule and 20-119(f), I think that the exact requirements to obtain certification could be more clear.

Is (a) necessary? It does not appear to be providing any directives to your regulated public and does not provide any additional information beyond 20-119.

Is (b) necessary? If so, what is the intent? Is this to provide what is required to be licensed as an escort? Are classes and an examination required? I don't understand (b)(3) and (4). If this is to say what is required, please consider saying something like "Prior to obtaining certification as an oversize/overweight load escort vehicle operator, a person shall complete a program (whatever the required instruction is) and shall take a pass an examination.

In (b)(1), delete or define "safe" and "effective"

In (c), change "will" to "shall"

In (c), delete or define "satisfactory." Also, satisfactory completion of what instruction?

I don't understand why (c)(1) and (2) are broken out as separate Subparagraphs. Please consider revising the formatting.

In (c)(2), delete or define "satisfactory"

In (c)(2), how are the training providers? Is this the same exam in (b)(2)? Is the requirement here that drivers take this examination every 4 years in order to be recertified? If so, please say that.

Please consider switching (c) and (d) since (d) says when one could obtain a certification and (c) says when the Department will issue certification. In (c), do you mean something like: "Upon completion of the requirements set forth in this Rule, the Department shall issue a certificate to the applicant that shall be effective for four years. The certificate

Amber May

Commission Counsel

Date submitted to agency: Friday, May 31, 2019

holder shall complete an additional certification examination upon expiration of the certification (or whenever y'all want it.) Upon completion of the examination, the Department shall reissue the certificate." This language needs some additional work, but is something like this the intent?

In (d), are the contents of the application set forth elsewhere in rule or statute? If not, please provide the substantive requirements in rule.

In (d), please consider changing "seeking authorization under this Paragraph" to "seeking to be certified as an oversize/overweight load escort vehicle operator shall..."

Just so I'm clear, if the applicant is a LEO or already certified, then he or she does not have to take the courses in (d)(3)(C) and (D), but does have to take the exam? I think that different formatting could make this more clear.

In (d)(1), what is meant by "approved program"? Approved by the Department? How is this determination made? Do you all have reciprocity with other states or is this made on a case by case basis dependent upon the other state's requirements and their similarity with yours? Does this go with Paragraph (h)?

In (d)(3)(C), delete or define "satisfactory", unless this is the specific language that is used by the National Safety Council.

In (d)(3)(D), please consider deleting "The Oversize/Overweight Load Escort Vehicle Operator Certification Program is" on lines 7-8, and just say "... Program offered by..."

In (f), please change "shall be" back to "is"

What is the difference between (i) and the second sentence of .643? Do you need both?

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

1 19A NCAC 02D .0644 is readopted as published in 33:18 NCR 1886-1889 as follows:

2
3 **19A NCAC 02D .0644 ~~OVERSIZE-OVERWEIGHT~~ OVERSIZE/OVERWEIGHT LOAD ESCORT**
4 **VEHICLE OPERATOR CERTIFICATION PROGRAM**

5 (a) The Secretary of Transportation or ~~his~~ the Secretary's designee shall administer an ~~Oversize-Overweight~~
6 Oversize/Overweight Load Escort Vehicle Operator Certification Program as required by G.S. 20-119.

7 (b) ~~The escort vehicle operator certification program~~ Escort Vehicle Operator Certification Program shall include the
8 following:

9 (1) ~~Instruction-instruction~~ on safe and effective escort ~~skills; skills.~~

10 (2) ~~Examination-examination~~ that documents course ~~comprehension; comprehension.~~

11 (3) ~~Recognition-recognition~~ of escort vehicle operator ~~certification; and certification.~~

12 (4) ~~Recognition-recognition~~ of escort vehicle operator certification from other states ~~which~~ that have
13 certification programs for operators with out-of-state driver's license.

14 (c) ~~The department shall~~ Department will issue a certificate ~~which~~ that provides recognition of satisfactory completion
15 of the instruction.

16 (1) The certificate shall be effective for four years from the issue date.

17 (2) The certificate shall be reissued upon satisfactory completion of a current certification examination
18 administered by ~~North Carolina Department of Transportation (NCDOT)~~ training providers.

19 (d) Any person seeking authorization to be an operator ~~authorized to escort a~~ permitted to escort an oversize-
20 overweight oversize/overweight load in North Carolina shall ~~make~~ submit an application to NCDOT the Department
21 and attach a State certified copy of their driving record. Any person seeking authorization under this paragraph shall
22 be qualified as follows:

23 (1) ~~An an~~ escort certified by another state's approved program;

24 (2) ~~A a~~ North Carolina law enforcement officer; or

25 (3) ~~A a~~ person who:

26 (A) is at least 21 years of age or 18 years of age with a Class A commercial driver's license;
27 Meets one of the following requirements:

28 (i) ~~Is at least 21 years of age; or~~

29 (ii) ~~Is at least 18 years of age with a Class A commercial driver's license;~~

30 (B) ~~Possesses-possesses~~ a valid driver's license without restrictions other than for the use of
31 corrective ~~lens~~ lenses and ~~has demonstrated evidence of operating a motor vehicle safely~~
32 ~~which includes~~ shall not have received a citation in the previous 12 months for operating a
33 vehicle in a reckless manner or driving while impaired; impaired in the previous 12 months.
34 ~~The driving record shall be documented by a certified copy of Division of Motor Vehicles~~
35 ~~(DMV) Driver's Record accompanying the application;~~

