REQUEST FOR TECHNICAL CHANGE

AGENCY: NC DEPARTMENT OF TRANSPORTATION

RULE CITATION: 19A NCAC 01C .0201

**DEADLINE FOR RECEIPT: FRIDAY, NOVEMBER 9, 2012**

***NOTE WELL: This request when viewed on computer may extend several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved.

In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In line 6 delete or define “valid.” The point of the whole dispute resolution process, whether informal or formal or both, is to determine whether the claim is valid.*

*It also seems to me that the same sentence could be better written starting: “Any contractor who has a claim against the department …” or similar language.*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC DEPARTMENT OF TRANSPORTATION

RULE CITATION: 19A NCAC 02A .0102

**DEADLINE FOR RECEIPT: FRIDAY, NOVEMBER 9, 2012**

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*In (4) line 9 please delete “certain.” It is unnecessary.*

*In (9) the rule begins with an adverb; all but one of the remaining items begin with verbs so this one is a little jarring. I would suggest rewriting that line as follows: “inspect the State roadway system annually ....”*

*Item (22) is a delegation of rulemaking authority to the chief engineer. I do not believe the secretary can delegate that without specific authority from the legislature allowing him to make such a delegation. If there is specific authority I did not catch it in your history note. Please let me know if there is any such authority or what you are citing as authority for this provision.*

*In the history note it would be nice if the citations were in order. At the very least please delete repealed 143-29.1 (and any other repealed citations if I missed one).*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC DEPARTMENT OF TRANSPORTATION

RULE CITATION: 19A NCAC 02B .0164

**DEADLINE FOR RECEIPT: FRIDAY, NOVEMBER 9, 2012**

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*In (b) line 21 please verify the current cost for obtaining the documents.*

*In (c)(2), (3) and (6) please define “additive” in “payroll additives.” There is a definition for “payroll burden.” If they are the same thing, then please change one or the other.*

*In (c)(4) line 31 delete or define “detailed.”*

*In (h), page 3 line 25 delete “shall” in “shall attend.”*

*In (j), page 4 line 31 delete or define “detailed.”*

*In (m)(1) and (2), page 5 lines 24 and 28 delete or define “clearly.”*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC DEPARTMENT OF TRANSPORTATION

RULE CITATION: 19A NCAC 02B .0165

**DEADLINE FOR RECEIPT: FRIDAY, NOVEMBER 9, 2012**

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (a) line 9 it seems to me that “Asbestos Inspections, Asbestos Removals, and Structure Clearings” should be lowercase here and throughout the remainder of the rule.*

*In (b) line 14 please verify the current cost for obtaining the documents.*

*In (f)(2), (3) and (6) on page 2 please define “additive” in “payroll additives.” There is a definition for “payroll burden.” If they are the same thing, then please change one or the other.*

*In (c)(4), page 2 line 9, delete or define “detailed.”*

*In (g), page 2 line 28, “Retainer” should be lowercase.*

*In (h) page 2 line 32 as elsewhere in this rule I am not crazy about using capitals to designate the positions that certain people hold. I think I’m going to draw the line at “Representative” in “designated Representative.” Please change at least that term to lowercase wherever it appears.*

*In (i)(5), page 3 line 12, please make “Right of Way” lowercase.*

*In (i)(6), page 3 line 14, begin a new paragraph after “... perform the required services.” That paragraph is not part of sub-paragraph (i)(6).*

*In (j), page 3 lines 19 and 20, please make “Selected Firm” and “Proposal,” if not “Contract Administrator” lowercase.*

*In (j), page 4 line 6, delete “dollar” in “maximum dollar amount” as unnecessary.*

*In that same paragraph line 7, please make “Statewide” lowercase.*

*In (k), page 4 lines 8 and 9, make “Selected Firms ... [and] Retainer Contract” lowercase. Please make those terms lowercase in whatever form they appear elsewhere in this rule.*

*In (k) line 10, delete “up to” as redundant.*

*In (k) line 11 make “Alternate Firm” lowercase.*

*Even if you don’t make the various officials’ positions or offices lowercase, which I believe they should be, please make any remaining nouns, such as “Structures” and “Work Assignment Cost Estimate” in (m), page 4 line 27, in this rule lowercase.*

