

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 06B

DEADLINE FOR RECEIPT: Tuesday, November 8, 2016

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.

These rules all cite as authority G.S. 143B-350(g), which allows the Board of Transportation to delegate rulemaking authority to the Secretary of Transportation. G.S. 143B-350(g)(3). These rules appear to have been readopted by the Secretary rather than the Board. Please provide evidence of the delegation by the Board to the Secretary, as authorized by G.S. 143B-350(g)(3).

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

Jason Thomas
Commission Counsel
Date submitted to agency: October 25, 2016

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 06B.0402

DEADLINE FOR RECEIPT: Tuesday, November 8, 2016

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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 7 – is RIAP information available on-line? If so, please provide a web address.

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

Jason Thomas
Commission Counsel
Date submitted to agency: October 25, 2016

1 19A NCAC 06B .0402 is readopted as published in 31:03 NCR 149 as follows:
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3 **19A NCAC 06B .0402 IDENTIFYING INFORMATION**

4 Information related to RIAP may be obtained from:

5 ~~Director, Rail Division~~

6 ~~NC DOT~~

7 ~~PO Box 25201~~

8 ~~1 South Wilmington Street~~

9 ~~Raleigh, NC 27611~~

10 ~~Telephone 919 733 4713~~

11
12 Branch Manager, Planning and Development

13 North Carolina Department of Transportation

14 (Mail) 1553 Mail Service Center

15 Raleigh, NC 27699-1553

16
17 (Delivery) 1 South Wilmington Street

18 Raleigh, NC 27601

19
20 Telephone 919-707-4700

21
22 *History Note: Authority G.S. 136-44.36; 143B-350(f) and (g);*

23 *Eff. April 30, 1997. 1997;*

24 *Readopted Eff. December 1, 2016.*

25

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 06B.0405

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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 7 – what does “rail dock” mean – is this term defined or otherwise well-understood by your regulated public? In addition, what costs related to a rail dock are not eligible for RIAP program costs? Planning, construction, renovation, maintenance, all costs, or something else?

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

Jason Thomas
Commission Counsel
Date submitted to agency: October 25, 2016

1 *19A NCAC 06B .0405 is readopted as published in 31:03 NCR 149 as follows:*
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3 **19A NCAC 06B .0405 INELIGIBLE COSTS**

4 Costs which are not eligible for RIAP program costs are as follows:

- 5 (1) Relocation of utilities;
- 6 (2) Acquisition of rights of way; and
- 7 (3) Rail dock.

8

9 *History Note: Authority G.S. 136-44.36; 143B-350(f) and (g);*

10 *Eff. April 30, 1997;*

11 *Amended Eff. April 1, ~~1999-1999~~;*

12 *Readopted Eff. December 1, 2016.*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 06B .0406

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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 4 – an application is required by this Rule. G.S. 150B-2(8a)d. does not require such a form to be adopted as a rule if its “contents or substantive requirements ... are prescribed by rule or statute.” Is there a rule or statute that prescribes the information required in this application?

Line 5 – Is the application available on a website? If so, please provide the web address.

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

Jason Thomas
Commission Counsel
Date submitted to agency: October 25, 2016

1 19A NCAC 06B .0406 is readopted as published in 31:03 NCR 150 as follows:
2

3 **19A NCAC 06B .0406 APPLICATION**

4 Candidates for RIAP funding shall complete and submit a funding application to the Department of Transportation. Copies of
5 the application may be obtained from:

6 ~~Director, Rail Division~~

7 ~~North Carolina Department of Transportation~~

8 ~~PO Box 25201~~

9 ~~1 South Wilmington Street~~

10 ~~Raleigh, NC 27611~~

11 ~~Telephone 919-733-4713~~

12
13 Branch Manager, Planning and Development

14 North Carolina Department of Transportation

15 (Mail) 1553 Mail Service Center

16 Raleigh, NC 27699-1553

17
18 (Delivery) 1 South Wilmington Street

19 Raleigh, NC 27601

20
21 Telephone 919-707-4700

22
23
24 *History Note: Authority G.S. 136-44.36; 143B-350(f) and (g);*

25 *Eff. April 30, 1997-1997;*

26 *Readopted Eff. December 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 06B .0410

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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 5 – replace “in” with “by the project during the” if that is the intended meaning.

Line 6 – replace “in” with “in the project during the” if that is the intended meaning.

Line 7 – what does “annual rail traffic” mean? Perhaps “Annual rail traffic served by the project” or “Annual rail traffic created by the project”? Please clarify.

Lines 9 and 13 – G.S. 105-130.40 and 105-151.17 appear to have been recodified and repealed. Please correct the citations or modify or delete Item (4).