- (C) ~~Possesses~~ possesses and provides with their application documentation of their satisfactory completion of a defensive driving course that has been approved by the National Safety Council; ~~and Council or an equivalent course; and~~
- (D) ~~Has~~ has received a certification examination score of at least 75 percent after completing ~~successfully completed the all~~ eight classroom-hours of the North Carolina Department of Transportation ~~Over-size Over-weight~~ Over-size/Over-weight Load Escort Vehicle Operator Certification Program. The Over-size/Over-weight Load Escort Vehicle Operator Certification Program is ~~program~~ offered by the North Carolina Community College System. ~~System with a certification examination score of at least 75% correct and has received escort certification by the Department.~~
- (e) ~~Certification~~ An authorized operator's certification shall be revoked during its effective period upon any of the following occurrences; for the following:
- (1) ~~Failure~~ failure to maintain a valid driver's license without restrictions other than for corrective lenses; ~~lens;~~ or
 - (2) ~~Failure~~ failure to operate a motor vehicle safely as evidenced by receiving a conviction for operating a vehicle in a reckless manner, driving while impaired, or other evidence that the operator performed their escort duties in a manner likely to cause an accident, personal injury, or damage to property. ~~safely. Conviction of operating in a reckless manner or driving while impaired shall constitute prima facie evidence of not operating a motor vehicle in a safe manner; or~~
 - (3) ~~Evidence of performing the duties of an escort driver in a manner with the potential to cause an accident, personal injury, or damage to property.~~
- (f) If certification ~~is~~ shall be revoked under pursuant to this Rule. ~~Section~~; subsequent certification as an Escort Vehicle Operator shall require reapplication, satisfaction of program prerequisites, and requalification through the certification program.
- (g) An individual who has had his or her certificate revoked ~~may~~, may make written appeal within 15 days following notification of the adverse ~~action, make written appeal action~~ to the Secretary of Transportation for review of the revocation. The Secretary may affirm or set aside the revocation based on a review of the written appeal, the revocation decision, as well as any available documents, exhibits, or other evidence bearing on the appeal. The individual appealing ~~will~~ shall be advised of the final disposition ~~of the action~~ within 21 days following receipt of the appeal.
- (h) The Secretary of Transportation or ~~his~~ the Secretary's designee shall only recognize certificates of other states ~~whose if those programs meet the State objectives of North Carolina's as outlined in this Rule and G.S. 20-119.~~ program for operators with out of state driver's license.
- (i) Escort Vehicle Operator ~~certification~~ Certification and a valid driver's license shall be available in the escort vehicle for inspection at all times, whenever the operator is performing the role of escort.
- (j) ~~Failure to conform to the escort requirements of this Rule shall result in penalties imposed in G.S. 20-119(d).~~

1 *History Note:* *Authority G.S. 20-119;*
2 *Temporary Adoption Eff. March 11, 2002;*
3 *Eff. April 1, 2003;*
4 *Amended Eff. April 1, 2009;*
5 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0402

DEADLINE FOR RECEIPT: Friday, June 14, 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:

Given 136-90 and 136-92, is this Rule necessary?

What is meant by "or cause to be piled, placed or left"?

Do you need "temporarily or permanently"? This language appears to be unnecessary since you've told folks not to do it at all (thereby including both temporarily and permanently.)

If you do need "temporarily" and "permanently", define both.

Here, incorporating both comments above, can you just say "It shall be unlawful to pile, place, or leave any trash, refuse..."

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: Friday, May 31, 2019

1 19A NCAC 02E .0402 is readopted as published in 33:18 NCR 1886-1889 as follows:

2
3 **19A NCAC 02E .0402 PILING OBSTRUCTIONS ON HIGHWAYS OR WITHIN RIGHT OF WAY**

4 It shall be unlawful to pile, ~~place place,~~ or leave, or cause to be piled, ~~placed placed,~~ or left temporarily or permanently,
5 any trash, refuse, garbage, lumber, logs, cordwood, tree-laps, scrapped automobile, scrapped truck or part thereof, or
6 any other material upon any road, highway, or shoulders thereof, within the right-of-way, or over the ditches or
7 drainways ~~road or highway or the shoulders thereof, or within the right of way or over the ditches or drainways~~ of any
8 road or highway of the ~~state~~ State highway system.

9
10 *History Note: Authority G.S. 136-18(5); 136-90;*

11 *Eff. July 1, 1978;*

12 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0403

DEADLINE FOR RECEIPT: Friday, June 14, 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 to be sure that I understand this rule, the prohibition on the tracking of mud is only applicable to dual wheel and four-wheel drive vehicles only? Not to any vehicle who may track mud?

Throughout this Rule, what is meant by "cause", "causes", and "cause it to be"? Is the intent of this Rule to say don't do it? Would it suffice to say something like "No person operating a vehicle with "dual wheels" or a vehicle equipped with four-wheel drive shall track mud onto any paved portion of any State highway so as to create a hazard to the traveling public."

What is meant by "to create a hazard to the traveling public"?

On line 4, please remove the dash in between with and four. Should this be in between four and wheel?

Just out of curiosity, how is one to remove mud from a highway?

On line 7, delete or define "immediately"

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: Friday, May 31, 2019

1 19A NCAC 02E .0403 is readopted as published in 33:18 NCR 1886-1889 as follows:

2
3 **19A NCAC 02E .0403 DEPOSITING MUD ON STATE HIGHWAYS**

4 No person operating a vehicle with "dual wheels" or a vehicle equipped with four wheel drive shall track or cause
5 mud to be deposited on the paved portion of any ~~state~~ State highway so as to create a hazard to the traveling public.

6 Any person who causes or permits mud to be tracked or deposited by a vehicle with dual wheels or a vehicle equipped
7 with four wheel drive shall immediately remove the same or cause it to be removed.

8
9 *History Note: Authority G.S. 136-18(5); 136-90;*

10 *Eff. July 1, 1978;*

11 *Amended Eff. November 1, 1993;*

12 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0404

DEADLINE FOR RECEIPT: Friday, June 14, 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:

In (b), since you have provided examples in (a), please consider deleting the examples of obstructions in (b). I don't think you need them in both places.

In (b), you've said "roadside collision hazard", in (c), you've said "traffic hazard." Please be consistent where you can.

