

**G.S. 150B-21.3A Report for 19A NCAC Chapter 06, TRANSIT, RAIL, AND AVIATION**

Agency - Department of Transportation

Comment Period - March 9, 2015 - May 31, 2015

Date Submitted to APO - Filled in by RRC staff

Subchapter or Blank	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(d1)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]
SUBCHAPTER 6B - PUBLIC TRANSPORTATION AND RAIL PROGRAM	SECTION .0100 - GENERAL PROVISIONS	19A NCAC 06B .0101	DEFINITION	Eff. July 1, 1978	Necessary without substantive public interest	No		Yes	Necessary without substantive public interest
	SECTION .0200 - TECHNICAL ASSISTANCE	19A NCAC 06B .0201	ELIGIBILITY	Eff. July 1, 1978	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		19A NCAC 06B .0202	ASSISTANCE IN PREPARING GRANT APPLICATIONS	Eff. July 1, 1978	Necessary without substantive public interest	No		Yes	Necessary without substantive public interest
		19A NCAC 06B .0203	ASSISTANCE IN CONDUCTING PLANNING AND MANAGEMENT STUDIES	Amended Eff. November 1, 1991	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		19A NCAC 06B .0204	ASSISTANCE IN OPERATIONAL TECHNIQUES	Amended Eff. November 1, 1991	Necessary without substantive public interest	No		Yes	Necessary without substantive public interest
		19A NCAC 06B .0205	ASSISTANCE IN TRAINING ACTIVITIES	Eff. November 1, 1991	Necessary without substantive public interest	No		No	Necessary without substantive public interest
	SECTION .0300 - FINANCIAL ASSISTANCE	19A NCAC 06B .0301	ELIGIBILITY	Amended Eff. February 1, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		19A NCAC 06B .0302	FINANCIAL ASSISTANCE FOR PLANNING AND MANAGEMENT	Amended Eff. November 1, 1991	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		19A NCAC 06B .0303	FINANCIAL ASSISTANCE FOR CAPITAL IMPROVEMENTS	Amended Eff. November 1, 1991	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		19A NCAC 06B .0304	FINANCIAL OPERATING ASSISTANCE	Amended Eff. November 1, 1991	Necessary without substantive public interest	No		No	Necessary without substantive public interest
SECTION 0400 - RAIL INDUSTRIAL ACCESS PROGRAM	19A NCAC 06B .0401	DEFINITION OF PROGRAM	Amended Eff. April 1, 1999	Necessary without substantive public interest	No		No	Necessary without substantive public interest	
	19A NCAC 06B .0402	IDENTIFYING INFORMATION	Eff. April 30, 1997	Necessary with substantive public interest	No		No	Necessary with substantive public interest	
	19A NCAC 06B .0403	ELIGIBLE GRANTEEES	Eff. April 30, 1997	Necessary without substantive public interest	No		No	Necessary without substantive public interest	
	19A NCAC 06B .0404	ELIGIBLE COSTS	Amended Eff. April 1, 1999	Necessary without substantive public interest	No		No	Necessary without substantive public interest	
	19A NCAC 06B .0405	INELIGIBLE COSTS	Amended Eff. April 1, 1999	Necessary with substantive public interest	No		No	Necessary with substantive public interest	
	19A NCAC 06B .0406	APPLICATION	Eff. April 30, 1997	Necessary with substantive public interest	No		No	Necessary with substantive public interest	
	19A NCAC 06B .0407	COUNTY AND CITY CERTIFICATION	Eff. April 30, 1997	Necessary without substantive public interest	No		No	Necessary without substantive public interest	
	19A NCAC 06B .0408	REQUIRED EASEMENT CERTIFICATIONS	Eff. April 30, 1997	Necessary without substantive public interest	No		No	Necessary without substantive public interest	
	19A NCAC 06B .0409	INDUSTRY CERTIFICATION	Amended Eff. April 1, 1999	Necessary without substantive public interest	No		No	Necessary without substantive public interest	

