

# Exhibit J

## Craig D. Justus

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**From:** Landi, Helen E <hlandi@ncdot.gov>  
**Sent:** Monday, September 28, 2020 11:25 AM  
**To:** Thomas Bugbee  
**Cc:** Craig D. Justus; jdodson@adamsoutdoor.com; Pittman, Ebony; Jernigan, Hannah  
**Subject:** RE: [External] Request for Explanation  
**Attachments:** ODA Nonconforming sign location definition letter to NCDOT 4-23-20.pdf; Per G.S. 150B-21.2(h).pdf

Mr. Bugbee,

Please see attached as requested.

Best,  
Ms. Landi

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**From:** Thomas Bugbee <tjbugbee@ncoaa.net>  
**Sent:** Monday, September 14, 2020 4:57 PM  
**To:** Landi, Helen E <hlandi@ncdot.gov>; Jernigan, Hannah <hjernigan@ncdot.gov>  
**Cc:** Craig D. Justus <cjustus@vwlawfirm.com>; jdodson@adamsoutdoor.com; Pittman, Ebony <epittman@ncdoj.gov>  
**Subject:** [External] Request for Explanation

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [report.spam@nc.gov](mailto:report.spam@nc.gov)

Mrs. Landi,

Please see the attached Request for Explanation of Rules recently adopted by NCDOT. For your convenience, attached are the two documents referenced in the request.

Thank you,

TJ Bugbee  
Executive Director  
North Carolina Outdoor Advertising Association  
209 Fayetteville St. Box 6  
Raleigh, NC 27601  
M: (910) 262-3594  
[tjbugbee@ncoaa.net](mailto:tjbugbee@ncoaa.net)



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**Per G.S. 150B-21.2(h), Response to Readoption of Rulemaking Request for  
19A NCAC 02E .0201(26) and 19A NCAC 02E .0225**

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 02E, these proposed rules were determined as “Necessary With Substantive Public Interest” thus necessitating readoption. In addition, the proposed rules were readopted to comply with Session Law 2013-413.

**Public Comments**

NCDOT received more than 350 public comments as part of the rule readoption process. Comments were received from the outdoor advertising industry, legislators, and local governing authorities. A substantially large portion of comments were received from special interest groups.

Copies of the public comments are available for review on the NCDOT Rules Review website at <https://www.ncdot.gov/about-us/how-we-operate/policy-process/rules/Pages/default.aspx>.

Based on lengthy review of the public comments, modifications were made to the proposed rules which were adopted on August 28, 2020.

**19A NCAC 02E.0201 (26) Definition of Sign Location**

The definition of sign location was updated to require recreational grade GPS for identifying sign locations. The existing definition references 1/100<sup>th</sup> of a mile. NCDOT is aware of the outdoor advertising industry’s position regarding this definition change and the impact it will potentially have on a sign owner’s ability to move or relocate an existing sign structure within the 26-foot box. In recent years, sign companies have moved signs, within the 26-foot box, based on this definition. While moving a sign in this manner is not an issue with a conforming sign, it is an issue with a nonconforming sign. The local FHWA office has issued guidance directing NCDOT to update this definition of sign location and has reminded the Department that under federal law, nonconforming signs should not be moved at all. (See FHWA letter dated, April 23, 2020, attached.)

For the foregoing reasons, NCDOT did not revise this definition based on the public comment from the outdoor advertising industry.

## **19A NCAC 02E.0225 Repair/Maintenance/Alteration/Reconstruction of Conforming Signs and Repair and Maintenance of Non-Conforming Signs**

This rule has been modified to comply with Session Law 2013-413, s. 8(b), codified as G.S. 136-131.2, and details modifications that can be made to conforming signs and non-conforming signs.

This rule received many public comments from all stakeholders including the outdoor advertising industry, legislators, local governing authorities, and special interest groups. Outdoor advertising Industry comments included concerns over the alteration permit and fee as well as the use of the term “nonconforming signs.” Local governing authorities and special interest groups had concerns with the limited local control of signs in their jurisdictions based on the initial proposed draft of this rule. After reviewing public comments, NCDOT revised this rule including changing the title to, *19A NCAC 02E.0225 Repair /Maintenance /Alteration /Reconstruction of Signs*.

Based on the public comments from outdoor advertising industry, NCDOT modified the initial proposed draft of the rule to now require a permit addendum instead of a “new” alteration permit.

Based on the public comments from the General Assembly, local governing authorities and special interest groups, NCDOT modified the initial proposed draft of the rule to clarify the scope of modernization of signs under S.L. 2013-413. The modified rule now states that conforming sign structures may be reconstructed by changing of an existing multi-pole structure to a monopole structure so long as the square footage of the advertising surface area is not increased. Further, conforming sign structures may not be changed from a static face to an automatic changing face and the sign height cannot be increased without local approval. In accordance with federal law, this modified rule also clarifies that nonconforming signs may not be altered or reconstructed.

NCDOT maintains these changes are consistent with the legislative intent of S.L. 2013-413 as set forth in comments provided by members of the General Assembly (see letter to NCDOT dated March 5, 2020, included in the public comment materials) and the legislative debates held on July 11, 2013.

### **Fiscal Note**

There have been no changes to the Fiscal Note.



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

**North Carolina Division**

April 23, 2020

310 New Bern Avenue, Suite 410  
Raleigh, NC 27601  
(919) 856-4346  
(919) 747-7030  
<http://www.fhwa.dot.gov/ncdiv/>

In Reply Refer To:  
HDA-NC

Mr. Tim Little, PE  
Chief Engineer, North Carolina  
Department of Transportation  
1536 Mail Service Center  
Raleigh, NC 27699-1536

Dear Mr. Little:

The Federal Highway Administration (FHWA) North Carolina Division Office has completed a review of the North Carolina Department of Transportation's proposed rule changes to the North Carolina Administrative Code regarding the State's Outdoor Advertising Control Program. While most of the changes were generally minor, it is noted that 19A NCAC 02E .0201, Definitions for Outdoor Advertising Control, (26) Sign Location, appears to allow for very minor relocation of a non-conforming sign based on location data provided by a recreational grade Global Positioning System Device. FHWA must reiterate that the location of a legally non-conforming outdoor advertising sign may not be changed for any reason unless it is to relocate that sign to a conforming location, per the Code of Federal Regulations at 23 CFR 750.707.

**§750.707 Nonconforming signs.**

*(3) The sign may be sold, leased, or otherwise transferred without affecting its status, but its location may not be changed. A nonconforming sign removed as a result of a right-of-way taking or for any other reason may be relocated to a conforming area but cannot be reestablished at a new location as a nonconforming use.*

The North Carolina Administrative Code should reflect the definition in 23 CFR 750.707 (3) that the location of a Non-Conforming sign may not be changed.

If you have any questions or need additional information on this matter, please contact Michael Dawson, FHWA NC Division Realty Officer, at 919-747-7009 or via email at: [michael.dawson@dot.gov](mailto:michael.dawson@dot.gov).

Sincerely,

*Michael C. Dawson*

For John F. Sullivan, III, P.E.  
Division Administrator