I assume that (b) and (c) go together in that the Division Engineer can request that all of these be removed within 30 days if he or she determines them to be a hazard? Can you combine these for purposes of clarity? Otherwise, I don't understand the intent of (c).

Given 136-90, is (d) necessary? I understand the need of lines 28-32, but I don't understand the need to say that failing to do so will be a misdemeanor. I also have concerns regarding your authority to say it. I note that you have not used this language elsewhere where you've cited 136-90.

In (d), do you mean something like the following: "If a person fails to remove the highway obstruction in accordance with Paragraph (b) of this Rule, the Division Engineer may take action to remove the obstruction and bill the responsible party for the expense."

In (d), what is meant by "make safe"

In (d), how will the Division Engineer make the decision whether to remove the obstruction?

I don't understand the inclusion of 136-93 in your History Note. Did you also intend to include vegetation in your examples of highway obstructions?

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: Friday, May 31, 2019

1 19A NCAC 02E .0404 is readopted as published in 33:18 NCR 1886-1889 as follows:

2
3 **19A NCAC 02E .0404 HIGHWAY OBSTRUCTIONS INTERFERING WITH**
4 **TRAFFIC/MAINTENANCE**

5 ~~Highway obstructions include driveway headwalls, fences, rural mailboxes, newspaper delivery boxes and other~~
6 ~~roadside obstructions interfering with traffic or maintenance.~~

7 (a) — (1) — It shall be unlawful to place any highway obstruction, ~~including~~ including, but not limited to, a
8 driveway headwall, fence, rural mailbox, newspaper delivery ~~box~~ box, or other roadside obstruction,
9 so as to interfere with the traffic or maintenance of the roads and highways of the ~~state~~ State highway
10 system.

11 (b) — (2) — If the ~~department determines,~~ Department determines that any highway obstruction, ~~including~~
12 including, but not limited to, a driveway headwall, fence, rural mailbox, newspaper delivery box,
13 its ~~supports~~ supports, or other roadside obstruction, constitutes ~~an unreasonable~~ a roadside collision
14 hazard, the highway obstruction shall be removed by the person or entity responsible for placing the
15 obstruction within the ~~right of way~~ right-of-way within 30 days of receipt of a written notice from
16 the Department. ~~department to the person responsible for placing the obstruction within the right of~~
17 ~~way.~~

18 (c) — (3) — Only mailboxes or newspaper delivery boxes with ~~non-rigid type posts, such as a 4" x 4" wooden~~
19 ~~or a small diameter metal type, are~~ posts shall be permitted on road additions made to the ~~state~~ State
20 highway system after May 3, 1990. If determined to be a traffic hazard, the location of any brick
21 column, mailboxes, or newspaper delivery boxes, on rigid stands such as block, stone, or any other
22 type of material, shall be prohibited within the State highway system right-of-way. ~~The location~~
23 ~~within the right of way of an addition to the system of any brick columns, mailboxes or newspaper~~
24 ~~delivery boxes on rigid stands such as block, stone, or any other type determined to be a traffic~~
25 ~~hazard is prohibited.~~

26 (d) — (4) — The failure of the ~~person~~ party, responsible for placing the unlawful obstruction within the ~~right of~~
27 ~~way,~~ State highway system right-of-way, to remove the obstruction within 30 days ~~after of receiving~~
28 written notice by the Department ~~of Transportation~~ shall constitute a misdemeanor. Failure to
29 remove or make safe any mailbox or newspaper delivery box, its supports or any other obstruction
30 within the specified 30 days of this Rule shall be cause for the Department's Division Engineer to
31 take action to remove ~~the unacceptable~~ mailbox or newspaper delivery box, its supports or other
32 ~~obstruction~~ obstructive installation and also bill the responsible party for the expense of removal.
33 ~~removal if appropriate.~~

34
35 *History Note: Authority G.S. 136-18(5); 136-90; 136-93; ~~143B-350(f)(13);~~*
36 *Eff. July 1, 1978;*
37 *Amended Eff. November 1, 1993; October 1, 1991;*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0405

DEADLINE FOR RECEIPT: Friday, June 14, 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 9, how will it be determined whether the Chief Engineer's office will grant this permission? What factors will it use in making this determination?

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: Friday, May 31, 2019

1 19A NCAC 02E .0405 is readopted as published in 33:18 NCR 1886-1889 as follows:

2
3 **19A NCAC 02E .0405 ~~MOVING VEHICLES WHICH DAMAGE~~ TO STATE HIGHWAY SYSTEM**
4 **SURFACE OR SHOULDER**

5 It shall be unlawful to move on, over, or across the surface or shoulder of any State highway system bridge, road, road,
6 or highway, including shoulders thereof, of the state highway system any object, tractor, engine, farm ~~equipment~~
7 equipment, or vehicle of any kind that has wheels or objects ~~of any kind attached thereto~~ that will could cut, ~~mutilate~~
8 mutilate, or damage the surface or shoulder of the any State highway system bridge, road, or highway or shoulders
9 ~~thereof~~ without the written permission of the Chief Engineer's office. Engineer or his authorized agent.

10
11 *History Note: Authority G.S. 20-115; 20-119; 136-18(5);*

12 *Eff. July 1, 1978;*

13 *Amended Eff. December 1, 2012;*

14 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0406

DEADLINE FOR RECEIPT: Friday, June 14, 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:

Overall is this Rule necessary? It appears to be covered by 136-90?

On line 4, what is meant by "cause to be served"?

I don't understand the inclusion of 136-90 as authority.

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: Friday, May 31, 2019

1 19A NCAC 02E .0406 is readopted as published in 33:18 NCR 1886-1889 as follows:

2
3 **19A NCAC 02E .0406 VEHICLES SERVED BY SERVICE STATION**

4 It shall be unlawful for a service station to serve, or cause to be served, any motor vehicle ~~by a filling station~~ when the
5 ~~same motor vehicle~~ is standing upon the used or traveled portion of any State highway system road or highway.
6 ~~highway of the state highway system.~~

7
8 *History Note: Authority G.S. 136-18(5); 136-90;*

9 *Eff. July 1, 1978;*

10 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0407

DEADLINE FOR RECEIPT: Friday, June 14, 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, what is "loud music or other objectionable noise"?

