

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0601

DEADLINE FOR RECEIPT: Wednesday, December 10, 2014

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 17, define or delete "directly"

Line 18, move the comma within the quotation marks for "business facilities"

Line 24 does not properly track the text published in the Register. Please correct.

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, November 26, 2014

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0602

DEADLINE FOR RECEIPT: Wednesday, December 10, 2014

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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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Page 2, line 22, does not properly track the text published in the Register. Please correct.

Page 2, line 34, the citations should be in numerical order. Please move the newest citation into the correct order.

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, November 26, 2014

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0603

DEADLINE FOR RECEIPT: Wednesday, December 10, 2014

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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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 5 through 12 does not properly track the text published in the Register. Please correct. Text in rules should not be both underlined and struckthrough.

Line 34, replace "will" with "may"

Line 35, consider the following rewrite:

"screening and affect the safety..."

Page 2, line 2, uncapitalize "Federal" unless this is referring to a specific beautification project.

Page 2, lines 23 and 24, place the terms "unlawful destruction" and "illegal cutting" into quotation marks to clarify that the terms are being defined by the subsequent language.

Page 2, line 29, the citations should be in numerical order. Please move the last citation into the correct order.

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, November 26, 2014

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0604

DEADLINE FOR RECEIPT: Wednesday, December 10, 2014

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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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 15, delete "minimum"

Line 28, replace "a minimum" with "the sum"

Page 2, line 3, delete "of a minimum"

Page 2, line 7, add a comma after "contractor"

Page 2, line 11, delete "for a minimum"

Page 3, lines 22 and 23; lines 27 and 28; and lines 34, the formatting of these sentences discuss the State agreeing in writing twice. Can these clauses be simplified?

Page 4, line 17, uncapitalize "Federal" unless this is referring to a specific laws, ordinances, or regulation.

Page 5, line 9, add a comma after "right-of-way" and add "may allow" between "and access." Alternatively, consider tracking the same language as set forth on page 6, line 8 of 19A NCAC 02E .0610.

Page 5, line 24, replace "is" with "shall be"

Page 5, line 29, what is the authority to require this clean up "at the end of each workday"?

Page 6, lines 2 and 3, do not delete the term "Bond." Please be consistent with capitalization of this term throughout the rules.

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, November 26, 2014

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0608

DEADLINE FOR RECEIPT: Wednesday, December 10, 2014

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 12 does not properly track the text published in the Register. Please correct.

Line 23, add a comma after "signs"

Lines 33 through 34, replace "is a requirement" with "shall be required"

Page 2, line 20, add a comma after "review"

Page 2, line 20, replace "must" with "shall"

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, November 26, 2014

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0609

DEADLINE FOR RECEIPT: Wednesday, December 10, 2014

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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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 21, replace "will" with "may"

Line 22, consider the following rewrite:

"screening and affect the safety..."

Line 24, uncapitalize "Federal" unless this is referring to a specific beautification project.

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

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Wednesday, November 26, 2014

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0610

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 14, delete "minimum"

Lines 26 and 27, replace "a minimum" with "the sum"

Line 37, delete "of a minimum"

Page 2, lines 30 through 37, why does this language, which appears very similar, not track the language on page 3, lines 1 through 6 of 19A NCAC 02E .0604? Consider making these paragraphs consistent. On line 30, delete the first sentence.

Page 4, line 13, delete "or" after "later" as there is an "or" on line 17

Page 4, line 26, delete "above" and add "Sub-items" between "in (a)"

Page 4, lines 31 and 32, delete "and all applicable General Statutes and rules."

Page 5, line 5, uncapitalize "Federal" unless this is referring to a specific laws, ordinances, or regulation.

Page 6, line 23, replace "is" with "shall be"

Page 6, lines 28 through 29, what is the authority to require this clean up "at the end of each workday"?

Page 7, line 8, the last citation is not in numerical order. Please correct.

