

SUBCHAPTER 2D - HIGHWAY OPERATIONS

SECTION .0100 - STANDARDS FOR DESIGN AND CONSTRUCTION

19A NCAC 02D .0101 STANDARD SPECIFICATIONS FOR ROADS AND STRUCTURES

History Note: Legislative Objection [(a)] Lodged Eff. August 19, 1980;
Legislative Objection [(a)] Removed Eff. April 23, 1981;
Authority G.S. 136-18(1); 143B-348; 150A-62; 150A-63(c);
Eff. July 1, 1978;
Amended Eff. April 11, 1980;
Repealed Eff. April 3, 1981.

19A NCAC 02D .0102 MINIMUM SIZE OF SURFACE DRAINAGE PIPELINE

All installation of pipe for surface drainage purposes on the State Highway System right of way shall be a minimum diameter of 12".

History Note: Authority G.S. 136-18(1); 136-92; 136-93; 156-88;
Eff. July 1, 1978;
Amended Eff. January 1, 1984; April 3, 1981;
Readopted Eff. February 1, 2019.

19A NCAC 02D .0103 ROADWAY STANDARDS

History Note: Authority G.S. 136-18(1); 136-45; 136-44.1; 143B-350(f); 143B-350(g); 150A-62; 150A-63(c);
Eff. July 1, 1978;
Repealed Eff. April 3, 1981.

19A NCAC 02D .0104 GUIDELINES - CURB RAMPS

(a) Guidelines for the design and construction of curb ramps are available from the Division of Highways, 1 S. Wilmington Street, Raleigh, North Carolina 27601, (919) 707-2500.

(b) The party or parties cutting an existing curb or constructing a new curb shall ensure that all work is in compliance with all applicable laws.

History Note: Authority G.S. 136-44.14(c);
Legislative Objection (a) Lodged Eff. August 19, 1980;
Legislative Objection (a) Removed Eff. April 23, 1981;
Eff. July 1, 1978;
Amended Eff. December 1, 1993; April 3, 1981; April 11, 1980;
Readopted Eff. February 1, 2019.

SECTION .0200 - LANDSCAPE

19A NCAC 02D .0201 COOPERATION WITH PROPERTY OWNERS

The Department of Transportation will cooperate with owners of property abutting highway rights of way in eradicating or satisfactorily controlling the growth of kudzu, bermuda grass, johnson grass, or nutgrass, within limitations of available funds and personnel.

History Note: Authority G.S. 136-18(9); 136-93; 143B-350(f),(g);
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0202 CONDITIONAL COOPERATION

- (a) The extent of participation of the Department in eradication or control work shall be determined by the severity of damage to abutting property, the possibility of roadside erosion and drainage problems resulting from eradication, and the degree of responsibility for the plant infestation that is traceable to the department.
- (b) The property owner, or owners, and the department shall agree in writing to the degree of eradication or control of such undesirable vegetation. The Department shall perform only the work on highway right of way and the property owner shall perform the work on his property, according to the methods and additional conditions outlined in the written agreement.
- (c) There shall be a stipulation in the written agreement indemnifying the department from damage on private property to crops, grasses, trees, shrubs, etc. resulting from any herbicides which are applied on highway right of way, with all reasonable and customary precautions for the eradication or control of the undesirable vegetation.
- (d) All reasonable precautions shall be taken to prevent damage to desirable vegetation on highway right of way during eradication or control operations on private property.

History Note: Authority G.S. 136-18(9); 136-93; 143B-350(f),(g);
 Eff. July 1, 1978;
 Amended Eff. December 1, 1993;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0203 PLANTING PLANS

Planting proposals of the type in Rule .0423 of this Subchapter shall be accompanied by a plan and a typical cross-section. They shall be to scale; or approximately to scale with dimensions shown so as to be adaptable to office review. Sizes preferred are a letter-size sheet, a legal-size sheet, or double the sizes of these sheets, thus permitting simple xerox reproduction.

History Note: Authority G.S. 136-18(9); 136-89.50; 136-93; 143B-350(f),(g);
 Eff. July 1, 1978;
 Amended Eff. December 1, 1993;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

SECTION .0300 - PREQUALIFICATION: ADVERTISING AND BIDDING REGULATIONS

Note: The basic rules from this section have been adopted with significant additions as Section .0800 of this Subchapter.

- 19A NCAC 02D .0301 PREQUALIFYING TO BID**
19A NCAC 02D .0302 APPROVAL OR REJECTION
19A NCAC 02D .0303 ANNUAL REQUALIFICATION FOR BIDDING
19A NCAC 02D .0304 EXPERIENCE QUESTIONNAIRE

History Note: Authority G.S. 136-18(1); 136-28.1; 136-44.1; 136-45; 143B-350(g);
 Eff. July 1, 1978;
 Repealed Eff. April 3, 1981.

- 19A NCAC 02D .0305 ATTORNEY GENERAL PARTICIPATION**
19A NCAC 02D .0306 WITHDRAWAL OF ERRONEOUS BIDS

History Note: Authority G.S. 143-49(3); 143-129; 143-129.1; SL ch. 617, s. 1(1977);
 Eff. July 1, 1978;
 Repealed Eff. September 1, 1978.

- 19A NCAC 02D .0307 ADVERTISEMENT AND INVITATIONS FOR BIDS**
19A NCAC 02D .0308 BIDDING RULES AND REGULATIONS

History Note: Authority G.S. 136-28.1;
 Eff. September 1, 1978;
 Repealed Eff. April 3, 1981.

SECTION .0400 - FIELD OPERATIONS - MAINTENANCE AND EQUIPMENT

19A NCAC 02D .0401 HIGHWAY MAINTENANCE CONTRACT RETREATMENT PROGRAM

History Note: Authority G.S. 136-44.3; 136-44.1; 143B-350(f); 143B-350(g);
Eff. July 1, 1978;
Repealed Eff. November 1, 1991.

19A NCAC 02D .0402 CURB AND GUTTER AND UNDERGROUND DRAINAGE ON HIGHWAYS

- (a) The following Subparagraphs are applicable to Projects included in the State Transportation Improvement Program.
- (1) If curb and gutter or underground storm drainage facilities are not included in a State highway improvement project, such facilities may be added as part of the programmed project if the additional cost of these facilities are paid by the adjacent property owner(s) or the municipality.
 - (2) The Department shall approve participation by the property owner(s) or the municipality in cases where the property owner(s) or the municipality agree to have curb and gutter and underground storm drainage, if required, on both sides of the project for a minimum distance of one block or, if no intersections are present, for a minimum distance of 1000 feet. The State shall pay the cost of widening the present or proposed pavement out to the curb and gutter so provided.
 - (3) The property owner(s) or the municipality shall submit in advance of the project construction a certified check for the additional cost of the approved curb and gutter and storm drainage facilities.
- (b) Other Existing Paved Roads. Along existing paved State highway system routes where no construction project is proposed and the adjacent property owner(s) or the municipality construct curb and gutter and underground drainage facilities as approved by the Board of Transportation, the Department of Transportation shall bear the cost of widening the existing pavement as required for the proper location and installation of such facilities. Approval of curb and gutter or underground storm drainage facilities that are located along the State highway system, where no construction projects are proposed, shall be determined according to the engineering standards of the Department, and based on:
- (1) adequacy of the facilities to handle drainage requirements;
 - (2) adequacy of the resulting roadway cross section to handle existing and anticipated traffic demands;
 - (3) conformance of the proposed street cross section with engineering standards as established by the Board of Transportation;
 - (4) a minimum distance of one block length or, if no intersections are present, for a minimum distance of 1000 feet provided this requirement is not in conflict with local municipal ordinances. In cases of conflict, the local ordinance shall prevail; and
 - (5) availability of State funds to widen the existing pavement, when applicable.
- (c) Unpaved Roads. Construction of curb and gutter along unpaved State highway system routes shall not be permitted.