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		19A NCAC 06B .0410	APPLICATION EVALUATION	Amended Eff. April 1, 1999	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06B .0411	ALLOCATION OF FUNDING	Eff. April 30, 1997	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06B .0413	REQUESTS FOR REIMBURSEMENT	Amended Eff. April 1, 1999	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06B .0415	OWNERSHIP AND MAINTENANCE RESPONSIBILITY	Eff. April 30, 1997	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		19A NCAC 06B .0416	REPORTING REQUIREMENTS	Eff. April 30, 1997	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		19A NCAC 06B .0417	REPAYMENT	Amended Eff. April 1, 1999	Necessary without substantive public interest	No		No	Necessary without substantive public interest
		19A NCAC 06B .0418	GRANT AGREEMENT	Eff. April 1, 1999	Necessary without substantive public interest	No		No	Necessary without substantive public interest
<b>SUBCHAPTER 6C - DIVISION OF AERONAUTICS</b>	<b>SECTION .0100 - FACILITY DEVELOPMENT - FINANCIAL ASSISTANCE PROGRAM: GENERAL PROVISIONS</b>	19A NCAC 06C .0107	RETROACTIVE REIMBURSEMENT	Amended Eff. November 1, 1991	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06C .0108	STATE FINANCIAL ASSISTANCE CONSTRUCTION STANDARDS	Amended Eff. December 1, 1993	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06C .0109	PROJECT APPLICATION PROCEDURES	Amended Eff. December 1, 1993;	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06C .0110	ENVIRONMENTAL ASSESSMENT	Amended Eff. December 1, 1993	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06C .0111	PROJECT APPROVAL PROCEDURES	Amended Eff. March 1, 1982	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06C .0112	ALLOWABLE PROJECT COSTS	Amended Eff. December 1, 1993	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06C .0123	SPONSOR CERTIFICATION OF LOCAL MATCHING FUNDS	Amended Eff. December 1, 1993	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06C .0124	LIMITS ON USE OF ALLOCATED FUNDS	Amended Eff. December 1, 1993	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06C .0125	TIME LIMITS ON CONSTRUCTION OF THE PROJECT	Amended Eff. December 1, 1993	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06C .0126	REQUEST FOR EXTENSION OF TIME TO COMPLETE PROJECT	Amended Eff. December 1, 1993	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06C .0127	SANCTIONS FOR NON - PERFORMANCE ON STATE AID PROJECTS	Amended Eff. December 1, 1993	Necessary with substantive public interest	No		No	Necessary with substantive public interest

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		19A NCAC 06C .0129	DEPARTMENT TO ACT AS AGENT FOR FEDERAL GRANT PROGRAMS	Amended Eff. December 1, 1993	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	14 CFR Part 156	No	Necessary with substantive public interest
		19A NCAC 06C .0133	PROHIBITION/CONTRACTORS REMOVED/DIV HWYS PRE-QUALIFIED BIDDERS	Amended Eff. December 1, 1993	Unnecessary	No		No	Unnecessary
		19A NCAC 06C .0134	HOSPITAL HELIPORTS	Eff. November 1, 1991	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	<b>SECTION .0300 - FACILITY DEVELOPMENT - TECHNICAL ASSISTANCE PROGRAM</b>	19A NCAC 06C .0301	PROMOTION OF AVIATION FACILITY SAFETY	Amended Eff. December 1, 1993	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06C .0304	PROJECT APPLICATION AND APPROVAL PROCEDURES	Amended Eff. December 1, 1993	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	<b>SECTION .0400 - FACILITY DEVELOPMENT - EMERGENCY STATE AVIATION AID PROGRAM</b>	19A NCAC 06C .0401	CORRECTION OF AVIATION SAFETY HAZARDS	Amended Eff. March 1, 1982	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06C .0403	PROJECT APPLICATION AND APPROVAL	Amended Eff. December 1, 1993	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06C .0408	SPONSOR'S RESPONSIBILITIES	Amended Eff. December 1, 1993	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	<b>SECTION .0500 - AIR TRANSPORTATION DEVELOPMENT PROGRAM</b>	19A NCAC 06C .0502	RECIPIENTS ELIGIBILITY STANDARDS	Amended Eff. December 1, 1993	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06C .0503	PROJECT ELIGIBILITY STANDARDS	Amended Eff. December 1, 1993	Necessary with substantive public interest	No		No	Necessary with substantive public interest
	<b>SECTION .0700 - STATE AIRPORTS</b>	19A NCAC 06C .0703	TRESPASS ON STATE AIRPORTS	Amended Eff. December 1, 1993	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06C .0704	PROHIBITION AGAINST GROUND VEHICLES ON STATE AIRPORTS	Amended Eff. December 1, 1993	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06C .0705	CLOSURE OF STATE AIRPORTS DURING HOURS OF DARKNESS	Eff. November 1, 1991	Necessary with substantive public interest	No		No	Necessary with substantive public interest
		19A NCAC 06C .0706	COMMERCIAL FLIGHT OPERATIONS PROHIBITED WITHOUT APPROVAL	Eff. November 1, 1991	Necessary with substantive public interest	No		No	Necessary with substantive public interest
<b>SUBCHAPTER 6D - BICYCLE AND BIKEWAY PROGRAM</b>	<b>SECTION .0200 - BOARD POLICY RELATING TO BIKEWAYS</b>	19A NCAC 06D .0202	PLANNING FOR BICYCLES AND BIKEWAYS	Amended Eff. December 1, 1993	Unnecessary	No		No	Unnecessary