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, November 26, 2014

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0611

DEADLINE FOR RECEIPT: Wednesday, December 10, 2014

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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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 35, add a comma after "pruning"

Page 3, line 1, delete the blank line

Page 3, line 2, why is NCDOT found here? It does not appear in other rules.

Page 4, lines 14 through 17, is the punctuation correct? The sentence reads as though it is missing an conjunction, such as maybe consider an "and" on line 15 before "the permittee shall"

Page 5, line 1 through 2, replace "Rule .0611 of this subchapter" with "this Rule"

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, November 26, 2014

1 19A NCAC 02E .0611 IS AMENDED WITH CHANGES AS PUBLISHED IN 29:06 NCR 656 AS FOLLOWS:
2

3 **19A NCAC 02E .0611 REQUIREMENTS FOR BEAUTIFICATION AND REPLANTING**
4 **REQUIREMENTS FOR CONDITIONS OF SELECTIVE VEGETATION REMOVAL**
5 **PERMITS FOR OUTDOOR ADVERTISING AND BUSINESS FACILITIES**

6 (a) Any site with a valid selective vegetation removal permit issued pursuant to G.S. 136-93(b) qualifies for a
7 beautification and replanting ~~plan.~~ plan as set forth in G.S. 136-133.1 (e).

8 (b) For future selective vegetation removal applications at replanted sites, replanted materials may be removed only if
9 partially blocking the view to a sign face. In this case, the Department ~~will~~ shall require plant substitutions on a one for
10 one basis. All requests for plant substitutions shall be approved by the Department and installed according to the rules in
11 this Section.

12 (c) Submittal of a ~~selective vegetation removal application~~ site plan shall be in accordance with G.S. 136.133.1(c).

13 (d) This Paragraph applies to all replanting plans except mitigating replanting plans as specified in ~~19A NCAC 02E~~
14 Rules .0603(b)(6) and .0609(b)(4) of this Section. .0609(b)(4). The caliper inches of existing trees to be removed,
15 according to the applicant's site plan shall equal the caliper inches to be replanted by the applicant at the outdoor
16 advertising site from which existing trees are requested to be removed. If the caliper inches of existing trees from the site
17 plan exceed the density of the Departments replanting site design, the excess caliper inches of trees shall be delivered by
18 the applicant to the Department according to the schedule described in Subparagraph (g)(6) of this Rule. If plant material
19 other than trees is proposed, the Department may consider such substitution for the required caliper inches. ~~The excess~~
20 ~~trees shall be planted and maintained by the Department at sites to be determined by the Department.~~

21 (e) For sites that qualify according to the replanting criteria described in this Rule, the Department shall consult with the
22 applicant and any local government that has requested to review and provide comments on selective vegetation removal
23 applications pursuant to G.S. 136-93(d) or has notified the Department of its desire to review and provide comments on
24 beautification and replanting plans. The local government shall be given 15 days to review and provide comments on
25 beautification and replanting plans. If the local government does provide comments on a beautification and replanting
26 plan, the Department shall take the comments into consideration. If the local government does not make appropriate
27 request for a review, the criteria stated in the rules in this ~~section~~ Section shall be followed for replanting determination.

28 (f) In consideration of differences in outdoor advertising sign structure heights, business facilities, or agritourism
29 activities, the Department shall maintain on file regionalized landscape design plans and plant lists as a guide for
30 applicants. The applicant may submit one of the Department's plans or a proposed beautification and replanting plan
31 prepared and sealed by a North Carolina licensed landscape architect. The Department's written approval, based on the
32 current edition and subsequent amendments and editions of the American Standard for Nursery Stock ANSI Z60.1
33 approved by the American National Standards Institute and published by the American Horticulture Association that is
34 hereby incorporated for a minimum of a 1.5 caliper inch replanted tree, of the beautification, replanting, and maintenance
35 plan shall allow the applicant to proceed with requested vegetation cutting, thinning, pruning or removal at the ~~outdoor~~
36 ~~advertising~~ site. If plant material other than trees is proposed, the Department may consider such substitution for the
37 required caliper inches. Copies of the Standard are available for inspection in the office of the State Roadside

