

Exhibit H



NOTICE OF TEXT [Authority G.S. 150B-21.2(c)]

OAH USE ONLY

VOLUME:

ISSUE:

CHECK APPROPRIATE BOX:

- ☒ Notice with a scheduled hearing
☐ Notice without a scheduled hearing
☐ Republication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 14. If a hearing is scheduled, complete block 5.
Previous publication of text was published in Volume: Issue:

1. Rule-Making Agency: NC Department of Transportation

2. Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncdot.gov/about-us/how-we-operate/policy-process/rules/Pages/default.aspx>

3. Proposed Action -- Check the appropriate box(es) and list rule citation(s) beside proposed action:

☐ ADOPTION:

☐ AMENDMENT:

☐ REPEAL:

☐ READOPTION with substantive changes:

☒ READOPTION without substantive changes: 19A NCAC 02E .0201-.0204, .0206-.0210, .0212-.0215, .0224-.0225, .0601-.0604, and .0608-.0611

☒ REPEAL through READOPTION: 19A NCAC 02E .0226

4. Proposed effective date: 05/01/2020

5. Is a public hearing planned? ☒ Yes ☐ No

If yes: Public Hearing date: Thursday, February 20, 2020

Public Hearing time: 3:00 pm

Public Hearing location: Transportation Mobility and Safety Conference Room 161, 750 Greenfield Parkway,
Garner, NC 27529

6. If no public hearing is scheduled, provide instructions on how to demand a public hearing:

7. Explain Reason For Proposed Rule(s): Pursuant to G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules, all rules are reviewed at least every 10 years or they shall expire. As a result of the periodic review of Subchapter 19A NCAC 02B, 02D and 02E these proposed rules were determined as "Necessary With Substantive Public Interest" thus necessitating readoption.

Upon review for the readoption process, the agency deemed the following rules to be necessary without substantive changes and are recommended for readoption: 19A NCAC 02E .0201-.0204, .0206-.0210, .0212-.0215, .0224-.0225, .0601-.0604, and .0608-.0611.

Upon review for the readoption process, the agency deemed the following rule to be unnecessary and is recommending repeal: 19A NCAC 02E .0226.

8. Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

☐ Rule(s) is automatically subject to legislative review. Cite statutory reference:

9. The person to whom written comments may be submitted on the proposed rule(s):

Name: Hannah D. Jernigan

Address: 1501 Mail Service Center

Raleigh, NC 27699-1501

Phone (optional): 919-707-2821

Fax (optional):

E-Mail (optional): Rulemaking@ncdot.gov

10. Comment Period Ends: March 5, 2020

11. Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☒ Approved by OSBM
- ☒ No fiscal note required

12. Rule-making Coordinator: Helen Landi

Phone: 919-707-2821

E-Mail: Rulemaking@ncdot.gov

Additional agency contact, if any: Hannah D. Jernigan

13. The Agency formally proposed the text of this rule(s) on
Date: December 4, 2019

14. Signature of Agency Head* or Rule-making Coordinator:



Phone: 919-707-2821

E-mail: Rulemaking@ncdot.gov

Typed Name: Helen Landi

Title: Rule-making Coordinator/Interagency Director

**If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.*

Exhibit I



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

JAMES H. TROGDON, III
SECRETARY

March 1, 2019

Fiscal Note

Session Law 2013-413 (House Bill 74) – Regulatory Reform Act, Specifically the Section on Outdoor Advertising (ODA) Modernization of outdoor advertising devices.

Proposed NCAC Rule Changes:

19A NCAC 02E .0201	Technical Changes
19A NCAC 02E .0203	Technical Changes
19A NCAC 02E .0206	Technical Changes
19A NCAC 02E .0207	Technical Changes
19A NCAC 02E .0208	Technical Changes
19A NCAC 02E .0209	Technical Changes
19A NCAC 02E .0210	Technical Changes
19A NCAC 02E .0212	Technical Changes
19A NCAC 02E .0213	Technical Changes
19A NCAC 02E .0215	Technical Changes
19A NCAC 02E .0225	Comply with Session Law
19A NCAC 02E .0226	Technical Changes

Agency Contact: Helen Landi
Interagency Director/APA Coordinator

Statutory Authority: G.S. 136-130 and G.S. 136-131.2

Impact Summary: Federal Government: No
State government: Yes
Local government: Yes
Substantial impact: Yes

Necessity:

NCDOT is proposing to revise 19A NCAC 02E .0225 to comply with outdoor advertising modernization amendments enacted during the 2013 General Assembly session to G.S. 136-131.2. Session Law 2013-413 removed the authority of municipal, county, local or regional zoning authorities, or other political subdivision to prohibit the repair or reconstruction of any outdoor advertising for which the owner holds a valid permit issued by the Department of Transportation. Additional technical changes to a number of other rules are proposed to clarify and update language.

A summary of the impact from the proposed rule changes is presented in Table 1.