Lines 8-9, please change "19A NCAC 02E .0800 of the North Carolina Administrative Code" to "Section .0800 of this Subchapter."

On line 12, what is "disorderly conduct"? Delete or define "vulgar, obscene, or profane"

On line 12-13, what is meant by "any nuisance producing a material annoyance, inconvenience, hurt, discomfort."

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: Friday, May 31, 2019

1 19A NCAC 02E .0407 is readopted as published in 33:18 NCR 1886-1889 as follows:

2
3 **19A NCAC 02E .0407 CONTROL AND REGULATION OF ROADSIDE PARKS AND REST AREAS**

4 It shall be unlawful, within any scenic service overlook, ~~rest area~~ rest area, or other designated parking area on the
5 primary and secondary roads and highways of the ~~state~~, State, for any person, ~~firm~~ firm, or corporation to erect tents,
6 booths, or structures of any kind for camping or any other activity; to create loud music or other objectionable noise;
7 ~~except as permitted pursuant to 19A NCAC 2E .0800 of the North Carolina Administrative Code~~, to solicit
8 contributions, names, ~~support~~ support, or for any ~~other purpose~~; other purpose, except as permitted pursuant to 19A
9 NCAC 2E .0800 of the North Carolina Administrative Code; to conduct or participate in public or private auctions
10 and other ceremonies; to distribute tracts, pamphlets, favors or any material, product or literature; to erect displays,
11 signs, or carry on any commercial activity; to use public address systems; to distribute or use alcoholic beverages; to
12 engage in disorderly conduct or use vulgar, obscene or profane language; ~~or, or~~ to commit any nuisance producing a
13 material annoyance, inconvenience, hurt, discomfort, or that is dangerous to the life, ~~property~~ property, and welfare
14 of the traveling public.

15
16 *History Note: Authority G.S. 136-18(9); 136-125;*
17 *Eff. July 1, 1978;*
18 *Amended Eff. October 1, 1991; August 1, 1986;*
19 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0408

DEADLINE FOR RECEIPT: Friday, June 14, 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:

I'm not sure that I understand 136-102.5 as authority in your History Note. Please review and delete if needed, as this does not appear to give the Department authority for this Rule.

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: Friday, May 31, 2019

1 19A NCAC 02E .0408 is readopted as published in 33:18 NCR 1886-1889 with changes as follows:

2
3 **19A NCAC 02E .0408 FISHING FROM BRIDGES**

4 It shall be unlawful to fish from any bridge on any ~~interstate, controlled access highway, or other portion of the State~~
5 ~~highway system.~~ interstate or other controlled access highway.

6
7 *History Note: Authority G.S. 136-18(5); 136-89.50; 136-102.5; 153A-242; 160A-302.1;*

8 *Eff. July 1, 1978;*

9 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0409

DEADLINE FOR RECEIPT: Friday, June 14, 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 4, what is meant by “unless otherwise authorized by the Board...”? Is there a cross-reference available? If not, please provide information regarding how this decision will be made. I also note that this is a Department Rule, is it the Board making the exception?

Are “highways” as used referenced statutes below, different than an “interstate or controlled access highway”? Did you intend on adding 136-89.50 as authority here? If not, please note the following authority concerns.

What is your authority to prohibit bicycles on highways? Bicycles seem to be allowed on highways based upon the reference to them in 20-150 and 20-171.1. I understand that 20-171.1 prohibits bicycle racing, unless approved in accordance with 20-171.1, but what is your authority otherwise?

Given 20-171, what is your authority to prohibit horse drawn wagons or persons riding animals on highways? This Rule appears to directly contradict 20-171 which says “every person riding an animal or driving any animal drawing a vehicle upon a highway shall be subject to the provisions of this Article.” I read this as allowing animals and animal drawn wagons so long as they abide by the Rules and laws. I understand that this is an old statute, but it’s still there. Please review and revise.

Given 20-10.1 (which says that one has to be 16 years of age to operate a moped “upon any highway”, 20-53.4 (which says to drive a moped on a highway and be registered), and 20-140.4 (which set parameters for their use on highways), what is your authority to prohibit mopeds?

I don’t understand the addition of 143B-350(f) as authority. Is this necessary? Is this to get to the Board’s authorization on line 4?

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: Friday, May 31, 2019

1 19A NCAC 02E .0409 is readopted as published in 33:18 NCR 1886-1889 with changes as follows:

2
3 **19A NCAC 02E .0409 OPERATING NONMOTORIZED VEHICLES**

4 ~~It is~~ Unless otherwise authorized by the Board of Transportation, it shall be unlawful for any person to ride any animal,
5 or to operate a ~~bicycle or~~ bicycle, horse drawn ~~wagon wagon~~, or any nonmotorized vehicle or moped on any ~~interstate,~~ interstate or controlled access highway, or other portion of the State highway system. ~~highway interstate~~
6 ~~or other fully controlled access highway.~~
7

8
9 *History Note: Authority G.S. 136-18(5); 143B-350(f);*

10 *Eff. July 1, 1978;*

11 *Amended Eff. June 15, 1981;*

12 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0410

DEADLINE FOR RECEIPT: Friday, June 14, 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:

Are "State highways" as used in 20-175 different than "interstates or controlled access highways"? If not, what is your authority to make hitchhiking unlawful in its entirety. 20-175 appears to allow it, so long as the solicitor is on the shoulder of the road. I agree that 136-89.50 gives the Department an incredible amount of authority, but this Rule appears to contradict statute.