1 Environmental Engineer, Division of Highways, Raleigh, N.C. Copies of the Standard may be obtained free of charge
2 from this website of the American Horticulture Association: www.americanhort.org. The mailing address for
3 AmericanHort is 2130 Stella Ct, Columbus, OH 43215

4 (g) The approved beautification and replanting plan becomes a part of the selective vegetation removal permit pursuant
5 to G.S. 136-93(b) and 136-133.1(e). All ~~applicable permit requirements of the permit, including the performance bond~~
6 ~~and insurance~~, shall continue to apply until all replanting and establishment requirements are satisfied and accepted in
7 writing by the Department. The Department shall approve the replanting portion of the selective vegetation removal
8 permit in writing ~~detailing~~ and detail the requirements of the beautification and replanting plan. The requirements
9 include the following:

10 (1) The work for initial plantings and all future replacements ~~must be adhered to~~ by the permittee or any ~~or~~
11 ~~of~~ their employees, agents, or assigns ~~according to~~ shall be in accordance with the current edition and
12 subsequent amendments and editions of the American National Standard for Tree Care Operations-
13 Transplanting ANSI A300 (Part 6), approved by the American National Standards Institute and
14 published by the Tree Care Industry Association, Inc. that is hereby incorporated, [Association, Inc.,]
15 ~~International Society of Arboriculture standards~~ except as stipulated in the rules in this Section. Copies
16 of the Standard are available for inspection in the office of the State Roadside Environmental
17 Engineer, Division of Highways, Raleigh, N.C. Copies of the Standard may be obtained from the Tree
18 Care Industry Association, Inc. for a \$20.00 cost. The Tree Care Industry Association, Inc. (TCIA) can
19 be contacted at 136 Harvey Road, Suite 101 Londonberry, NH 03053 or at this website: www.tcia.org.
20 Initial and replacement planting ~~will~~ may be considered acceptable ~~when~~ if the plants have been placed
21 in the plant hole, backfilled, watered, mulched, staked, and guyed. All plants of one species that
22 ~~species, which~~ are shown on the plans to be planted within a bed, shall be planted concurrently and the
23 entire group shall be completed before any plant therein is considered acceptable. Replacement
24 planting consists of replacing those plants ~~which~~ that are not in a living and healthy condition as
25 defined in these Rules;

26 (2) The permittee ~~must~~ shall adhere to erosion control requirements, according to North Carolina General
27 Statutes, Article 4, Chapter 113A entitled: Sedimentation Pollution Control Act of 1973;

28 (3) All plant materials shall be approved in writing by the Department prior to arrival at the ~~outdoor~~
29 ~~advertising~~ site or prior to excess trees being furnished and delivered to the Department. The approval
30 shall be based on the current edition and subsequent amendments and editions of the American
31 Standard for Nursery Stock; Stock ANSI Z60.1 approved by the American National Standards Institute
32 and published by the American Nursery and Landscape Association Horticulture Association that is
33 hereby incorporated. [Association. Copies of the Standard are available for inspection in the office of
34 the State Roadside Environmental Engineer, Division of Highways, Raleigh, N.C. Copies of the
35 Standard may be obtained free of charge from this website of the American Horticulture Association:
36 www.americanhort.org. The mailing address for AmericanHort is 2130 Stella Ct, Columbus, OH
37 43215;]