History Note: Authority G.S. 136-44.1; 136-66.1; 143B-350(f); 143B-350(g);
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Readopted Eff. June 1, 2019.

19A NCAC 02D .0403 USE OF DUST ALLAYING MATERIALS

- (a) Requests for calcium chloride dust treatments shall be addressed to the County Maintenance Yard having jurisdiction in the county where the work is proposed.
- (b) Calcium chloride dust treatments shall only be placed on State highway system roads and streets provided:
- (1) prior approval is obtained from the Division Engineer or the Division Engineer's authorized designee having jurisdiction in the county where the dust treatment is proposed; and
 - (2) calcium chloride is furnished by the person requesting the dust treatment and placed by the Department or its agents.
- (c) The Division Engineer or the Division Engineer's authorized designee shall approve requests for calcium chloride dust treatments unless conditions are wet, rendering the dust treatment ineffective, and if the dust treatment would worsen road surface conditions.
- (d) The person requesting the dust treatment shall purchase and deliver the calcium chloride as directed by the Division Engineer or his or her designee.

*History Note: Authority G.S. 136-18(1); 136-18(27); 143B-346;
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Readopted Eff. June 1, 2019.*

19A NCAC 02D .0404 MAINTENANCE WITHIN MUNICIPALITIES

(a) The definitions set forth in this Paragraph shall apply to this Rule.

- (1) "Board" means the Board of Transportation.
- (2) "Cross pipe lines" means pipe lines under the roadway surface, designed to convey water from one side of a street or highway to the other.
- (3) "Maintenance" means routine care or upkeep to keep roads, streets, or highways in the existing condition and with the existing traffic carrying capacity.
- (4) "Municipality" means an incorporated city or town within the State of North Carolina.
- (5) "Non-State municipal street" or "Non-State system municipal highway" (municipal system) mean any street or highway accepted by the municipality that is not a part of the State highway system.
- (6) "Open drainage" means drainage systems utilizing open side ditches, tail, lateral and outfall ditches to convey surface water to outfall streams.
- (7) "Pavement" means the paved portion of streets, including paved shoulders and on-street parking areas, but not including sidewalks and driveways.
- (8) "Rural highway" or "Rural street" means a highway or street on the State highway system outside the limits of a municipality.
- (9) "Shoulder" means earthen, soil, clay, gravel or turf section of pavement support extending from outer pavement edge to the bottom of side ditch, including shoulder sections which are paved.
- (10) "Sidewalk" means paved walkway, parallel to streets or highways.
- (11) The State highway system includes those streets and highways as described in G.S. 136-45.
- (12) "State municipal system street" or "State municipal street highway" mean any street or highway on the State highway system within a municipality.
- (13) "Storm drainage" or "Storm sewers" mean a system of underground pipes, culverts, conduits, or tunnels, including drop inlets and catch basins, designed to convey water from surface areas to eventual disposal into outfall streams.

(b) Responsibilities.

- (1) The Department shall patch and resurface pavement.
- (2) The municipality shall repair pavement cuts made for utility repair or other purposes under the control of the municipality. The Division of Highways District Engineer, or the District Engineer's designated representative shall be notified in writing 48 hours in advance of any pavement cut and approval must be obtained prior to making the cut. Pavement cuts due to emergencies may proceed as necessary with the Division of Highways District Engineer, or the District Engineer's designated representative being notified as soon as possible after the emergency is discovered and the pavement cut is made or anticipated.
- (3) If the maintenance of any State highway system street is performed by the municipality, then it shall be the responsibility of the municipality, subject to the approval and direction of the Department, to install and maintain signs, barricades, and other safety devices of like nature, and to furnish flagmen when necessary; all shall be performed in accordance with G.S. 136-130.
- (4) An encroachment agreement is required for the initial installation of any utility on the State highway system right-of-way by the municipality as well as by utility companies and individuals.
- (5) Drainage.
 - (A) The maintenance of roadway ditches including median drainage, where applicable, and cross drainage pipes, outfalls, and structures shall be the responsibility of Department within the highway right-of-way or within a drainage easement area.
 - (B) The maintenance of storm drainage and storm sewer systems draining State highway system streets within the highway right-of-way or within a drainage easement area shall be the responsibility of the Department. Where systems draining State highway system streets are enlarged and expanded to accommodate drainage from municipal streets, the initial cost and the maintenance cost shall be borne jointly by agreement.
 - (C) Attachments to drainage structures shall require the written approval of the Department prior to any utility or other attachment being made to any bridge or structure on the State highway system.

- Approval shall be required before turning any utility under or through a bridge or drainage structure on the State highway system. Approval is obtained through an encroachment agreement and dependent upon the complexity of the attachment.
- (6) The maintenance of sidewalks is a municipal responsibility.
 - (7) Roadside Maintenance.
 - (A) All planting, plant maintenance, mowing, erosion control, and litter pickup on freeways, interstate, and other controlled access highways shall be the responsibility of the Department, except as otherwise provided by this Rule.
 - (B) Non-controlled Access Surface Streets
 - (i) Erosion control, machine mowing, litter pickup, and the maintenance of trees over the entire width of right-of-way without sidewalk or pedestrian space, paved or unpaved, shall be the responsibility of the Department. Maintenance of shrubs or other planting over the entire width of right-of-way without sidewalk or pedestrian space, paved or unpaved, shall be the responsibility of the Department subject to the provision providing for specific planting projects as outlined in Part (7)(C) of this Paragraph.
 - (ii) The Department shall be responsible for the maintenance of the area outside of the curbs or within and beyond the sidewalk or pedestrian space, paved or unpaved. These areas are used almost exclusively for pedestrians, and the maintenance of such areas shall be the responsibility of the municipality.
 - (C) Should the municipality desire more extensive planting than is provided by the Department, a plan for such proposed planting shall be submitted to the Department and considered a construction or improvement item. An individual permit and agreement on Department and municipal responsibilities for planting and plant maintenance shall be required in each instance, covering not only financial responsibility but also the furnishing of personnel, equipment and materials for performing plant maintenance and associated hand mowing operations.
 - (D) Civic organizations desiring to provide more extensive planting of trees and shrubs in the municipality on Department right-of-way than is provided by the Department shall handle negotiations through the municipality as outlined in Part (7)(C) of this Paragraph.
 - (8) Snow and Ice Control.
 - (A) The responsibility for clearing State highway system streets shall be the responsibility of the Department; however, municipalities may, with the concurrence of the Division Engineer, execute an agreement with the Department providing for reimbursement by the Department to the municipality for the assumption of this responsibility.
 - (B) The removal of snow from sidewalk areas shall not be the responsibility of the Department.
 - (9) The Department shall maintain, repair, and replace guard rail on the State highway system streets and highways.
 - (10) Street Lighting.
 - (A) The Department shall maintain street lighting on freeways, interstate systems, and other controlled access highways if determined to be for public safety.
 - (B) The maintenance and the electric current for lighting systems on streets or highways other than as referred to in Part (10)(A) of this Paragraph shall be the responsibility of the municipality, unless otherwise provided for by specific agreement.
 - (C) The installation of street lighting systems by the municipality on State highway system streets within the right-of-way may be allowed by the Department by encroachment agreement only.
 - (11) The Department and the municipality shall ensure that traffic lanes are kept open. In the event that any traffic lanes are blocked for any reason, the Department and the municipality shall ensure that the blockage is signed or flagged.

*History Note: Authority G.S. 136-66.1; 136-93; 143B-346;
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Readopted Eff. July 1, 2019.*

History Note: Authority G.S. 136-66.1; 143B-346; 143B-350(f); 143B-350(g); 150B-21.3A;
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Repealed Eff. June 1, 2019.

19A NCAC 02D .0406 CONSTRUCTION AND MAINTENANCE OF SIDEWALKS

(a) The Department shall replace any sidewalk torn up as a result of a highway construction project having to do with the widening of an existing street.