Assuming you have authority, in (b), change "Nothing herein" to "this Rule shall not"

In (b), add a comma in between "mechanical failure" and "or other failure"

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: Friday, May 31, 2019

1 19A NCAC 02E .0410 is readopted as published in 33:18 NCR 1886-1889 as follows:

2
3 **19A NCAC 02E .0410 HITCHHIKING ON INTERSTATE OR CONTROLLED ACCESS HIGHWAYS**

4 (a) It shall be unlawful for any person to hitchhike or to solicit rides, or for the driver of any vehicle to stop for the
5 purpose of picking up one who is hitchhiking or soliciting a ride, on any interstate or ~~fully~~ controlled access highway.

6 (b) Nothing herein shall prohibit an operator or passengers in a vehicle stopped on a controlled access facility by
7 reason of any emergency, mechanical failure or other failure of the vehicle to operate, from requesting aid or soliciting
8 a ride, nor does it prohibit the operator of any other vehicle from stopping to render aid or assistance and giving rides
9 in such situations.

10
11 *History Note: Authority G.S. 136-18(5); 136-89.50;*

12 *Eff. July 1, 1978;*

13 *Readopted Eff. July 1, 2019.*
14
15

1 19A NCAC 02E .0411 is repealed through readoption as published in 33:18 NCR 1886-1889 as follows:

2

3 **19A NCAC 02E .0411 JUMPING FROM BRIDGES**

4

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

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

7 *Repealed Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0423

DEADLINE FOR RECEIPT: Friday, June 14, 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:

In (a), delete "In order to preserve safe clearances between highways and airways"

In (a), line 7, delete "into this Rule" after "which is incorporated by reference"

In (b), delete "such"

In (b), delete "however, in its discretion"

In (b), by "may", do you mean "shall"? Here, it looks like the Board will grant a variance if there will not be a hazard. If that's not correct, and there are other factors that will be used in determining whether to grant a variance, please provide those factors.

In (c), plans of what? The airport?

In (c), what application? Is this an actual form application? If so, are the substantive requirements set forth elsewhere in rule or statute?

In (c), by "may", do you mean "shall"? Are these things always required? It note that you very well may mean "may", but I want to verify.

In (c), delete "but shall not be limited to"

In (d), delete "the provisions of" so that it reads "This Rule shall not..." and "nor shall this Rule"

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: Friday, May 31, 2019

1 19A NCAC 02E .0423 is readopted as published in 33:18 NCR 1886-1889 as follows:

2
3 **19A NCAC 02E .0423 REGULATION OF AIRPORT CONSTRUCTION**

4 (a) In order to preserve safe clearances between highways and airways, except as otherwise provided by this Rule, all
5 construction or alteration of airports or aircraft landing areas on any part of land adjoining any public highway or in
6 close proximity, shall be in conformity with the Federal Air Regulations, Title 14, Chapter I, Part 77, Subpart C, Code
7 of Federal Regulations, which is incorporated by reference into this Rule, ~~includes~~ including any subsequent editions
8 or amendments. Copies of these regulations are available at no cost to the public by visiting <https://www.govinfo.gov>.
9 Close proximity, as referenced in this Paragraph, shall be assessed on a case-by-case basis according to the orientation
10 of the landing area, and its respective alignment to the public highway. ~~The document is available from the~~
11 ~~Superintendent of Documents, Mail Stop SSOP, Washington, DC 20402-9328, at a cost of twenty nine dollars~~
12 ~~(\$29.00).~~

13 (b) No such construction or alteration as referenced in Paragraph (a) of this Rule shall be undertaken without having
14 first obtained ~~a written permit~~ an Aircraft Landing Area Permit from the ~~Department.~~ North Carolina Department of
15 ~~Transportation or its duly authorized officers.~~ An Aircraft Landing Area Permit shall be approved upon confirmation
16 of satisfaction, by written documentation, of the clearance requirements detailed in Paragraph (a), all applicable
17 requirements by the county or municipality, and Federal regulations. All construction or alteration shall be in
18 accordance with the Aircraft Landing Area Permit. ~~written permit.~~ ~~No permit shall be issued if the proposed~~
19 ~~construction or alteration is not in accordance with subsection above.~~ Except for highways on the Federal-aid highway
20 system, the Board of Transportation may, however, in its discretion, authorize a permit at variance with the foregoing
21 Federal Aviation Administration standards ~~when~~ if it determines that the construction or alteration of the aircraft
22 landing area will not result in a public road being a hazard to air navigation. The Department's determination of
23 whether a public road is a hazard to air navigation shall be dependent on the type of aircraft, orientation of the landing
24 area and its respective alignment to the public highway, traffic, and utilities.

25 (c) Applicants seeking an Aircraft Landing Area Permit shall provide the Department with all plans, designs,
26 estimates, and supporting data at the time the application is made. ~~Any person, firm, or corporation seeking a permit~~
27 ~~for the construction or alteration of any airport or aircraft landing areas shall, at the time application is made for said~~
28 ~~permit, submit to the North Carolina Department of Transportation the plans and designs of the proposed construction~~
29 ~~or alteration, along with such estimates and supporting data as the department may require.~~ The estimates and data
30 required may include, but shall not ~~necessarily~~ be limited to, topographical surveys of the airport or aircraft landing
31 area site and surrounding areas, including the proposed construction or alteration, with particular references to
32 highways in the vicinity; hydrographic surveys, with particular reference to the effect that the proposed construction
33 or alteration will have upon drainage patterns; and area maps, ~~and~~ airport traffic patterns ~~patterns~~, and approach
34 surfaces.

35 (d) The provisions of this ~~ordinance~~ Rule shall not apply to publicly owned and operated airports and aircraft landing
36 areas receiving Federal funds and subject to regulation by the Federal Aviation Administration, nor shall the provisions

1 of this ~~ordinance~~ Rule be construed to prohibit necessary repairs from being made to or on any airport facilities
2 regardless of their present location.