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- (4) All work is subject to NCDOT Division of Highways inspection and shall be scheduled with the Department. A minimum 48-hour notification shall be provided to the Department by the permittee before entering the right-of-way for any beautification and replanting plan requirements;
- (5) Grinding or other mechanical removal of all cut stumps (to a minimum depth of four inches below ground level) ~~must~~ shall be completed in the area of replanting during the preparation of the site, prior to initial planting;
- (6) All initial and replacement plantings shall be installed during the first planting season (November 1 to March 15) contemporaneous with or following the selective vegetation removal. If replanting cannot be completed by the March 15 deadline, the replanting shall occur during the next planting season. The same dates (November 1 to March 15) apply when the permittee provides the Department with excess plant material at a site where existing caliper inches exceeds the site design capacity;
- (7) The permittee shall contact the Department to schedule a final replanting acceptance inspection upon completion of any plant material installation. For one year from the date of the initial planting acceptance for the entire replanting plan, the permittee ~~must~~ shall establish all plant materials according to these provisions. Establishment for all initial or replacement plants shall begin ~~immediately~~ after they are planted. The permittee shall be responsible for the area around plantings for a distance of six feet beyond the outside edges of the mulch. Establishment shall include cutting of grass and weeds; watering; replacement of mulch; repair or replacement of guy stakes, guy wires, and water rings; and other work to encourage the survival and growth of plant material. The permittee shall remove and dispose of dead plants from the replanting plan site during the establishment period. Prior to the end of the one-year establishment period, the permittee is responsible for contacting the Department to schedule a site meeting with Departmental officials to identify plants to be replaced that are not in a living and healthy condition. Plants do not meet the living and healthy condition requirement and need replacement if 25 percent or more of the crown is dead, if the main leader is dead, or if an area of the plant has died leaving the character of its form compromised, lopsided, or disfigured. The permittee shall replace, during the planting period, plant material needed to restore the planting to the original quantity, size, and species of plant material. Any desired changes in plant material proposed by the permittee ~~must~~ shall be requested in writing to the Department. The Department shall notify the permittee in writing of the approved changes to the replacement plantings;
- (8) At the conclusion of the one-year establishment period, the Department shall issue a written acceptance of the permittee's work and release the ~~applicable~~ bond. Then a one-year observation period shall begin in during which the permittee ~~or sign owner~~ shall maintain stability of the original and replacement plantings to promote their continued livability and healthy growth. The ~~sign owner~~ permittee is responsible for replacement of plants not meeting the living and healthy condition requirement during the observation ~~period and in~~ period. Replacement shall occur in accordance with the dates of planting as stated in the rules in this Section;