*In (n) page 5 line 4 add “as set out in these rules [or wherever approval standards are found]” or similar language after “Contract Administrator.”*

*In (q) page 5 line 14, it seems to me that “can only be made” should be “can be made only.”*

*Paragraph (u) seems to me to be an internal matter and entirely unnecessary unless this “quarterly report” must be made by someone outside the department. If it is going to remain in the rule it should be rewritten in the active voice and specify who is to make the quarterly report.*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC DEPARTMENT OF TRANSPORTATION

RULE CITATION: 19A NCAC 02B .0241

**DEADLINE FOR RECEIPT: FRIDAY, NOVEMBER 9, 2012**

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*In (b)(3)(A) it seems to me that it should be “as close as possible” but I can’t tell you the grammatically correct reason why. I can’t even tell you whether “far” in (b)(3)(C)’s “as far as possible” is an adjective, adverb or some other part of speech.*

*In (b)(3)(B) line 27 change “will” to “shall.”*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC DEPARTMENT OF TRANSPORTATION

RULE CITATION: 19A NCAC 02B .0317

**DEADLINE FOR RECEIPT: FRIDAY, NOVEMBER 9, 2012**

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*In (d) line 19 delete or define “clearly.”*

*Please make (h)(3)(i) on page 2 either a new sub-paragraph (h)(4); a new paragraph (i); or a separate unlabeled paragraph under (h)(3) or (h) itself (neither would be a preferred alternative). You do not subdivide a sub-paragraph into only one division. (Besides, the label is wrong; it should be (h)(3)(A) if it were permitted.*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC DEPARTMENT OF TRANSPORTATION

RULE CITATION: 19A NCAC 02D .0414

**DEADLINE FOR RECEIPT: FRIDAY, NOVEMBER 9, 2012**

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*In (4)(a) line 15 change “will” to “shall.”*

*In (5) line 21 delete or define “proper.”*

*In (6) line 23 delete or define “adequate.”*

*In (7) lines 25 and 27 delete or define “safe.”*

*In (8) line 29 delete or define “adequate.”*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC DEPARTMENT OF TRANSPORTATION

RULE CITATION: 19A NCAC 02D .0601

**DEADLINE FOR RECEIPT: FRIDAY, NOVEMBER 9, 2012**

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*In (d) line 32 please delete or define “readily.” In line 33 the words “designed and” are unnecessary and should be deleted.*

*Please move the December 1, 2012 amendment effective date to the last line before “April 1, 2009.”*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC DEPARTMENT OF TRANSPORTATION

RULE CITATION: 19A NCAC 02D .0704

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*In (3) line 10 either change the semicolon after “elevations;” to a period or change the uppercase “The” following that word to lowercase. (I prefer the former solution.)*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC DEPARTMENT OF TRANSPORTATION

RULE CITATION: 19A NCAC 02D .0705

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*In (b) line 6 and (c) line 19 change “will” to “shall.”*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC DEPARTMENT OF TRANSPORTATION

RULE CITATION: 19A NCAC 02E .0412

**DEADLINE FOR RECEIPT: FRIDAY, NOVEMBER 9, 2012**

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*In line 5 it seems to me that “unforeseen” is unnecessary in “unforeseen emergency.”*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC DEPARTMENT OF TRANSPORTATION

RULE CITATION: 19A NCAC 02E .0702

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*Please see the staff opinion concerning (b).*

*It has been almost 20 years since this rule was amended. Please verify the threshold amount in (g)(2).*

*In (g)(3) line 33 delete or define “a critical influence on or.”*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC DEPARTMENT OF TRANSPORTATION

RULE CITATION: 19A NCAC 02E .0802

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*In (c)(5) line 17 delete or define “detailed.”*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC DEPARTMENT OF TRANSPORTATION

RULE CITATION: 19A NCAC 02E .0803

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*In (e) line 17 delete or define “clearly.” In line 18 delete or define “reasonable.”*

*In (k) line 29 change “and/or” to “and” or “or” or some other reworking of the phrase.*

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Joseph J. DeLuca, Jr.

Commission Counsel