(b) The Department shall evaluate the need for proposed sidewalks in the planning stage of a project. The Department shall assess information provided by the local government, Transportation Advisory Committee, and Departmental engineering studies.

(c) The execution of a pedestrian facilities maintenance agreement specifying responsibility for long term maintenance shall be required prior to construction for a proposed sidewalk.

History Note: Authority G.S. 136-66.1; 143B-346; 23 U.S.C. 133; 23 U.S.C. 217;
Eff. July 1, 1978;
Amended Eff. May 1, 1999; December 29, 1993;
Readopted Eff. July 1, 2019.

19A NCAC 02D .0407 HIGHWAY AND STREET PLANTING IN MUNICIPALITIES

History Note: Authority G.S. 136-66.1; 143B-346; 143B-350(f); 143B-350(g);
Eff. July 1, 1978;
Repealed Eff. November 1, 1991.

19A NCAC 02D .0408 TEMPORARY BRIDGE WEIGHT LIMITS AND CLOSINGS

After an inspection of any bridge on the State Highway System, any Department of Transportation bridge safety inspector, or any bridge maintenance supervisory personnel, may temporarily lower the authorized weight limits on a bridge, or close the bridge as the circumstances may warrant, if, in his or her judgment, the bridge is not capable of carrying the authorized weight. Such limitation or bridge closing shall remain in effect, not to exceed 60 days, until an analysis of the bridge is made and action taken based upon the bridge analysis.

History Note: Authority G.S. 136-72; 143B-350;
Eff. July 1, 1978;
Readopted Eff. March 1, 2019.

19A NCAC 02D .0409 TEMPORARY ROAD RESTRICTIONS

History Note: Authority G.S. 20-121;
Eff. July 1, 1978;
Repealed Eff. January 1, 1994 pursuant to 1991 S.L., c. 477, s. 3.

19A NCAC 02D .0410 RENTAL OF SUPPLEMENTAL EQUIPMENT

The Department of Transportation, in accordance with its needs and the availability of state-owned equipment, may supplement its own equipment requirements by the rental of privately-owned equipment. Operators may also be furnished with equipment.

History Note: Authority G.S. 143B-346; 143B-350(f); 143B-350(g);
Eff. July 1, 1978;
Amended Eff. November 1, 1993; November 1, 1991;
Readopted Eff. June 1, 2019.

19A NCAC 02D .0411 LIMITATIONS ON USAGE

History Note: Authority G.S. 143B-346; 143B-350(f); 143B-350(g);
Eff. July 1, 1978;
Repealed Eff. January 1, 1994 pursuant to 1991 S.L., c. 477, s. 3.

19A NCAC 02D .0412 REST AREAS AND WELCOME CENTERS - AUTHORITY

History Note: Authority G.S. 136-89.59;
Eff. July 1, 1978.
Repealed Eff. August 1, 1986.

19A NCAC 02D .0413 APPROVAL FOR USE - REST AREAS, WELCOME CENTERS

History Note: Authority G.S. 136-89.59;
Eff. July 1, 1978.
Repealed Eff. August 1, 1986.

19A NCAC 02D .0414 LOCATION OF GARBAGE COLLECTION CONTAINERS

- (a) An encroachment agreement between the Department and non-Departmental parties shall be required for a garbage collection container site on any State highway rights-of-way.
- (b) No garbage collection container shall be located within 500 feet of an occupied dwelling unless the applicant obtains written permission from the owner of the dwelling.
- (c) Information on initiating the encroachment agreement process for the placement of garbage collection containers on any State highway rights-of-way may be obtained from the State Utilities Manager.
- (d) Guidelines for container sites are as follows:
 - (1) the county or municipality negotiating and executing the encroachment agreement shall be responsible for any work to be performed in preparation of the site, and any work performed by the Department, on the site, shall be on a reimbursable basis; and
 - (2) container sites adjacent to unpaved roads shall be prepared with materials similar to those existing on the traveled portion of the roadway.
- (e) If container sites are located adjacent to the roadway, sight distances shall be provided for any vehicle to safely enter the road from the container site.
- (f) Container sites shall be permitted adjacent to roadways only if lateral clearances can be provided from the edge of pavement to the container.
- (g) The county or municipality that holds an executed agreement for the placement of garbage collection containers, as set forth in this Rule, shall maintain a collection schedule in order to prevent container spillage or overflow, and shall keep the site free from all garbage and trash, other than that which is within the garbage collection containers. Garbage and trash collection located within the garbage collection containers shall be authorized by the encroachment agreement. The encroachment agreement shall provide that the District Engineers shall give written notice to the county or municipality of any failure to comply with this requirement. The encroachment agreement shall also provide that, if a county or municipality that is so notified and does not bring the site within compliance of the requirement within 30 days of receipt of the written notice, the encroachment agreement shall automatically terminate, and the District Engineer shall arrange for the disposal of the garbage collection containers.

History Note: Authority G.S. 136-18.3; 136-18(10);
Legislative Objection [(a)] Lodged Eff. August 19, 1980;
Legislative Objection [(a)] Removed Eff. April 23, 1981;
Eff. July 1, 1978;
Amended Eff. March 1, 2013; November 1, 1993; October 1, 1991; April 3, 1981; April 11, 1980;
Readopted Eff. June 1, 2019.

19A NCAC 02D .0415 GENERAL REGULATIONS FOR DRAWBRIDGES

History Note: Authority G.S. 136-18(5); 150B-21.3A;
Eff. July 1, 1978;
Amended Eff. August 1, 2000; April 1, 1999; August 1, 1998; January 1, 1996; November 1, 1993;

Repealed Eff. February 1, 2019.

19A NCAC 02D .0416 BRIDGE BETWEEN MOREHEAD CITY AND ATLANTIC BEACH

*History Note: Authority G.S. 136-18(5);
Eff. July 1, 1978;
Amended Eff. August 10, 1981;
Repealed Eff. November 1, 1991.*

**19A NCAC 02D .0417 BRIDGE ON US 17 OVER NEUSE RIVER AT NEW BERN
19A NCAC 02D .0418 BRIDGE ON US 70 OVER TRENT RIVER AT NEW BERN
19A NCAC 02D .0419 BRIDGE ON US 17B OVER PERQUIMANS RIVER AT HERTFORD
19A NCAC 02D .0420 DRAWBRIDGES OPEN ONLY UPON ADVANCE NOTICE**

*History Note: Authority G.S. 136-18(5);
Eff. July 1, 1978;
Amended Eff. November 1, 1991; August 10, 1981;
Repealed Eff. November 1, 1993.*

19A NCAC 02D .0421 INSTALLATION OF DRIVEWAY PIPE

(a) The Department of Transportation shall be responsible for the installation and costs of pipe lines in the drainage ditch along State-maintained roads and within State-maintained right-of-way or easement at entrances to private residential property where the pipe is furnished and delivered to the installation site by the property owner at the property owner's expense if the following requirements are met:

- (1) the opening of the side ditch is needed to provide drainage;
- (2) the pipe to be installed shall be restricted to a minimum inside diameter of 15 inches long and maximum inside diameter of 48 inches unless otherwise directed by the Department;
- (3) the minimum length of pipe to be installed shall be 20 feet with additional length as may be necessary to accommodate earth side slopes. The pipe shall not be lengthened for the purpose of eliminating typical side ditches;
- (4) the property does not already have ingress and egress;
- (5) the proposed location for the driveway entrance does not present safety hazards such as insufficient sight distance, proximity to other intersections, increased traffic congestion, poor roadway facility operations, decreased highway capacity, driver and pedestrian confusion, or other risks associated with vehicular traffic entering, leaving, and parking adjacent to accesses for residential property; and
- (6) the property is limited to farm entrances and property owned by the individual currently living on the property or owned by the individual proposing to use the property for residential purposes. This does not include property being developed for sale.