3
4 *History Note: Authority G.S. 136-18(22);*
5 *Eff. November 1, 1985;*
6 *Amended Eff. November 1, 1993;*
7 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0426

DEADLINE FOR RECEIPT: Friday, June 14, 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:

Because titles of Rules can be changed without going through the Rulemaking process, we generally read rules without them. As such, please make it clear within the body of the text of the Rule to what this is applying. I assume that you mean something like the following:

The following definitions and procedures requirements set forth in this Rule shall apply to this [Rule.] Rule: access routes for STAA dimensioned vehicles.

Regarding my suggestion above, is "STAA dimensioned vehicles" correct? If so, please consider spelling out the acronym "STAA" here, as opposed to (1)(b), since this is the first place it is mentioned.

In (1)(b), are lines 22-24 ("State highway system roads ... herein be referred to as the "North Carolina Truck Network") necessary? They appear to be repeating other parts of this Subparagraph.

In (2)(b)(2)(ii), (v), (vi), (vii), and (viii), and (c), (d), (e), and (f), please change "route(s)" to "route"

Are the contents of the required application in (2)(b)(ii) set forth elsewhere in rule or statute?

In (2)(b)(iv), what is meant by "this Paragraph (2)(c)"?

In (2)(b)(iv), please confirm that this is still the process used in publishing notice. Is this the public notice required by 20-115.1(g)(3)? Please review and clarify.

In (2)(b)(iv), delete or define "regularly"

Please consider revising (2)(b)(v) to say something like the following:

The review and evaluation process of access routes will utilize the application of vehicle templates where suitable roadway plans or photographs are available for the requested route(s). Where such

Amber May

Commission Counsel

Date submitted to agency: Friday, May 31, 2019

plans or photographs are not available and the use of vehicle templates is not practical, the State Traffic Engineer shall require the terminal official or truck operator requesting the access route(s) to furnish an appropriate STAA dimensioned test vehicle and driver for the purpose of observing the test vehicle traverse the requested access route(s).

The State Traffic Engineer shall approve or deny all applications for proposed new accessed routes based upon the application of vehicle templates, roadway plans, and photographs. If plans or photographs are not available or the use of vehicle templates is not practical, the terminal official or truck operator shall provide a STAA dimensioned test vehicle and driver for the purpose of observing the test vehicle traverse the requested access route.

In (2)(b)(v), please change “will” to “shall”

In (2)(b)(v), delete or define “suitable”

In (2)(b)(vi), how is it determined whether a vehicle template would not be practical?

In (2)(b)(vi), delete “but not limited to” on line 23.

In (2)(b)(vii), by “may”, do you mean “shall” in “may be considered”? Here, I’m reading this to say that “short cuts” are not really a thing for purposes of this Rule, and if someone wants something qualifying as a “short cut” to qualify as an access route, then it has to be reviewed in accordance with this Rule. If that’s accurate, I think you mean “shall.”

In (2)(b)(viii), please delete “fully completed”

In (2)(b)(viii), please delete or define “appropriate” in “appropriate law enforcement official”

In (2)(c), please delete or define “appropriate” in “appropriate State and local law enforcement officers”

In (2)(d), delete or define “appropriate” in “appropriate law enforcement officials”

In (2)(d), are the safety considerations those specified in (2)(b)(iv)? If so, I think it’s fine, but please confirm.

In (2)(e), delete or define “appropriate” in “appropriate cargo manifest”

In (2)(f), delete or define “appropriate” in “appropriate law enforcement official”

Please note in (2)(c), you’ve said “state and local law enforcement officer” and in (2)(b)(vii), (2)(d) and (f), you’ve said “law enforcement official.” Please be consistent where you can.

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: Friday, May 31, 2019

1 19A NCAC 02E .0426 is readopted as published in 33:18 NCR 1886-1889 as follows:

3 **19A NCAC 02E .0426 ACCESS ROUTES FOR STAA DIMENSIONED VEHICLES**

4 The following definitions and ~~procedures~~ requirements apply to this ~~Rule~~ Rule:

5 (1) **DEFINITIONS:** Definitions.

- 6 (a) "Twin trailer truck" means a vehicle combination consisting of a truck-tractor and two
7 trailing units, with a width not to exceed 102 inches, as authorized by G.S. 20-115.1, STAA
8 (Surface Transportation Assistance Act) Dimensioned Vehicles are described as follows:
9 (i) ~~A "twin trailer truck" is a vehicle combination consisting of a truck tractor and~~
10 ~~two trailing units, 102 inches wide, as authorized by G.S. 20-115.1.~~
11 (ii) ~~A "48 foot Semi trailer truck" is a vehicle combination consisting of a~~
12 ~~truck tractor and one trailer 48 feet in length, 102 inches wide, as authorized by~~
13 ~~G.S. 20-115.1.~~
14 (iii) ~~A "53 foot Semi Trailer truck" is a vehicle combination consisting of a~~
15 ~~truck tractor and one trailer 53 feet in length, 102 inches wide, and a "kingpin"~~
16 ~~axle distance of 41 feet, as authorized by G.S. 20-115.1 and G.S. 20-116.~~
17 (b) ~~The "The National Truck Network" Network is~~ means a network of interstate, federal-aid
18 primary, and other highway routes within the State that have been designated by the
19 Department for motor vehicle combination use pursuant to G.S. 20-115.1(g) or the United
20 States Secretary of Transportation consisting of the Interstate and certain Federal aid
21 Primary highways designated for Surface Transportation Assistance Act (STAA) STAA
22 dimensioned vehicle use. State highway system roads designated by the Department
23 pursuant to G.S. 20-115.1(g) shall herein be referred to as the "North Carolina Truck
24 Network." use by the U.S. Secretary of Transportation, and other highway routes that have
25 been designated for this type vehicle use by the North Carolina Department of
26 Transportation under the authority of G.S. 20-115.1(g).
27 (c) "Terminal" means any location where:
28 (i) ~~Freight~~ freight either originates, terminates, or is handled in the transportation
29 ~~process,~~ process; or
30 (ii) ~~Commercial~~ commercial motor carriers maintain operating facilities.
31 (d) ~~"Reasonable Access" The term "reasonable access" means provisions for STAA~~
32 ~~dimensioned vehicle access to terminals and services from the National Truck Network, as~~
33 ~~follows:~~
34 (i) ~~Terminals Located Within Three Road Miles of the National Truck Network:~~
35 (A) ~~Reasonable access shall be deemed to be the use of the most reasonable,~~
36 ~~and practical route(s) available for access to terminals, and services for~~
37 ~~gas, food, lodging, and repairs.~~

