REQUEST FOR TECHNICAL CHANGE

AGENCY: NC DEPARTMENT OF TRANSPORTATION

RULE CITATION: 19A NCAC 02D .0607

**DEADLINE FOR RECEIPT: WEDNESDAY, JULY 11, 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. You may call this office to inquire concerning the staff recommendation.

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.

*On the submission for filing form you indicate that this rule does not have a substantial economic impact, meaning that the fiscal impact is less than $500,000 dollars (in the aggregate) on all parties affected. I know some of my commissioners are going to have questions concerning at least the affect on the private carriers subject to this rule. Please be prepared to explain how you arrived at that determination.*

*I know I reviewed these earlier and you worked on them quite a bit. And I know I said they appeared to be in pretty good shape after we finished. (I may have even go so far as to say they were “excellent,” which they were.)*

*However on further review I do have a few more questions, comments, and requests or suggestions.*

*For the life of me I can’t remember what we determined about (a) lines 9 and 10. Why is there an “exception” there and what is it an exception to? Lines 6 – 9 already authorize the state highway administrator to issue a permit for loads over 15 feet. What does the exception for “mobile or modular units ... “ in lines 9 and 10 add to that authority?*

*In (b)(4) and (5) page 2 there is no mention of whether or not an escort vehicle is required. Since (1), (2) and (6) specifically state no escort vehicle is required it seems to me that if for no other reason than maintaining parallel construction you should put in those two sub-paragraphs whether or not one is required (presumably none is required). if you did not have any other place within (4) and (5) to put it, you could simply begin each one with “without [with] the requirement of an escort vehicle ....”*

*In (c) page 3 line 14 it seems to me that “maximum 12 inches of roof overhang or the” is unnecessary since the rule goes on immediately to specify that the protrusion cannot exceed “the total width of overhang [which in line 12 is set at “a total of 12 inches”] on the appropriate side of the home.” On further reading it also seems to me that “applicable” might be a better term than “appropriate.”*

*The general height limitation on vehicles in this rule is 13 feet 6 inches. In (g) page 5 line 16 there is a provision for an overheight permit application “for heights in excess of 14 feet.” What happens for vehicles that are over 13 feet 6 inches up to 14 feet?*

*In (h)(2) page 5 line 31 I believe you should delete “and no movement is permitted” so that the sentence will read: “No movement is permitted ... after noon on ... until noon on....” That will eliminate the redundant “no movement is permitted on” and maintain parallel construction with the immediately following sentence: “... travel is restricted from ... through ....” It would also be better to change the somewhat ambiguous word “through” in line 33 to “until” to make the time certain.*

*In (h)(9) page 7 lines 16 and 17 I think you need to make it clear that it is “trees or shrubs” in government owned right-of-ways or easements that you are referring to. I will suggest the following, but you certainly may use any wording that you prefer: “State or municipality owned signs, and trees or shrubs on state or municipality rights-of-way or easements shall not be cut ....”*

*In (i)(2) page 7 line 35 I would suggest that “so mounted as to not increase” would read and especially “sound” better as “mounted so as not to increase,” but you may use your own judgment as to that request. (That would also result in not splitting the infinitive “to increase.” This is one place where a split infinitive does jangle my eyes and especially my reading ears.)*

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 02E .0701

**DEADLINE FOR RECEIPT: WEDNESDAY, JULY 11, 2012**

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. You may call this office to inquire concerning the staff recommendation.

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*Whenever you have both “or” and “and” on the same level or in the same sentence there is always someone who will try to or who does misread the rule. So I believe this rule needs some adjustment in formatting to clarify what I believe is the rule’s intent. Please make the first sentence paragraph (a). Then items (1) through (4) would be included as sub-paragraphs of (a). You could, and probably should, also delete “or” at the end of (1) and (2). Sub-paragraph (a)(4) would end with a period after “public” and “and” would be deleted.*

*Current item (5) would become paragraph (b).*

*Finally, to make sure (b) does not allow the employment by contract exceptions in (a)(1) – (4) (and not just in (a)(4)) to apply if (b) applies, you should add “Except as set out in Paragraph (b) of this rule” (or similar language) to the beginning of (a) -- or anywhere else in (a) you believe it could or should be inserted.*

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Joseph J. DeLuca, Jr.

Commission Counsel