(b) "Commercial property" includes:

- (1) any property currently being used for commercial or industrial purposes;
- (2) property that is being developed for commercial or industrial purposes; and
- (3) property that is being developed for sale.

(c) The Department shall install pipe lines in the drainage ditch along the side of State-maintained roads and within State-maintained right-of-way or easements at entrances to commercial property when the pipe is furnished and delivered to the installation site by the property owner at the property owner's expense if the following requirements are met:

- (1) prior to installation, the property owner shall submit to the Department an application for installation of a commercial driveway pipe together with a payment in the amount of ten dollars (\$10.00) per linear foot of pipe to be installed. The application shall contain the following:
 - (A) description of the property location;
 - (B) description of the property use;
 - (C) acknowledgment that the driveway or street entrance shall be constructed and maintained in absolute conformance with the current "NCDOT Policy on Street and Driveway Access to North Carolina Highways;"
 - (D) acknowledgment that no signs or objects shall be placed on or over the public right-of-way other than those approved by the Department;

- (E) acknowledgment that the driveway(s) or street(s) shall be constructed as shown on the attached plans;
 - (F) acknowledgment that the driveway(s) or street(s) shall include any approach tapers, storage lanes, or speed change lanes as deemed necessary by the Department;
 - (G) acknowledgment that if any future improvements to the roadway become necessary, the portion of driveway(s) or street(s) located on public right-of-way shall be considered the property of the Department, and the property owner shall not be entitled to reimbursement or have any claim for present expenditures for driveway or street construction;
 - (H) acknowledgement that the permit shall become void if construction of driveway(s) or street(s) is not completed within the time specified by the NCDOT Policy on Street and Driveway Access to North Carolina Highways;
 - (I) requirement that a fifty dollar (\$50.00) construction inspection fee be paid by the property owner to the Department, and reimbursed to the property owner by the Department if the application is denied;
 - (J) acknowledgment that the construction and maintenance of the driveway(s) or street(s) shall be performed in a safe manner so as not to interfere with or endanger the traveling public.
 - (K) acknowledgment that signage, signals, flaggers, and other warning devices shall be provided during construction and in conformance with the current Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD);
 - (L) acknowledgment that the Department shall be indemnified and saved harmless from all damages and claims for damage that may arise by reason of construction;
 - (M) requirement that the property owner shall provide a Performance and Indemnity Bond in the amount specified by the Division of Highways for any construction proposed on the State Highway system;
 - (N) acknowledgment that the permit shall be granted subject to the regulatory powers of the Department as provided by law and as set forth in the NCDOT Policy on Street and Driveway Access to North Carolina Highways and shall not be construed as a contract access point;
 - (O) requirement that the property owner shall notify the District Engineer when the proposed work has begun and is completed; and
 - (P) signatures of the property owner, property owner's authorized agent, and their respective witnesses, and receipt and approval signatures of the Department.
- (2) applications for commercial driveway permits shall be approved or denied in accordance with the engineering standards and guidelines provided in the NCDOT Policy on Street and Driveway Access to North Carolina Highways. This policy may be accessed at no cost to the public by visiting <https://connect.ncdot.gov/projects/Roadway/RoadwayDesignAdministrativeDocuments/Policy%20on%20Street%20and%20Driveway%20Access.pdf>; and
 - (3) prior to installation, the property owner shall have received an approved commercial driveway permit from the Department. In the event the permit application is denied, the Department shall return to the applicant the payment referenced in Subparagraph (c)(1) of this Rule.
- (d) The commercial property owner may elect to have driveway pipe installed by private contractors if the following requirements are met:
- (1) prior to installation, the property owner shall submit to the Department an application for installation of a commercial driveway pipe together with a payment of fifty dollars (\$50.00) to cover the cost of the inspection of the pipe installation by Department personnel;
 - (2) prior to installation, the property owner shall have received an approved commercial driveway permit from the Department. In the event the permit application is denied, the Department will return to the applicant the payment referenced in Subparagraph (d)(1) of this Rule;
 - (3) the workmanship, materials, and final installation shall be subject to approval by the Department's District Engineer in accordance with current Department of Transportation standards. In the event the pipe installation does not meet the approval of the District Engineer, the Department shall remove the pipe at the expense of the property owner; and
 - (4) signing, barricades, and other devices necessary to mitigate traffic at or adjacent to the installation site shall be provided by the property owner or contractor. Traffic mitigation shall meet the requirements of the Manual on Uniform Traffic Control Devices for Streets and Highways as as by the District Engineer.

- (e) Department installation of pipe shall include necessary excavation, complete pipe placement, and sufficient backfill to provide a pipe line and grade protection. The Department of Transportation is not obligated to construct a finished driveway.
- (f) The Department shall be responsible for the installation and costs of residential and commercial driveway pipe if the Department caused the need by relocating or revising the elevation of side ditches for the improvement of highway drainage.
- (g) See Rule .0102 of this Subchapter for provisions related to pipe size.

History Note: Authority G.S. 136-18(1); 136-30; 136-92; 136-93; 156-88;
Eff. July 1, 1978;
Amended Eff. November 1, 1993; October 1, 1983;
Readopted Eff. June 1, 2019.

19A NCAC 02D .0422 HANDBOOK OF DESIGN FOR HIGHWAY SURFACE DRAINAGE STRUCTURES

History Note: Authority G.S. 136-18(1); 136-92; 136-93; 150A-62; 159A-63(c); 156-88;
Eff. July 1, 1978;
Repealed Eff. April 3, 1981.

19A NCAC 02D .0423 PLANTING ON CONTROLLED-ACCESS FACILITIES

Requests to plant on full or partial access highways shall be submitted to the division engineer whose jurisdiction is the county where the planting is proposed.

History Note: Authority G.S. 136-18(9); 136-89.50; 136-93;
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0424 PLANTING ON OTHER FACILITIES

(a) On highways without any control of access, planting requests will be handled by one of three methods, as determined by the Division Engineer having jurisdiction in the county where the planting is proposed:

- (1) The requesting individual or organization can furnish funds for the plant materials with the Department of Transportation doing the planting and assuming maintenance of the planting.
- (2) The Department of Transportation can assume the project entirely, bearing the cost of plant materials as well as doing the planting and plant maintenance.
- (3) The proposal of the organization can be considered for inclusion in the highway planting program at a later date.

(b) Requests for plantings shall be directed to the appropriate division engineer.

History Note: Authority G.S. 136-18(9); 136-89.50; 136-93;
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0425 FEDERAL DISASTER ASSISTANCE

History Note: Authority G.S. 136-4; 136-18; 143B-350; 150B-21.3A;
Eff. October 1, 1991;
Amended Eff. April 1, 1997; November 1, 1993;
Repealed Eff. June 1, 2019.

- 19A NCAC 02D .0426 BRIDGE ON US 70 OVER BEAUFORT CHANNEL AT BEAUFORT**
- 19A NCAC 02D .0427 BRIDGE ON NC 50 OVER INTERCOASTAL WATERWAY AT SURF CITY**
- 19A NCAC 02D .0428 BRIDGE/US 74/76 OVER/INTERCOASTAL WATERWAY/WRIGHTSVILLE BEACH**
- 19A NCAC 02D .0429 BRIDGE SR 1172 OVER INTERCOASTAL WATERWAY AT SUNSET BEACH**

History Note: Authority G.S. 136-18(5);
Eff. November 1, 1991;
Amended Eff. November 1, 1993.