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		19A NCAC 06D .0203	DESIGNING FOR BICYCLES AND BIKEWAYS	Amended Eff. December 1, 1993	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	23 USC 217(e)	No	Necessary with substantive public interest
		19A NCAC 06D .0204	CONSTRUCTION OF BICYCLE FACILITIES AND BIKEWAYS	Amended Eff. December 1, 1993	Unnecessary	No		No	Unnecessary
		19A NCAC 06D .0205	MAINTENANCE OF BICYCLE FACILITIES AND BIKEWAYS	Amended Eff. December 1, 1993	Unnecessary	No		No	Unnecessary
		19A NCAC 06D .0206	FUNDING FOR BICYCLE FACILITIES AND BIKEWAYS	Amended Eff. December 1, 1993	Unnecessary	No		No	Unnecessary

**DO NOT EDIT ANYTHING ON THIS SHEET**

1. Copy the header row and the first 2 rows below the header and then paste it into a new tab for each rule that gets a comment from the public.
2. Update the Rule and Name for each tab created.

Agency	Rule	Name	Type of Comment	Comment	Agency Response	RRC Staff Recommendation	RRC Determination [150B-21.3A(c)(2)]
<b>Copy all columns in this row to the right of this yellow cell and paste in new rows</b>			Select One			Select One	Select One
	19A 06B .0201	Definition	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Agreed with agency determination. Asked a question re Federal Rules	Agree with the comment and answered the question re Federal Rules		
	19A 06B .0202	Assistance in Preparing Grant Applications	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Agreed with agency determination.	Agree with the comment.		
	19A 06B .0202	Assistance in Preparing Grant Applications	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Agreed with agency determination.	Agree with the comment.		
	19A 06B .0204	Assistance in Operational Techniques	Public Coment as defined in G.S. 150B-21.3A(a)(5)	Agree with the agency determination.	Agree with the comment.		
	19A 06D .0202, .0204, .0205, .0206	Planning for Bicycles and Bikeways, Construction of Bicycle Facilites and Bikeways, Maintenance of Bicycle Facilites and Bikeways, Funding for Bicycle Faciliteis and Bikeways	Other Statement	Recived a question about the referenced rules and the process for the review and the agency determination.	Confirmed that the rule was deemed unnecessary due to changes in funding and statutory authority. Did not receive a comment regarding the agency determination.		
			Other Statement	Received phone call asking how to find Federal Regulations on line.	Directed callers to the web sites for United States Code and Code of Federal Regulations.		

North Carolina Department of Transportation

Unit Selection

Message Details

Comment Information

Basic Comment Details

From: Anonymous

Phone:

Email:

Response

Spell Check

Unassign Comment

Delete Comment

Spam

Send Reply to Citizen

Send Reply

Comment History

[Print](#)

Tracking Number: 3PQM5HIBQX

Sent By: hlandi

Date/Time: 5/21/2015 9:29 AM

Comment:

Thank you for taking the time to comment on 19A NCAC 06B .0101.

These rules or definitions are consistent with Federal Rules and should not impact NC's eligibility for federal funding under USDOT Guidelines.

Sent By: Anonymous

Date/Time: 5/20/2015 3:30 PM

Comment:

Company/Organization:

Zip Code:

19A NCAC 06B .0101

Yes.

I assume these rules or definitions are consistent with Federal Rules and does not make NC ineligible for federal funding under USDOT Guidelines

North Carolina Department of Transportation

Unit Selection

Message Details

Comment Information

Basic Comment Details

From:

Phone:

Email:

Response

Spell Check

Unassign Comment

Delete Comment

Spam

Send Reply to Citizen

Send Reply

Comment History

[Print](#)

Tracking Number: LOXJEFT0P1

Sent By: hlandi

Date/Time: 5/21/2015 10:13 AM

Comment:

Correction:

Thank you for taking the time to comment on 19A NCAC 06B .0202.

Sent By: hlandi

Date/Time: 5/21/2015 9:30 AM

Comment:

Thank you for taking the time to comment on 19A NCAC 06B .0102.

Sent By:

Date/Time: 5/20/2015 3:35 PM

Comment:

Company/Organization:

Zip Code:

Yes

19A NCAC 06B .0202

North Carolina Department of Transportation

Unit Selection

Message Details

Comment Information

Basic Comment Details

From:

Phone:

Email:

Response

[Empty text area for response]

Spell Check

Unassign Comment

Delete Comment

Spam

Send Reply to Citizen

Send Reply

Comment History

Print

Tracking Number: 2P5351H4UO

Sent By: hlandi

Date/Time: 5/21/2015 9:30 AM

Comment:

Thank you for taking the time to comment on 19A NCAC 06B .0202 and 0204.