- 1 (9) After the one-year observation period concludes, the Department shall notify the ~~sign owner~~ permittee
2 if the permit requirement conditions have been met successfully;
- 3 (10) Replanted materials may be pruned according to the current edition and subsequent amendments and
4 editions of the American National Standard for Tree Care Operations-Pruning ANSI A300 (Part 1),
5 approved by the American National Standards Institute and published by the Tree Care Industry
6 Association Inc. that is hereby incorporated, [Association Inc.,] however, topping of trees or other
7 vegetation is not ~~allowed;~~ allowed. [~~Copies of the Standard are available for inspection in the office of~~
8 ~~the State Roadside Environmental Engineer, Division of Highways, Raleigh, N.C. Copies of the~~
9 ~~Standard may be obtained from the Tree Care Industry Association, Inc. for a \$20.00 cost. The Tree~~
10 ~~Care Industry Association, Inc. (TCIA) can be contacted at 136 Harvey Road, Suite 101 Londonberry,~~
11 ~~NH 03053 or at this website: www.tcia.org;~~]
- 12 (11) This Paragraph applies to all replanting plans except mitigating replanting plans as specified in Rule
13 .0609(b)(4) of this Section. ~~19A NCAC 02E .0609(b)(4).~~ Excess plants or trees furnished and
14 delivered to the Department, shall receive care and handling in accordance with ~~the following:~~ In
15 digging, loading, transporting, unloading, planting, or otherwise handling plants, the permittee shall
16 exercise care to prevent windburn; injury to or drying out of the trunk, branches, or roots; and to
17 prevent freezing of the plant roots. The solidity of the plant ball shall be preserved. Delivery of
18 excess plant material shall be scheduled with the Department, allowing a minimum three days
19 notification for each delivery. The permittee's responsibility for the furnished excess plants or trees
20 ends at the time the plant material is delivered to, inspected by, and accepted by the Department;
- 21 (12) For mitigating replanting plans according to ~~19A NCAC 02E Rule .0609(b)(4) of this Section,~~ trees
22 and other plant material for a proposed beautification and replanting plan taken from the Department's
23 landscape design plans and plant lists or prepared and sealed by a North Carolina licensed landscape
24 architect, may be of a projected mature height to reduce visibility limitations to outdoor advertising
25 ~~sign faces:~~ faces. As an alternative to replanting, mitigation by pruning for vegetative crown reduction
26 at an existing beautification project may be allowed, if mutually agreed upon in writing by the
27 Department and permittee. All pruning shall be performed by removing the fewest number of branches
28 necessary to accomplish the desired objective but in consideration of normal seasonal regrowth for the
29 type of vegetation. All pruning for purposes of mitigation shall be in accordance with the current
30 edition and subsequent amendments and editions of the American National Standards for Tree Care
31 Operations-Pruning ANSI A300 (Part 1), approved by the American National Standards Institute and
32 published by the Tree Care Industry Association, Inc. [Copies of the Standard are available for
33 inspection in the office of the State Roadside Environmental Engineer, Division of Highways, Raleigh,
34 N.C. Copies of the Standard may be obtained from the Tree Care Industry Association, Inc. for a
35 \$20.00 cost. The Tree Care Industry Association, Inc. (TCIA) can be contacted at 136 Harvey Road,
36 Suite 101 Londonberry, NH 03053 or at this website: www.tcia.org.] In the case of vegetation

1 mortality caused by pruning, replacement plantings shall be required according to Rule .0611 of this
2 subchapter;

- 3 (13) Should the outdoor advertising structure related to the selective vegetation permit be sold or
4 transferred, the new owner or permit holder is subject to the requirements in the General Statutes and
5 rules in this ~~section~~, Section, including those regarding planting, establishment, replacement or
6 renovation plantings, minimum living and healthy condition, and observation; and
7 (14) Willful failure to substantially comply with the requirements of this ~~Paragraph~~ Rule for the
8 beautification and replanting plan shall subject the permittee to penalties prescribed in G.S. 136-133.4.

9
10 *History Note:* Authority G.S. 99E-30; 136-93; 136-93 (b); 136-130; 136-133.4; 136-93.3;
11 Temporary Adoption Eff. March 1, 2012;
12 Eff. November 1, 2012.
13 Amended Eff. January 1, 2015.
14

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 02E .0612

DEADLINE FOR RECEIPT: Wednesday, December 10, 2014

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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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 5, replace "an" with "a"

Line 14, define or delete "clearly"

For this rule, since it is an adoption with changes since publication in the Register, only the changed language should be underlined in the rule in accordance with [26 NCAC 02C .0405\(b\)\(1\)](#).

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

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Wednesday, November 26, 2014

1 19A NCAC 02E .0612 IS ADOPTED WITH CHANGES AS PUBLISHED IN 29:06 NCR 659 AS FOLLOWS:
2

3 **19A NCAC 02E .0612 MODIFIED VEGETATION CUT OR REMOVAL ZONE FOR OUTDOOR**
4 **ADVERTISING**

5 (a) In accordance with G.S. 136-133.1(a1), at the request of an selective vegetation removal permit applicant, the
6 Department may approve plans for the cutting, thinning, pruning, or removal of vegetation outside of the cut or
7 removal zone along acceleration and deceleration ramps. Upon approval of this modified cut zone, the conditions of
8 the initial permit as set forth in Rule .0604 and Rule .0610 of this Section, in addition to the following requirements
9 shall apply:

10 (1) the request for a modified vegetation cut or removal zone along acceleration or
11 deceleration ramps shall be noted on the selective vegetation removal application at the
12 time the application is submitted. The same application requirements as set forth in Rule
13 .0608 of this Section shall apply to a modified vegetation cut or removal zone request.