SECTION .0500 - FERRY OPERATIONS

19A NCAC 02D .0501 GENERAL

The rules in this Section apply only for the transportation via the State of North Carolina ferry system of individual passengers and their hand baggage as defined in Rule .0504 of this Section, vehicles under their own power and vehicles not under their own power but under tow of a vehicle under its own power, and bicycles.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Amended Eff. December 1, 1993; November 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0502 TICKET CONDITIONS

Transportation furnished on any ticket sold or honored by the carrier will be subject to the rules set forth in this Section and any additional requirements are specifically provided on such tickets.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Amended Eff. December 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0503 CARRIER

When the term "carrier" is used in in this Section, it refers to the North Carolina Department of Transportation; the Division of Highways; and the Ferry Division.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Amended Eff. December 1, 1993; November 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0504 HAND BAGGAGE

The term "hand baggage" as used herein means the baggage, personal effects or other property of passengers taking passage on carrier's vessels. Such hand baggage or other property will be only in such amounts as foot passengers can individually handle on and off vessels themselves.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0505 NOTICE OF CANCELLATION

Carrier may deviate from or cancel sailing schedules without notice when in its opinion scheduled operation is impractical or unsafe because of circumstances or conditions beyond its control. In either event, carrier assumes no liability for loss, damage, or expense to patrons which may result therefrom.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Amended Eff. December 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0506 COMPLETION OF VOYAGE

If, through failure, act of God, or other misfortune, carrier's vessel fails to complete her voyage, neither the master of the vessel nor the carrier shall be under any obligation to forward passengers or vehicles to their original destination, nor to refund all or any part of any tolls paid; which shall be deemed as earned.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0507 SUBSTITUTE VESSELS

Carrier reserves the right to substitute one vessel for another over any of the routes operated without any liability to patrons.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0508 DEFINITION OF LANDING

Passengers or vehicles shall be deemed landed:

- (1) upon arrival of vessels at port of designated destination;
- (2) when landed at any other port because of failure, act of God, or other misfortune to vessel;
- (3) when voyage is abandoned for any cause and vessel returns to port of embarkation.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0509 RESPONSIBILITY OF VESSEL MASTER

When in the master's opinion safe landing cannot be made upon arrival of the vessel at a designated port of destination, it may be landed at another port at which safe landing can be made.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Amended Eff. November 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0510 MEDICAL CARE

Carrier shall neither furnish nor be liable for medical care or surgical treatment of passengers or other persons while on its terminal property. Carrier shall not be liable for the quality, nature or consequence of any medical or surgical treatment which may be administered to passengers on carrier's vessels.

Note: Refer also to G.S. 20-166 (Good Samaritan Law) and to 143-291.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0511 LIABILITY LIMITATIONS

Unless it is shown that a negligent act of an officer, employee, or agent of the state while acting in the scope of his office, service agency or authority was the sole proximate cause of any injury, loss, or damage, carrier shall not be liable for any injury, loss, or damage that shall result from an act of God, public enemy, restraint of rulers, quarantine, peril of the sea or other waters, latent defect in hull, boilers, propellers, piping, shafting, or machinery; or for injury, loss or damage that shall result from collision, stranding, fire, sanitary regulation or operation, explosion, accident to or breakdown of machinery, or of any propelling appliances, or accident, or navigation; or for any personal injury to passenger; or loss or damage to passengers' baggage or other property.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0512 PERSONAL PROPERTY

Carrier will not assume any responsibility or liability for articles left on board its vessels or at its terminals by passengers; or for articles left in vehicles while in transit, or at terminals.

*History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

19A NCAC 02D .0513 THEFT

Under no circumstances will the carrier be liable for theft from the person or baggage of a passenger or pilferage or theft from any vehicle on carrier's vessels or terminals.

*History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

19A NCAC 02D .0514 BAGGAGE

The handling of baggage by carrier will be as an accommodation only to the passenger. Carrier will not be liable for damage to or loss of such baggage whether by its negligence or otherwise.

*History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

19A NCAC 02D .0515 LOSS CLAIMS

All claims for loss or injury to person or property must be presented in accordance with the provisions of the Tort Claims Act (Article 31 of Chapter 143 of the North Carolina General Statutes).

*History Note: Authority G.S. 136-82; 143-291; 143B-10(j);
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

19A NCAC 02D .0516 INSURANCE BENEFIT

In case of any loss or damage for which the carrier shall be liable, the carrier shall, to the extent of such liability, have the full benefit of any insurance that may have been effected by the owner upon the goods lost or damaged, notwithstanding any underwriter is not obligated to make such payment.

*History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

19A NCAC 02D .0517 RIGHT TO REFUSE TRANSPORT; PERSONS

Carrier may refuse to transport a person who is apparently under the influence of intoxicating liquor or drugs or who is incapable of taking care of himself, or whose conduct makes him objectionable or dangerous to other passengers or liable to become so. This rule does not apply to persons who are ill and are accompanied by an attendant or nurse.

*History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Amended Eff. December 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

19A NCAC 02D .0518 COMPLIANCE WITH RULES AND REGULATIONS

Carrier also may refuse to transport a person who refuses to abide by its rules or those of the U. S. Coast Guard, pertaining to the safe and efficient operation of vessels, terminals, and traffic.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Amended Eff. December 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0519 RIGHT TO REFUSE TRANSPORT: CARGO

Carrier may refuse any and all articles loaded in or on vehicles or vehicles which in its opinion will jeopardize the safe operation of the vessel, or which carrier is not equipped to handle. Carrier may refuse to transport vehicles containing offensive or ill-smelling cargo and liquid or semi-liquid commodities when not in tightly enclosed containers or tanks, precluding possibility of escaping odors or leakage from such vehicles. Dangerous articles prohibited by law will not be transported including those hazardous cargos regulated by the U.S. Coast Guard.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Amended Eff. December 1, 1993; November 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0520 BRAKES

Drivers of all vehicles shall set emergency brakes and engage parking gear on all vehicles having same before leaving the vehicles. Drivers of all mechanically powered vehicles shall shut off engines, after being directed to their designated parking areas.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Amended Eff. December 1, 1993; November 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0521 OPERATION OF VEHICLE BY CARRIER EMPLOYEES

Carrier's employees are not permitted to drive power vehicles or wheeled machinery on or off vessels. When the owner or shipper, or his agent is unable to promptly drive such vehicles on and off vessels, carrier will refuse to transport same. Tracked construction equipment or other such power vehicles (except on rubber tired wheels) will not be accepted for movement except when loaded on trucks or trailers in tow of vehicles under their own power.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Amended Eff. December 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0522 INOPERATIVE VEHICLES

(a) Vehicles, without drivers, or with dead motors or otherwise inoperative, with or without drivers, will not be accepted by carrier for transportation. The provisions of this paragraph do not apply to such vehicles in tow of other vehicles under their own power.

(b) Trailers not under tow of vehicles under own power will not be accepted for transportation.

(c) If because of dead batteries, flat tires or other physical disability, a motor vehicle cannot be discharged from vessel under its own power and it is necessary for the carrier to obtain towing service to discharge the vehicle, charge for the service will be the liability of the disabled vehicle and must be paid directly to the towing service company by the vehicle owner.

(d) If towing service is not available and carrier undertakes to assist in the discharge of the vehicle by its employees with or without mechanical devices, the carrier will not be liable upon any claim for loss or damage to the vehicle.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0523 LIVESTOCK

Livestock will be transported only at carrier's convenience and only in adequate motor vehicle equipment. Rates to be charged are those applicable on trailers, trucks, truck and trailer combinations or truck tractor and semi-trailer combinations as specified in Rule .0532 of this Section. Carrier will assume no liability for livestock while on vessels or at terminals. Vehicles transporting livestock must be properly enclosed to prevent spillage of animal waste or otherwise creating unpleasant or offensive environment on vessels.

*History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Amended Eff. December 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

19A NCAC 02D .0524 DOGS, AND OTHER HOUSEHOLD PETS AND WILD ANIMALS

- (a) Dogs and household pets may accompany passengers and will be carried on vessels subject to the following conditions:
- (1) Dogs, cats, kittens, and small pet birds will be transported without charge when accompanied by passengers on foot or in vehicles. Such animals will be transported entirely at risk of the owner who shall take care of and safe-guard them while on vessels or at terminals.
 - (2) Such animals must be held secure by leash, crate, cage, or otherwise adequately restrained, as the case may require.
 - (3) Such animals shall not be permitted in passenger accommodations, but only on car deck under short leash and in custody of responsible person. Carrier, however, may require that they be carried in certain places as designated by the master, whenever, in his judgement, such a course is necessary for the safety and convenience of the passengers.
- (b) Wild animals must, at all times, be securely crated or caged so as to preclude contact by passengers.