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

Jason Thomas
Commission Counsel
Date submitted to agency: October 25, 2016

1 *19A NCAC 06B .0410 is readopted as published in 31:03 NCR 150 as follows:*
2

3 **19A NCAC 06B .0410 APPLICATION EVALUATION**

4 The Department shall evaluate the following when recommending rail projects to the Board of Transportation for approval:

- 5 (1) Employment created in first two years;
- 6 (2) Capital investment in first two years;
- 7 (3) Annual rail traffic;
- 8 (4) Whether the project is located in a county designated as distressed by the North Carolina Department of
9 Commerce as defined in G.S. 105-130.40(c) or G.S. 105-151.17(c);
- 10 (5) Whether the project is served by a shortline railroad; and
- 11 (6) Impact on local or regional income or economic development.

12
13 *History Note: Authority G.S. 105-130.40(c); 105-151.17(c); 136-44.36; 143B-350(f) and (g);*
14 *Eff. April 30, 1997;*
15 *Amended Eff. April 1, ~~1999~~-1999;*
16 *Readopted Eff. December 1, 2016.*
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REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 06B .0411

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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 4 – revise as follows, if this is what is meant:

After evaluation of public benefits, including new employment, capital investment, and available funding,...

Lines 7-8 – which “maximum” is meant here, 50% of total project costs, 20% of the RIAP budget, or both? Please specify.

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

Jason Thomas
Commission Counsel
Date submitted to agency: October 25, 2016

1 *19A NCAC 06B .0411 is readopted as published in 31:03 NCR 150 as follows:*
2

3 **19A NCAC 06B .0411 ALLOCATION OF FUNDING**

4 (a) After evaluation of public benefits, including new employment and capital investment and funding available, the
5 Department may award up to a maximum 50% of total project costs. Except as provided in Paragraph (b) of this Rule, a
6 project shall receive no more than 20% of the annual budgeted funding for the RIAP in any fiscal year.

7 (b) The North Carolina Board of Transportation may approve funding above the maximum for individual projects based on
8 the following criteria:

- 9 (1) Comparison of project costs, benefits, and grantee resources; and
10 (2) Availability of funding.

11
12 *History Note: Authority G.S. 136-44.36; 143B-350(f) and (g);*

13 *Eff. April 30, 1997. 1997;*

14 *Readopted Eff. December 1, 2016.*
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REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation

RULE CITATION: 19A NCAC 06B .0413

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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 4 – who may require the submission of a report by the Grantee – please specify.

Line 4 – is “may” or “shall” intended? If “may,” under what circumstances might the Grantee be required to submit a progress report?

Line 9 – is the itemized request for reimbursement a form that a Grantee is required to use? G.S. 150B-2(8a)d. does not require such a form to be adopted as a rule if its “contents or substantive requirements ... are prescribed by rule or statute.” Is there a rule or statute that prescribes the information required in this request for reimbursement?

Line 10 – may a grantee request reimbursement on-line? If so, please provide a web address.

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

Jason Thomas
Commission Counsel
Date submitted to agency: October 25, 2016

1 19A NCAC 06B .0413 is readopted as published in 31:03 NCR 150 as follows:
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3 **19A NCAC 06B .0413 REQUESTS FOR REIMBURSEMENT**

4 (a) Upon execution of the Grant Agreement, the Grantee may be required to submit periodic progress reports to the
5 Department until the project tracks are completed.

6 (b) The Department shall not reimburse the Grantee for eligible expenses until the Department verifies completion of the
7 project tracks, the railroad certifies that it has used the project tracks, or the Department confirms that the railroad has used the
8 project tracks.

9 (c) The Grantee shall submit one itemized request for reimbursement to the Department upon completion of project work at
10 the following address:

11 ~~Grants Administrator~~ Rail Planning Manager

12 Rail Industrial Access Program

13 North Carolina Department of Transportation

14 ~~PO Box 25204~~

15 ~~1 South Wilmington Street~~

16 ~~Raleigh, NC 27611~~

17 (Mail) 1553 Mail Service Center

18 Raleigh, NC 27699-1553

19
20 (Delivery) 1 South Wilmington Street

21 Raleigh, NC 27601

22
23 Telephone 919-707-4700
24
25

26 (d) The Department shall examine the request for reimbursement to verify that the costs were necessary to accomplish the
27 project.

28
29 *History Note: Authority G.S. 143B-350(f) and (g);*
30 *Eff. April 30, 1997; April 1, ~~1999-1999~~;*
31 *Readopted Eff. December 1, 2016.*
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