14 (2) the application shall include a diagram of the modified cut zone request to clearly
15 indicate the relocated point A to point D line and the relocated point B to point E line. If
16 the request includes removal of existing trees as defined in G.S. 136-133.1(b)-(e), the
17 applicant may indicate the relocated points on the required site plan in lieu of a separate
18 diagram. The applicant shall provide calculations showing that the total aggregate area of
19 cutting or removal equals the maximum allowed in G.S. 136-133.1(a). The applicant shall
20 mark the modified points A, B, D, and E, as applicable, at the site for review by the
21 Department. Modified points A and B along the right-of-way boundary (or fence if there
22 is a control of access fence) are to be marked with visible flagging tape. Modified points
23 C, D, & E along the edge of the pavement of the ramp are to be marked with spray paint,
24 including the actual distances. Such markings for a modified vegetation cut or removal
25 zone under G.S. 136-133.1(a1) shall represent and equal the maximum cut or removal
26 area along the surface of the ground allowed in G.S. 136-133.1(a).

27 (3) the Department may authorize a one-time modification of the maximum vegetation cut or
28 removal zone for each requested sign face when the view to the outdoor advertising sign
29 face will be improved. The modified area of vegetation cutting or removal shall cause the
30 point A to point D line and the point B to point E line as set forth in G.S. 136-133.1(a) to
31 be relocated as long as the total aggregate area of cutting or removal does not exceed the
32 maximum allowed for the defined cut or removal zone in G.S. 136-133.1(a). Points A and
33 B shall always remain on the right-of-way line and points D and E shall always remain on
34 the edge of the pavement of the ramp. G.S. 136-133.1(g) regarding cutting vegetation
35 from the private property side along a controlled access fence shall remain applicable
36 from relocated point A of the modified cut zone to relocated point B of the modified cut
37 zone.

1 (4) the Department shall establish and document the modified cut or removal zone as the
2 permanent view [zone, which] that shall not be altered for future selective vegetation
3 removal permits.

4 (5) If an outdoor advertising site has previously been cut under a valid selective vegetation
5 removal permit, in accordance with G.S. 136-93 (b), to the extent that the requirement of
6 not exceeding the total aggregate area of cutting or removal allowed in G.S. 136-133.1(a)
7 cannot be met, the applicant may apply for a modified cut or removal zone no sooner
8 than one year after the most recent cutting activity at the site. Within the one year period,
9 the applicant may, to the extent that the maximum cut or removal zone defined in G.S.
10 136-133.1(a) was not previously cut, apply that uncut area towards determining the limits
11 of the one-time modified cut request as defined in G.S. 136-133.1(a1) and the Rules of
12 this Subchapter.

13 (6) Should the outdoor advertising structure subject to a modified cut or removal zone for a
14 selective vegetation removal permit be sold or transferred, the new owner or outdoor
15 advertising permit holder shall be subject to G.S. 136-133.1(a1), and the Rules of this
16 Subchapter and shall not alter the modified cut zone as established and documented for a
17 previous sign owner or permit holder.

18 (7) Upon denial or conditioning by the Department of Transportation of a modified
19 vegetative cut or removal zone under GS 136-133.1(a1), the applicant may file an appeal
20 pursuant to GS 136-133.3.

22 History Note: Authority G.S. 136-18(5); 136-18(7); 136-18(9); 136-93; 136-93.2; 136-130; 136-133.1; 136-
23 133.1 (a1); 136-133.2; 136-133.3; 136-133.4; 136-133.5; 136-127;

24 Eff. January 1, 2015