*History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Amended Eff. December 1, 1993; November 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

19A NCAC 02D .0525 NO LIABILITY ASSUMED BY CARRIER

No liability will be assumed by the carrier in the transportation of household pets, or wild animals.

*History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Amended Eff. November 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

19A NCAC 02D .0526 BABY CARRIAGES

Baby carriages, strollers, and similar articles will be carried without charge, when space is available. The person accompanying the baby carriage, stroller, or similar article must place same where directed by the master. The carrier will not assume any responsibility or liability for these articles while in transit or at its terminals.

*History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

19A NCAC 02D .0527 CORPSES

Corpses will be transported in vehicles only.

*History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

19A NCAC 02D .0528 EXCESS HAND BAGGAGE

(a) The transportation of hand baggage or other property defined in Rule .0504 of this Subchapter of foot passengers in excess of such amounts must be arranged for by the passengers via available common carrier freight or express service.

(b) Carrier does not maintain a checked baggage service, and its employees are not available to assist foot passengers with the loading and unloading of baggage.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0529 BAGGAGE IN VEHICLES

Passengers in vehicles may carry baggage or other property in such amounts as can be loaded in or securely fastened on vehicles.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0530 RIGHT TO REFUSE

(a) Carrier may refuse any and all articles of baggage or other property which in the opinion of the carrier's agent or master of the vessel will, or may, jeopardize the vessel's safe operation or which the carrier is not equipped to handle. Dangerous articles prohibited by law will not be carried.

(b) Carrier's liability for the loss or damage to baggage, personal effects, or other property will be limited to that provided in Rules .0510 thru .0514 of this Subchapter.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Amended Eff. December 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0531 FREE OPERATIONS

19A NCAC 02D .0532 TOLL OPERATIONS

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Amended Eff. July 7, 2014; March 1, 2004; April 1, 2003; August 1, 2002; November 1, 1991; May 1, 1983;
Expired Eff. October 1, 2016 pursuant to G.S. 150B-21.3A.

19A NCAC 02D .0533 TICKET LIMITS

Tickets are valid only on the date of purchase and for the trip number indicated.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Amended Eff. December 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0534 REDEMPTION OF TICKETS

Upon presentation by the lawful holder thereof, unused tickets will be redeemed upon the following terms provided such ticket is so presented for redemption within 30 days after the date of sale:

- (1) Unused tickets will be redeemed at the purchase price.
- (2) Altered or mutilated tickets will not be honored for passage.

History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;

Amended Eff. December 1, 1993;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0535 FERRY RESERVATIONS

(a) Reservations for space shall only be available for the Cedar Island-Ocracoke, Swan Quarter-Ocracoke, and Passenger Ferry from Hatteras-Ocracoke ferry operations. All other operations are on a "first come-first served" basis.

(b) Reservations shall be made by in person at the ferry terminal, online at <https://ferry.ncdot.gov> or by telephone as follows:

- (1) For the main reservation line, call: (800) 293-3779.
- (2) For departures from Ocracoke, call: (252) 996-6201.
- (3) For departures from Cedar Island, call: (252) 463-7046.
- (4) For departures from Swan Quarter, call: (252) 791-3302.
- (5) Office hours shall be from 6:00 am until 5:00 pm, year-round.

(c) Reservations may be made any time within 90 days of the departure date and shall not be transferable. Name of the driver and vehicle license number shall be required. A credit or debit card shall be required for advance reservations to secure passage and space aboard a ferry vessel. It shall not be required that the credit or debit card be in the name of the driver.

(d) Reservations shall be claimed at least 30 minutes prior to the scheduled departure. Reservations not claimed prior to this time shall be cancelled and the space reassigned.

(e) Vehicles shall remain in the staging area once ticketed, and until boarding begins.

(f) In case of departure cancellation due to mechanical failure, inclement weather, or other unavoidable causes, the customer may reschedule the reservation for either the earliest possible departure or for another time convenient for the customer.

*History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Readopted Eff. June 1, 2019.*

19A NCAC 02D .0536 MAIL TRUCKS

Mail trucks may be granted priority privileges for loading on all system ferries.

*History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

19A NCAC 02D .0537 FERRY SCHEDULES

Ferry schedules are available on the Official North Carolina Highway Map, from the Ferry Operations Office in Morehead City, (919) 726-6446, or on signs posted at strategic locations along ferry terminal approach highways or at the ferry terminal.

*History Note: Authority G.S. 136-82;
Eff. July 1, 1978;
Amended Eff. December 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

19A NCAC 02D .0538 VEHICLE WEIGHT LIMITATIONS

(a) Maximum weights permissible for 150-foot Hatteras Class ferries are as follows:

- | | | |
|-----|---|------------------|
| (1) | 2 axles plus front steer axle with standard load and length of 35 feet: | 40,000 lbs.; |
| (2) | 3 axles plus front steer axle with standard load and length of 40 feet: | 60,000 lbs.; |
| (3) | 4 axles plus front steer axle with standard load and length of 65 feet: | 80,000 lbs.; and |
| (4) | 5 axles plus front steer axle with standard load and length of 65 feet: | 80,000 lbs. |

(b) Maximum weights permissible for 180-foot River Class, and 220-foot Sound Class ferries are as follows:

- | | | |
|-----|---|-------------------|
| (1) | 2 axles plus front steer axle with standard load and length of 35 feet: | 40,000 lbs.; |
| (2) | 3 axles plus front steer axle with standard load and length of 40 feet: | 60,000 lbs.; |
| (3) | 4 axles plus front steer axle with standard load and length of 65 feet: | 80,000 lbs.; |
| (4) | 5 axles plus front steer axle with standard load and length of 65 feet: | 92,000 lbs.; |
| (5) | 6 axles plus front steer axle with heavy load or extra-long lowboy: | 108,000 lbs.; and |
| (6) | 7 axles plus front steer axles with heavy load or extra-long lowboy: | 120,000 lbs. |

*History Note: Authority G.S. 136-82; 143B-10(j);
Eff. July 1, 1978;
Amended Eff. November 1, 1991;
Readopted Eff. June 1, 2019.*

19A NCAC 02D .0539 VEHICLE PHYSICAL DIMENSION LIMITATIONS

(a) Maximum physical dimensions shall be 65 feet in length, 12 feet in width, and 13.5 feet in height for vehicles on each of the following ferry vessels:

- (1) Silver Lake;
- (2) Cedar Island;
- (3) Carteret;
- (4) Swan Quarter;
- (5) Sea Level;
- (6) Governor Daniel Russel;
- (7) Southport;
- (8) Neuse;
- (9) Lupton;
- (10) Fort Fisher;
- (11) W. Stanford White;
- (12) Croatoan;
- (13) Hatteras;
- (14) Kinnakeet;
- (15) Frisco;
- (16) Chicamacomico;
- (17) Cape Point;
- (18) Ocracoke;
- (19) Roanoke;
- (20) Thomas A. Baum, out-of-service effective September 2020;
- (21) Governor James Baxter Hunt, Jr.;
- (22) Rodanthe, in-service effective March 2019;
- (23) Avon, in-service effective March 2020; and
- (24) Salvo, in-service effective August 2020.

(b) Vehicles having overall dimensions requiring an Oversized/Overweight Permit, pursuant to Section .0600 of this Subchapter, shall carry that permit within the vehicle; otherwise, loading aboard a ferry vessel shall not be permitted.