Table 1. Impact Summary

<i>Costs</i>	Annual Impacts
NCDOT cost to review application & inspect site	\$18,985
Industry cost to prepare application & inspect site ¹	\$22,730
Industry cost of modernization ¹	\$1,750,000
Aesthetic impacts to local residents and governments	Unquantified
<i>Benefits</i>	
NCDOT fee revenue	\$21,000
Industry benefits of modernization ²	Unquantified

¹ There are many uncertainties related to estimating the cost of modernization. The numbers presented in this table assume a cost per site of \$50,000 (which may not be representative of the average cost) plus the cost of application and inspection. It is difficult to estimate industry benefits; this analysis assumes benefits would have to be at least equal to costs, or otherwise industry would not choose to modernize.

Statistics:

There are about 8200 signs that are currently permitted or in the process of being permitted. The federal transportation apportionment bill (MAP-21), which took effect on October 1, 2012, increased and extended the National Highway System (NHS) to include new routes classified as principal arterials. Since NCDOT is required to control outdoor advertising on any NHS route, the Department has tasked a consultant with inventorying and permitting signs on the additional mileage. For the past five years, NCDOT has been actively permitting these new MAP 21 signs; however, approximately 75 remain to be permitted. No new signs will be allowed on these routes without going through the established NCDOT application process.

Since the passage of S.L. 2013-413, approximately 120 signs were modernized. It is assumed that industry continue modernizing signs in similar quantities over the next five years. It is estimated that NCDOT will receive 175 applications to modernize the following number of signs in the next five years:

First year Estimated 20% = 35 signs modernized

Second year: Estimated 20% = 35 signs modernized

Third year: Estimated 20% = 35 signs modernized

Fourth year: Estimated 20% = 35 signs modernized

Fifth year: Estimated 20% = 35 signs modernized

Administrative costs could potentially increase for NCDOT and the Industry. A sample calculation for a continued modernization effort is described below.

NCDOT Administrative Cost Increase:

The NCDOT will have minimal extra cost involved in reviewing requests for modernization:

- NCDOT estimates it will take six extra (6) hours of an engineering technician's time investigating each permit. This is for reviewing documents and conducting a field investigation once construction/modernization is complete. The technician will also have to travel to the site which is estimated at 2 hours for the round trip.
- An average ODA consultant technician rate is approximately \$29.41/hour. Adding the standard overhead and payroll burden of % 125, the rate is approximately \$66.18/hour. The vehicle allowance in the current ODA contract is \$720 per month plus \$.16 per mile. Assuming 2000 miles per month, and 160 working hours per month, the average hourly rate for consultant technician vehicle use is \$6.50 per hour. This calculation assumes two hours of travel time and two hours for the consultant to conduct the field investigation. The current ODA consultant contract can be renewed for an additional year and no significant salary increases are expected over the next few years. So this analysis assumes no growth in the hourly NCDOT consultant technician cost.

Based on the assumptions above, the 5-year extra DOT costs are estimated as follows:

$$(\$ \text{'s for Investigation} + \$ \text{'s for Travel}) * \text{Number of Signs} = \text{Cost}$$

	Calculation:	Cost:
Year 1, 35 signs	$(\$66.18 * 6 \text{ hours}) + (\$66.18 + \$6.50) * 2 \text{ hours}$ * 35 signs	\$18,985
Year 2, 35 signs	$(\$66.18 * 6 \text{ hours}) + (\$66.18 + \$6.50) * 2 \text{ hours}$ * 35 signs	\$18,985
Year 3, 35 signs	$(\$66.18 * 6 \text{ hours}) + (\$66.18 + \$6.50) * 2 \text{ hours}$ * 35 signs	\$18,985
Year 4, 35 signs	$(\$66.18 * 6 \text{ hours}) + (\$66.18 + \$6.50) * 2 \text{ hours}$ * 35 signs	\$18,985
Year 5, 35 signs	$(\$66.18 * 6 \text{ hours}) + (\$66.18 + \$6.50) * 2 \text{ hours}$ * 35 signs	\$18,985
		Total \$94,922

NCDOT Fee Revenue Increase:

NCDOT charges a permit fee per sign of \$120. As a result of the proposed change and the resulting additional permit requests, NCDOT would see an increase in its fee revenue of \$21,000 based on applications for 175 sign modernizations over the next 5 years.

Industry Cost Increase:

Industry should have minimal extra cost involved in preparing the requests for modernization and it is not expected that these costs should increase significantly over the next few years.

- NCDOT estimates it will take eight (8) hours of an industry representative's time for each permit based upon input from field technicians with working knowledge of the industry. This is for populating a form and conducting a field investigation once construction/modernization is complete. This time estimate is based upon input from field technicians working knowledge of industry.
- Assuming industry's cost is similar to the NCDOT consultant technician rate, the hourly rate is \$66.18 per hour.
- Each sign's permit fee is \$120 (per G.S. 136-133 and 19A NCAC 02E .0207) and this fee is unlikely to change in the future.