- (B) ~~An access route(s) may only be denied by the Department of Transportation based on specific safety reasons on individual routes.~~
- (ii) ~~Terminals Located Beyond Three Road Miles of the National Truck Network:~~
- (A) ~~Reasonable access shall be deemed to be the use of only those routes specifically authorized by the Department of Transportation, or provided for in this Rule, for access to terminals.~~
- (B) ~~Authorization by the Department of Transportation shall consist of an application review and approval process for these access routes, as provided in this Rule.~~
- (e) "Vehicle Template" ~~is~~ means a drawing of the radius of a twin trailer ~~which tracks the radius of turns~~ turn used to determine the route design necessary to accommodate the vehicle.
- (e) "Short-cut" means a route used for the purpose of connecting two National or North Carolina Truck Network routes.
- (f) ~~"STAA" means Surface Transportation Assistance Act of 1982 and is the enabling federal legislation which allows twin trailers to travel on interstate highways and other approved routes.~~
- (2) ~~REASONABLE ACCESS PROCEDURES:~~ Reasonable Access Requirements.
- (a) ~~STAA dimensioned vehicles are allowed "reasonable access" between terminals and the National Truck Network only in accordance with this Section.~~
- (b) No filing or authorization by the Department shall be required for ~~For~~ access to terminals and service facilities located within three road miles of the National or North Carolina Truck Network. ~~Network no filing or authorization by the Department of Transportation is required.~~
- (e)(b) The following requirements shall apply for ~~For~~ access to terminals located beyond three road miles from the National or North Carolina Truck Network. ~~Truck Network the following procedures apply:~~
- (i) Access routes approved prior to June 1, ~~1991~~ 1991, for any one particular type of STAA dimensioned vehicle are approved for all STAA dimensioned vehicles for access purposes only.
- (ii) Terminal officials and truck operators shall submit an application for a proposed new access route(s) to the State Traffic Engineer of the Department ~~of Transportation~~ for approval. The application shall be on a form provided by the State Traffic Engineer. The submittal shall also include a map, or photocopy of a portion of a map, showing the proposed access route(s) or changes to an existing approved access route(s) and the terminal location. The State Traffic Engineer

may be reached at 919-814-5100 or 750 N. Greenfield Parkway, Garner, North Carolina 27529.

(iii) The State Traffic Engineer may seek advice from the State Highway Patrol, the Division of Motor Vehicles, or other law enforcement officials concerning the application.

(iv) Public notice of all applications for "reasonable access" pursuant to this Paragraph (2)(c) shall be published by the Department of Transportation in a newspaper regularly circulated in the ~~affected~~ area of the State where access is requested. ~~State.~~ The notice shall be published at least once a week on the same day of the week for two consecutive weeks. ~~In addition, governing~~ Governing bodies of incorporated municipalities ~~will~~ shall be notified by the Department ~~of Transportation~~ of all applications within their jurisdictions.

(v) ~~Access Route Review and Evaluation:~~

(A) ~~—~~ The review and evaluation process of access routes will utilize the application of vehicle templates where suitable roadway plans or photographs are available for the requested route(s). Where such plans or photographs are not available and the use of vehicle templates is not practical, the State Traffic Engineer shall require the terminal official or truck operator requesting the access route(s) to furnish an appropriate STAA dimensioned test vehicle and driver for the purpose of observing the test vehicle traverse the requested access route(s).

(vi) Safety factors that shall be taken into consideration when reviewing and evaluating requested access routes(s) shall include, but not be limited to, traffic congestion, traffic volume, route length, vehicle mix, geometric design of the highway, intersection geometrics, width of the shoulders, width of the pavement, super-elevation of the pavement, pavement conditions, at-grade railroad crossings, stopping sight distance, percentage passing sight distance, speed limits, vertical and horizontal alignments, ability of other vehicles to pass trucks, width of bridges, previous accident statistics, and location of schools.

(B) ~~— Since traffic safety is the overriding concern, the following safety factors shall also be taken into consideration in reviewing and evaluating a requested access route(s):~~

(I) ~~— traffic congestion,~~

(II) ~~— traffic volumes,~~

(III) ~~— route length,~~

(IV) ~~— vehicle mix,~~

(V) ~~— geometric design of the highway,~~

(VI) ~~intersection geometries,~~
(VII) ~~width of the shoulders,~~
(VIII) ~~width of pavement,~~
(IX) ~~superelevation of the pavement,~~
(X) ~~pavement condition,~~
(XI) ~~at grade railroad crossings,~~
(XII) ~~stopping sight distance,~~
(XIII) ~~percentage passing sight distance,~~
(XIV) ~~speed limits,~~
(XV) ~~vertical and horizontal alignment,~~
(XVI) ~~ability of other vehicles to pass trucks,~~
(XVII) ~~widths of bridges,~~
(XVIII) ~~previous accident experience, and~~
(XIV) ~~location of schools.~~

~~This does not preclude consideration of other relevant safety factors, not included in Paragraph (2)(v)(B)(I) through (XIV).~~

~~(vi)(vii)~~ A route(s) used for the purpose of connecting two National Truck Network routes is considered a "short-cut" route(s) and is Short-cut routes shall not be authorized by this Rule. Such a route(s) may be considered for designation as an addition to the National or North Carolina Truck Network by the Department ~~of Transportation under pursuant to~~ G.S. 20-115.1(g).