*History Note: Authority G.S. 20-119; 136-82; 143B-10(j);
Eff. July 1, 1978;
Amended Eff. December 1, 1993; November 1, 1991;
Readopted Eff. June 1, 2019.*

SECTION .0600 – OVERSIZE-OVERWEIGHT PERMITS

19A NCAC 02D .0601 PERMIT APPLICATION AND ADMINISTRATION

(a) The Chief Engineer's office shall be responsible for issuing oversize/overweight permits as provided by this Section.

(b) House move permit applications shall be submitted to the Department division and district offices. The Department's division and district offices shall approve or deny house move permit applications based on safety considerations after reviewing the route of travel and dimensions of the structure to be moved. House move permit applications shall be submitted at least two working days prior to the anticipated date of movement. House move permit applications shall contain the following information:

- (1) applicant's name and contact information;
- (2) housemover license and truck license numbers;
- (3) registered weight, serial number, and number of axles;
- (4) description of the load dimensions
- (5) extreme axle measurements, axle weights, and spacings;
- (6) house construction descriptions

- (7) requested route of travel descriptions; and
 - (8) travel plan and anticipated use of escort vehicle.
- (c) Superload permits shall be required for the movement of a vehicle and vehicle combination with a gross weight of 132,000 pounds or more; width of 15 feet or more; a mobile or modular unit with a width of 16 feet and a gutter edge of 3 inches; and a width of 16 feet and 11 inches, unless the permit is for house moves in accordance with Paragraph (b) of this Rule. Applicants for Superload permits shall submit a written application, the fee specified in G.S. 20-119(b), and documentation of any variance to the Central Permit Office at least 10 business days prior to the anticipated date of movement. Superload permits applications shall contain the following information:
- (1) applicant's name and contact information;
 - (2) truck and trailer license information and VIN number;
 - (3) gross weight, registered weight, extreme wheelbase measurements, and number of axles;
 - (4) description of the load dimensions; and
 - (5) description of axle spacings and weight.
- (d) Applicants shall submit a written application, the fee specified in G.S. 20-119(b), and documentation of variances to the Central Permit Office at least two business days prior to the anticipated date of movement of a vehicle or vehicle combination of a height greater than 14 feet, but not equal to or greater than 15 feet.
- (e) The issuance of any permit shall not imply nor guarantee the vertical clearance of the permitted load and the permittee shall be responsible for ensuring all vertical clearances prior to movement.
- (f) The Department shall accept certified check, money order, company check, or credit card in consideration for the fees specified in G.S. 20-119(b). No personal checks shall be accepted.

History Note: Authority G.S. 20-119; 20-360; 20-361; 20-367; 20-369; 20-371; 136-18(5); 143B-346; Eff. July 1, 1978; Amended Eff. November 1, 1993; October 1, 1991; Temporary Amendment Eff. January 10, 2002; October 1, 2000; Amended Eff. December 1, 2012; April 1, 2009; August 1, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016; Amended Eff. July 1, 2019.

19A NCAC 02D .0602 PERMITS – ISSUANCE REQUIREMENTS

- (a) The following are general issuance requirements for oversize/overweight permits.
- (1) Permits shall be issued by the Department. The maximum weight permitted on a designated route shall be determined by the bridge capacity of the bridges to be crossed during movement. Movements exceeding weight limits for highways or bridge structures shall be denied if considered by the Department to be unsafe or if the movement may cause damage to the highway or bridge structures. If the Department determines that the permitted movement may cause damage to the highway, bridge structures, or any other State property, the permittee shall be required to obtain a surety bond to cover the estimated cost of damages. A permit issued by the Department shall not be valid for travel over municipal streets, defined as streets or highways not maintained by the State of North Carolina.
 - (2) Prior to applying for an oversize/overweight permit, the applicant shall be responsible for reducing and loading the item, commodity, or combinations thereof to the least possible dimensions and weight. Permits may be issued in accordance with this Section for movements of items or commodities that cannot be loaded, divided, dismantled, or disassembled to meet legal requirements.
 - (3) One item or commodity shall qualify for overweight considerations. Multiple items or commodities shall not qualify for an overweight permit.
 - (4) One item or commodity or multiple items or commodities loaded in-line shall qualify for overwidth considerations. If loaded side-by-side, multiple items or commodities shall not exceed eight feet, six inches in width.
 - (5) One item or commodity of continuous length shall qualify for overlength considerations. The maximum length for a vehicle or vehicle combination shall be 105 feet. Approval may be given by the Central Permit Office for permitted loads in excess of 105 feet after review of the geographic route of travel, consideration of local construction projects, and evaluation of the other dimensions of the load.
 - (6) One item or commodity shall qualify for overheight considerations. If piled or stacked, multiple items or commodities shall not exceed 13 feet, 6 inches.
- (b) Annual Trip Permits

- (1) Annual permits shall be valid for 12 months from the effective date of the permit. Annual trip permits shall require an escort for vehicle and vehicle combinations that exceed 12 feet in width.
 - (2) Annual permits may be issued for unlimited movement on all North Carolina highways, as permitted by the posted road and bridge limits, and without the requirement of an escort for the following:
 - (A) vehicle and vehicle combinations transporting non-divisible commodities;
 - (B) vehicle and vehicle combinations transporting a non-divisible commodity with a minimum extreme wheelbase of 51 feet;
 - (C) self-propelled equipment with four or five axles; and
 - (D) non-property hauling vehicles with permanently attached equipment, a minimum wheel base of 30 feet, the capability of traveling at highway speeds of 45 miles per hour, the operational purpose of traveling to and from a non-highway job, and a special mobile equipment license issued by the Division of Motor Vehicles.
 - (3) Dimensions for vehicle and vehicle combination permits issued pursuant to Subparagraph 2 of this Paragraph shall not exceed:
 - (A) a width of 12 feet;
 - (B) a height of 13 feet, 6 inches; and
 - (C) a length of 105 feet.
 - (D) Part (2)(A) within this Paragraph shall not exceed the length as set forth in G.S. 20-115.1(b) and G.S. 20-116(e), and gross weights and axle weights as set forth in G.S. 20-118(b)(1)(2)(3).
 - (E) Parts (2)(B), (C), and (D) within this Paragraph shall not exceed a gross weight of 90,000 pounds, and axle weights of 20,000 pounds for steer axle, 25,000 pounds for single axle, 50,000 pounds for tandem axle, 60,000 pounds for tridem axle, and 68,000 pounds for axle groupings of four or more.
 - (4) Annual permits may be issued for unlimited movement on all North Carolina highways, as permitted by the posted road and bridge limits, and with the requirement of an escort for vehicles and vehicle combinations transporting farm equipment. Dimensions for vehicle and vehicle combination permits issued pursuant to this Subparagraph shall not exceed:
 - (A) a width of 14 feet;
 - (B) a height of 13 feet, 6 inches; and
 - (C) a weight as set forth in G.S. 20-118(b)(3).
 - (5) Annual permits may be issued with the requirement of an escort for mobile or modular homes if transported from a manufacturer to a North Carolina mobile or modular home dealership, or if transported from a North Carolina licensed mobile or modular home retail dealer to the transporter for the delivery of mobile or modular homes. Permitted mobile or modular homes shall be authorized to travel on designated routes approved by the Department considering construction work zones, highway lane widths, origin and destination, and other factors to ensure safe movement. Dimensions for vehicle and vehicle combination permits issued under this subparagraph shall not exceed:
 - (A) a width of 14 feet;
 - (B) a roof overhang of 12 inches, unless the unit width shall be 16 feet, in which case the gutter edge shall not exceed 3 inches;
 - (C) a height of 13 feet, 6 inches; and
 - (D) a weight as set forth in G.S. 20-118(b)(3).
- (c) Single Trip Permits
- (1) Single trip permits shall be issued to the registered owner of the vehicle and valid for 10 calendar days for a single, one-way trip. Single trip permit applications shall include the exact origin, route, and exact destination, including applicable county and state road numbers and routes. A return trip shall only be considered for a single trip permit if the return trip is requested within the original permit application. No single trip permit shall be issued for a time period that exceeds 30 days.
 - (2) Single trip permits for vehicle and vehicle combinations with non-divisible overwidth loads are limited to a maximum width of 15 feet and the conditions specified in this Rule.
 - (3) Single trip permits shall not be restricted by overall length limitations, except the total combination length of mobile homes shall not exceed 105 feet.
 - (4) Single trip permits shall not authorize a vehicle or vehicle combination height in excess of the vertical clearances on the authorized route.
- (d) Non-divisible Loads

