



TJ Bugbee  
Executive Director  
tjbugbee@ncoaa.net

October 8, 2020

North Carolina Rules Review Commission  
Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh NC, 27609

Public Comments Regarding 2020 Proposed Revisions to Rules Governing Outdoor Advertising

Commissioners and Staff,

On behalf of the North Carolina Outdoor Advertising Association (NCOAA) and its members, thank you for the opportunity to respond to the proposed readoption of rules for the control of outdoor advertising in North Carolina. Attached please see my original letter to the North Carolina Department of Transportation (NCDOT), submitted during the public comment phase of the rules review process.

NCOAA has determined that several of these rules as adopted fall into one or more of the following categories: 1) are unclear and ambiguous; 2) contradict the legislative intent of S.L. 2013-413; 3) lack the statutory authority for implementation; and 4) and are “not valid”, as they were not “adopted in substantial compliance with this Article” as required by G.S. 150B-18.

Craig Justus, (Van Winkle Law Firm) has also submitted written comments that further expand on these determinations, and I encourage each of you to thoroughly review his comments. I will however touch on a few that stand out.

The intent of the Regulatory Reform Act of 2013 (S.L. 2013-413) is clearly stated in the short title of the Session Law, “AN ACT TO IMPROVE AND STREAMLINE THE REGULATORY PROCESS IN ORDER TO STIMULATE JOB CREATION, TO ELIMINATE UNNECESSARY REGULATION...”. Several of the proposed rules identified in the written comments submitted by Mr. Justus, neither streamline the regulatory process, nor do they stimulate job creation. On the contrary, several of the rules identified are directly averse to the legislative intent, increasing the regulatory burden, and harming the outdoor advertising industry. Furthermore, several of the adopted rules are out

of compliance with the APA, specifically in regards to G.S. 150B-19.1(2) which states: "An agency shall seek to reduce the burden upon those persons or entities who must comply with the rule."

Under the existing rules, the outdoor advertising industry in North Carolina has seen a steady decline in the overall number of outdoor advertising structures for more than a decade. The proposed rules identified in Mr. Jutsus' written comments, if approved, will contribute to and expedite this decline, and further harm the industry.

In particular, the proposed changes to the definition of "sign location" from 1/100<sup>th</sup> of a mile, to a GPS coordinate, will eliminate a mechanism by which sign owners are able to move a sign off of a new right-of-way established by a road widening, within the bounds of the same "Sign Location/Site". Currently, a sign may be moved within the same "Sign location/site" (26 feet either side of the pole:1/100 mile) as defined in NCDOT's current regulations, and affirmed by the N.C. Supreme Court in *Lamar v. Stanly County*. The effect of this proposed change would overturn *Lamar v. Stanly County*, leading to further unnecessary, and extensive just compensation disputes over the forced taking of a sign.

If the Department's desire is to have a GPS location for its internal use, an alternative solution to changing the definition of sign/site location, would be to require permit holders to provide a GPS coordinate for reference, as part of each permit renewal.

The practical effect of many of these rules as proposed, will increase the rate of the forced taking of signs. NCDOT has been aware of similar objections by NCOAA since March 15<sup>th</sup>, 2019. We respectfully request that the Rules Review Commission reject the rules as identified in Mr. Justus' letter.

Sincerely,



TJ Bugbee  
Executive Director  
North Carolina Outdoor Advertising Association

Cc: Jeannine Dodson, President NCOAA  
Amber May, Commission Counsel, RRC  
Craig Justus, Esq., Van Winkle Law Firm