Based on the assumptions above, the 5-year extra industry costs are estimated as follows:

$$(\$ \text{'s for Investigation} + \$120 \text{ permit fee}) * \text{Number of Signs} = \text{Cost}$$

	Calculation:	Cost:
Year 1, 35 signs	(\$66.18 * 8 hours + \$120 permit fee) * 35 signs	\$22,730
Year 2, 35 signs	(\$66.18 * 8 hours + \$120 permit fee) * 35 signs	\$22,730
Year 3, 35 signs	(\$66.18 * 8 hours + \$120 permit fee) * 35 signs	\$22,730
Year 4, 35 signs	(\$66.18 * 8 hours + \$120 permit fee) * 35 signs	\$22,730
Year 5, 35 signs	(\$66.18 * 8 hours + \$120 permit fee) * 35 signs	\$22,730

Total \$113,650

The industry would additionally incur the cost of the actual modernization; however, this cost is difficult to estimate. Modernization may entail a variety of changes to the sign, such as replacing wood poles with steel ones, billboard face upgrades, changes in the number of poles, etc.

Therefore, the range of cost per modernization could vary greatly. Based on information submitted by the NC Outdoor Advertising Association to a NCDOT survey, projecting modernization costs is further complicated by “uncertainties in the economy, including the fluctuating costs of materials such as steel...”

The NCDOT survey results indicate that the cost of replacing multiple wooden poles with a mono steel structure would cost between \$40,000 and \$60,000 at a site based on current steel prices. This example is selected for this fiscal analysis since it is the most common choice for modernization. It is unclear whether this range is at all representative of the average cost per modernization site. The Department of Revenue, which values billboard for tax purposes, estimate the cost of monopole structures from 25,000 to 164,000 depending upon the size and design of the structure.¹

Industry Benefits:

The industry would also clearly incur some benefits from being allowed to modernize their signs. The modernization would increase the value of a sign and, therefore, the amount of revenues collected. The response to the NCDOT survey mentioned above indicate that in some cases, depending on the firm, the location of the sign, increased height and visibility, the revenue could increase by as much as 100%. The responses to the survey also indicated the benefits could come in a variety of shapes, not just additional revenue gains, including “enhanced safety, aesthetics, operational efficiencies, environmental efficiencies, etc.”

The industry estimates that the benefits reaped from the proposed change would greatly exceed the costs associated with permit application and modernization. But, given the different characteristics of firms affected by this rule change and the lack of concrete available information, forecasting the benefit to the industry is extremely challenging.

Local Government and Resident Impact:

More signs can be repaired and reconstructed that would have been prohibited under local rules or ordinances. Many local authorities have more stringent regulations than the State regarding outdoor advertising. Before GS 136-131.2, local municipal, town, and county governments had various controls over issues with billboards being modernized.

Many types of alterations can be made to billboards through repair and reconstruction. Any type of alteration can be made to a conforming billboard as long as the alteration adheres to the State and Federal regulations. Restrictions include: the square footage of the billboard cannot be increased; and the sign location cannot change. Examples of modernization include: static faces become digital; heights may be increased to the state maximum of 50’ as measured from the edge of pavement; and wood multi-pole structures become steel mono-pole structures.

¹ NCDOR, 2019. Billboard Structures Valuation Guide. Accessible at https://files.nc.gov/ncdor/documents/files/2019_billboard_structures_valuation_guide_final_0.pdf

Aesthetics tends to be important to local governments and residents for personal enjoyment and to attract residents, tourists, and business to the area. While this rule does not address vegetation cutting, placement of structures associated with modernization may not “fit” with the overall comprehensive plan of that community. Vegetation will not be allowed to be removed as part of this rule. G.S. 136-133.1 addresses outdoor advertising vegetation cutting or removal. Communities often strive to develop aesthetically pleasing corridors and often adopt rules or ordinances to preserve a certain appearance. This rule, which is consistent with 136-131.2, prohibits local communities from being able to restrict modifications on state conforming signs.

Alternatives

The first alternate is the, “do nothing” alternate. GS 136-131.2 addresses modernization of outdoor advertising structures. Without clarifying 19A NCAC 02E .0225, locals and industry may not understand Department expectations with modernization, which could lead to inconsistencies with regulation. This rule without modification, currently requires local approval for alterations. While GS 136-131.2 clearly removes local approval, an unmodified 19A NCAC 02E .0225 could create unnecessary confusion.

The second alternate is to further limit activities that industry could do as part of modernization. An example includes restricting companies to modernize from static to digital faces. Some local governments have more stringent rules associated with outdoor advertising regulations including moratoriums on allowing digital billboards. NCDOT considered excluding digital faces as part of modernization. NCDOT chose not to make this exclusion since the state already allows digital billboards and that industry should be allowed to accommodate for technology enhancements.

The third alternate, which is the alternate endorsed by NCDOT, is to re-write 19A NCAC 02E .0225 to be consistent with GS 136-131.2. This rule defines expectations of industry for the repair, maintenance, alteration and reconstruction of conforming signs. This rule also defines expectations of industry for the repair and maintenance of non-conforming signs. It is the Department’s intent to be consistent and clear with regulating both conforming and non-conforming signs.