Sent By:

Date/Time: 5/20/2015 3:39 PM

Comment:

Company/Organization:

Zip Code:

Yes

19A NCAC 06B .0202

19A NCAC 06B .0204



**Landi, Helen E**

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**To:** Blackburn, Lauren A  
**Subject:** RE: Rules Review- Bike Ped

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**From:** Blackburn, Lauren A  
**Sent:** Thursday, April 09, 2015 12:57 PM  
**To:** 'ed.harrison@mindspring.com'  
**Subject:** FW: Rules Review- Bike Ped

Ed,  
Since you are familiar with the water resources rules, you probably understand the rules process, but I asked someone in the Department for some explanation.

The review process (statutorily mandated) required a look at every rule in the state's administrative code. The agency of record looks at the rule and classifies it as "necessary with substantive interest", "necessary without substantive interest", or "unnecessary". Those classifications are currently out for public comment for understanding of whether the public agrees with how we've classified them. Most of this is laid out on the rules page <http://www.ncdot.gov/about/regulations/rules/periodicReview.html>

Kym's answer or assumption does drive some of those rule determinations. If state funding is not allowed for an activity, then the rules dictating how state funds are spent on that activity are no longer current. Similarly, if laws have changed that no longer require the administrative code or rule, then that would have negated the need for the rule. Also, there were several older rules that were never official rules to begin with. They may have been Board of transportation actions or administrative actions mistakenly documented as rules for administrative code.

I hope this helps.  
Thanks,  
Lauren Blackburn

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**From:** Ed Harrison [<mailto:ed.harrison@mindspring.com>]  
**Sent:** Thursday, April 09, 2015 12:17 PM  
**To:** Blackburn, Lauren A  
**Subject:** Fwd: Rules Review- Bike Ped

Lauren,

Might you advise what this elimination of rules is about? Kym Hunter, an attorney focusing on non-auto funding and planning, brought up the issue.

I had never seen them before. Most of my time has been spent with water resources rules!

Thanks for your service,

Ed Harrison  
919-490-1566

Begin forwarded message:

**From:** Kym Hunter <[khunter@selcnc.org](mailto:khunter@selcnc.org)>

**Subject:** Rules Review- Bike Ped

**Date:** April 9, 2015 9:48:44 AM EDT

**To:** "Ed Harrison ([ed.harrison@mindspring.com](mailto:ed.harrison@mindspring.com))" <[ed.harrison@mindspring.com](mailto:ed.harrison@mindspring.com)>, "Martin Zimmerman ([greenmobility4@gmail.com](mailto:greenmobility4@gmail.com))" <[greenmobility4@gmail.com](mailto:greenmobility4@gmail.com)>, "Meg F ([meg@sustaincharlotte.org](mailto:meg@sustaincharlotte.org))" <[meg@sustaincharlotte.org](mailto:meg@sustaincharlotte.org)>, "Roger Diedrich ([rdiedrich@roadrunner.com](mailto:rdiedrich@roadrunner.com))" <[rdiedrich@roadrunner.com](mailto:rdiedrich@roadrunner.com)>

All,

As I'm sure you know North Carolina is going through a "rules review" process, mandated by the legislature a couple of years ago. Each agency has to go through all their rules and assign them to specific categories.

[http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_150B/GS\\_150B-21.3A.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_150B/GS_150B-21.3A.html)

NCDOT has issued its preliminary reports for the rules labeling each rule as either necessary with substantive interest, necessary without substantive interest, or

unnecessary. <http://www.ncoah.com/rules/H74%20Reports/19A%20NCAC%2006.pdf>

A rule is labeled unnecessary if the agency determines it to be "obsolete, redundant, or otherwise not needed."

Among the rules listed as "unnecessary" are [19A NCAC 06D .0202](#), [.0204](#), [.0205](#), [.0206](#). Because these have to do with Bike lanes etc, I thought you might have some insight as to why these are deemed unnecessary. I haven't looked into this matter very deeply yet, but it may be simply a product of the fact that there is no longer state funding of stand-alone bike/ ped facilities.

I will look into this further but wanted to check in to see if you had any knowledge / insight first.

Kym Hunter  
Staff Attorney  
Southern Environmental Law Center  
601 West Rosemary Street, Suite 220  
Chapel Hill, North Carolina 27516-2356  
Phone: (919) 967-1450; Fax: (919) 929-9421  
[SouthernEnvironment.org](http://SouthernEnvironment.org)

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