~~(vii)(viii)~~ The State Traffic Engineer shall approve or reject any fully completed application submitted pursuant to this Sub-item within 90 days of receipt. ~~have a period of 90 days from receipt of any fully completed application pursuant to Sub item (2)(c)(ii) of this Rule to approve or reject the applied for route(s) based on safety considerations and the review and evaluation process outlined in Sub item (2)(c)(v) of this Rule.~~ Terminal official and truck operators requesting an access route(s) The State Traffic Engineer shall provide notification and justification for any approval or rejection to the applicant and appropriate law enforcement officials. ~~officials shall be notified of any approval or rejection and the reasons.~~ Automatic approval of a requested access route(s) ~~is~~ shall be provided if such notification is not received within the ~~90-day~~ 90-day period.

~~(d)(c)~~ The Department ~~of Transportation~~ shall notify appropriate State and local law enforcement officers of an approved "reasonable access" route(s) that serves each terminal within the jurisdiction of the enforcement agency. The State Traffic Engineer shall also make available to terminal officials and commercial motor vehicle operators information regarding reasonable access to and from the National or North Carolina Truck Network.

1 ~~(e)~~(d) The Department of Transportation may, at any time subsequent to approval, revoke any
2 routes designated as a "reasonable access" route(s) based on safety considerations.
3 Terminal officials, truck operators, and appropriate law enforcement officials shall be
4 notified in writing 30 days prior to any revocation.

5 ~~(f)~~(e) Any STAA dimensioned vehicle traveling an access route(s) shall have on board an
6 appropriate cargo manifest.

7 ~~(g)~~ — Approval of an access route(s) for one particular type STAA dimensioned vehicle shall
8 constitute approval for all STAA dimensioned vehicles for access purposes only.

9 ~~(h)~~(f) ~~Appeal~~—A terminal official, truck operator, or an appropriate law enforcement official may
10 appeal the rulings concerning an access route(s) made by the State Traffic Engineer to the
11 Secretary of Transportation. In giving notice of appeal, the documentation to support
12 reasons for believing that the determination of the State Traffic Engineer was erroneous
13 shall be provided. The decision of the Secretary of Transportation shall be the final agency
14 decision.

15
16 *History Note:* *Authority G.S. 20-115.1; 136-18; 143B-350;*
17 *Board of Transportation Minutes for November 18, 1988;*
18 *Eff. November 1, 1991;*
19 *Amended Eff. November 1, 1993;*
20 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0427

DEADLINE FOR RECEIPT: Friday, June 14, 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 consider changing "shall utilize" to "utilizes"

Please consider changing "then approval from the Federal Highway Administration is required" to "approval shall be obtained from the Federal Highway Administration."

Also, is there a cross-reference available regarding the approval from the Federal Highway Administration?

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: Friday, May 31, 2019

1 19A NCAC 02E .0427 is readopted as published in 33:18 NCR 1886-1889 with changes as follows:

2
3 **19A NCAC 02E .0427 BICYCLE TRAILS-MULTI-USE [TRAILS]PATHS**

4 Department of Transportation may permit the municipal governing bodies to jointly use rights of way comprising a
5 part of the State Highway System for the purpose of constructing bicycle trails within the following conditions and
6 limitations:

- 7 (1) ~~The municipality will be totally responsible for the design, construction, and maintenance (including~~
8 ~~adequate signing) of any bicycle trails proposed to be constructed on rights of way of State Highway~~
9 ~~System routes.~~
- 10 (2) ~~The municipality will be responsible for the preparation of plans for the bicycle trails and will submit~~
11 ~~said plans to the division of highways for review and approval.~~
- 12 (3) ~~Approval of plans for bicycle trails will be on the basis that said trails do not conflict with highway~~
13 ~~needs and will not create additional traffic safety problems.~~
- 14 (4) ~~Where requests involve the utilization of highway rights of way acquired through the use of~~
15 ~~federal aid highway funds, concurrence by the Federal Highway Administration is required.~~
- 16 (5) ~~Authorization to the municipality to construct and maintain bicycle trails on State Highway System~~
17 ~~rights of way will be handled by an encroachment agreement specifying the conditions of the~~
18 ~~approval and which will include the provision that the municipality will be totally responsible for~~
19 ~~removing or relocating the bicycle trail from the rights of way if the highway right of way is needed~~
20 ~~in the future by the Department of Transportation.~~

21 (a) Authorization for a municipality to construct and maintain multi-use [trails]paths on State highway system rights-
22 of-way shall be provided through an encroachment agreement between the municipality and Department. The
23 encroachment agreement shall specify the conditions of approval.

24 (b) The municipality shall submit multi-use [trail]path plans with a standardized encroachment agreement to the local
25 highway Division Engineer for review and approval. Encroachment agreements shall include provisions indicating
26 that the municipality is responsible for the following:

- 27 (1) design, construction, signage, and maintenance of the proposed multi-use [trail;]paths;
28 (2) submitting design and construction plans to the local highway Division Engineer for review and
29 approval prior to bidding for construction; and
30 (3) relocating the proposed multi-use trail if the highway right-of-way is required for the purpose of
31 road widening by the Department.

32 (c) A proposed encroachment agreement shall be approved by the Division Engineer upon a determination that the
33 proposed multi-use [trail does not conflict with traffic safety, or]path is safe and does not conflict with planned
34 highway improvements that have been recommended in an adopted transportation plan.

35 (d) If a proposed multi-use [trail]path shall utilize State highway system rights-of-way acquired through the use of
36 federal aid highway funds, then approval from the Federal Highway Administration is required.

1 *History Note:* *Authority G.S. 136-71.9; 136-71.10;*
2 *Eff. July 1, 1978;*
3 *Amended Eff. October 1, 1993;*
4 *Transferred and Recodified from 19A NCAC 2B .0161 Eff. October 1, 1993.*
5 *Readopted Eff. July 1, 2019.*