- (1) The maximum single trip and annual permit weight allowed for a vehicle or vehicle combination, not including off-highway construction equipment, shall be:
 - (A) 20,000 pounds for steer axles;
 - (B) 25,000 pounds for single axles;
 - (C) 50,000 pounds for tandem axles;
 - (D) 60,000 pounds for tridem axles;
 - (E) 68,000 pounds for axle groupings of four or more; and
 - (F) an engineering study is required for axle groupings of five or more that exceed 68,000 pounds.
- (2) The maximum single trip and annual permit gross weight allowed for a vehicle or vehicle combination, not including off-highway construction equipment, shall be:
 - (A) 70,000 pounds for a three-axle single vehicle;
 - (B) 90,000 pounds for a four-axle single vehicle;
 - (C) 94,500 pounds for a five-axle single vehicle;
 - (D) 112,000 pounds for a five-axle vehicle combination;
 - (E) 108,000 pounds for a six-axle single vehicle;
 - (F) 120,000 pounds for a six-axle vehicle combination;
 - (G) 122,000 pounds for a seven-axle single vehicle;
 - (H) 132,000 pounds for a seven-axle vehicle combination; and
 - (I) determined upon the completion of an engineering study for axle-vehicle combinations of 7 or more if their gross weight exceeds 132,000 pounds.
- (3) The maximum permit weight allowed for self-propelled off-highway construction equipment with low pressure or low flotation tires shall be:
 - (A) 37,000 pounds for a single-axle vehicle; and
 - (B) 50,000 pounds for a tandem-axle vehicle;
- (4) The maximum permit gross weight allowed for self-propelled off-highway construction equipment with low pressure or low flotation tires shall be:
 - (A) 70,000 pounds for a two-axle single vehicle;
 - (B) 80,000 pounds for a three-axle single vehicle; and
 - (C) 90,000 pounds for a four-axle single vehicle.
- (5) An overweight permit with a specified route shall be available for a vehicle combination consisting of a power unit and trailer hauling a sealed ship container. No permit shall be issued in accordance with this Subparagraph unless the vehicle combination shall be:
 - (A) traveling to or from a designated seaport, whether in-state or out-of-state;
 - (B) transported by marine shipment;
 - (C) licensed for the maximum allowable weight for the 51-foot extreme wheelbase measurement as specified in G.S. 20-118;
 - (D) equal to or less than the maximum width, height, and length dimensions as specified in G.S. 20-116;
 - (E) a vehicle combination with at least five axles; and
 - (F) in possession of and able to furnish for inspection the documentation of the sealed commodity being transported.

(e) Superload Permits

- (1) Superload permits shall be available for vehicle or vehicle combinations with axles or axle groupings that exceed the weight limitations provided by this Rule, a gross weight that exceeds 132,000 pounds, or a maximum width in excess of 15 feet. The Chief Engineer or the Chief Engineer's designee may authorize the issuance of a superload permit after analysis of the proposed load and evaluation of the proposed route of travel.
- (2) Superload permits shall be issued to the registered owner of the vehicle and valid for 10 calendar days for a single, one-way trip. Superload permit applications shall include the exact origin, route, and exact destination, including applicable county and state road numbers or routes. A separate permit application shall be required for return trips.

(f) Houses

- (1) Applications for permits to move buildings or structures in excess of 15 feet in width shall be made by a licensed housemover. Housemover license applications and supporting documentation are issued and

renewed by the Central Permit Office. Please see 19A NCAC 02D .0601 for information on Housemover permits.

- (2) An individual shall not be required to acquire a housemover license prior to applying for a permit if the power unit and building is owned by the permittee and the movement is from property individually owned by the permittee.

(g) Mobile or Modular Homes

- (1) Mobile or modular home units shall not exceed a length of 76 feet and the total vehicle combination length shall not exceed 105 feet.
- (2) A 14-foot-wide mobile or modular home unit may be transported with a bay window, room extension, or porch if the protrusion does not extend beyond the maximum roof overhang of 12 inches or the total width of overhang on the applicable side of the home. An extender shall be placed on the front and rear of the mobile or modular home with a length to extend horizontally equal to but not beyond the outermost edge of the mobile or modular home's extension. The extenders shall have retro-reflective sheeting, sized at a minimum of 4 inches, that shall be Type III high intensity, encapsulated lens, or Type IV-high performance, prismatic, with alternating fluorescent yellow and black diagonal stripes that slope towards the outside of the home with a minimum area of 288 square inches. The bottom of the extenders shall be 6 feet to 8 feet above the road surface. The top of each extender shall have mounted a 5-inch, amber-colored, flashing beacon.
- (3) The North Carolina licensed mobile or modular home retail dealer shall maintain records of all mobile or modular units moved by authority of an annual permit for a minimum of four years from the date of movement. The records shall be available for inspection and audit by any officer, employee, or contractor of the North Carolina Division of Motor Vehicles. Failure to comply with any requirement shall be grounds for denying, suspending, or revoking Manufacturer's License, Dealer's License, and any North Carolina oversize/overweight permit privileges.

History Note: Authority G.S. 20-119; 20-360; 20-361; 20-367; 20-369; 20-371; 136-18(5); 143B-346;
Eff. July 1, 1978;
Amended Eff. December 29, 1993; October 1, 1991; April 1, 1984; April 11, 1980;
Filed as a Temporary Rule Eff. October 1, 2000;
Amended Eff. August 1, 2002;
Readopted Eff. July 1, 2019.

19A NCAC 02D .0603 ISSUING OFFICES AND PROCEDURES
19A NCAC 02D .0604 APPLICATIONS FOR A PERMIT
19A NCAC 02D .0605 PERMITS
19A NCAC 02D .0606 LEGAL WEIGHTS AND DIMENSIONS

History Note: Authority G.S. 20-116; 20-118; 20-119; 136-18(5);
Eff. July 1, 1978;
Amended Eff. October 1, 1990; September 1, 1990;
April 1, 1984; April 11, 1980;
Repealed Eff. October 1, 1991.

19A NCAC 02D .0607 PERMITS – MOVEMENT AND TRAVEL REQUIREMENTS

(a) All vehicles and vehicle combinations described in 19A NCAC 02D .0601 and .0602 shall adhere to the following movement requirements.

- (1) Unless otherwise authorized or restricted by this Rule, movement shall be made between sunrise and sunset. Movement of 16-foot wide mobile or modular home units with a maximum of 3-inch gutter edge shall be permitted Monday through Saturday from 9:00 am to 2:30 pm. Movement of 16-foot wide mobile or modular home unit with a maximum 3-inch gutter edge may occur after 2:30 pm, but not beyond sunset, if the unit is traveling on an approved route as determined by an engineering study, and exported out-of-state. Sunday travel may be authorized from sunrise to sunset after consideration of the vehicle or vehicle combination dimensions. Considerations of safety and traffic flow may require the issuing office to impose additional time restrictions or allowances.

- (2) No movement shall be permitted for a vehicle or vehicle combination after 12:00 p.m. on the weekday preceding and until 12:00 p.m. on the weekday following Independence Day, Thanksgiving Day, and Christmas Day. If Independence Day, Thanksgiving Day, or Christmas Day fall on a Saturday or Sunday, travel is restricted from 12:00 p.m. on the preceding Friday until 12:00 p.m. on the following Monday.
 - (3) Continuous travel occurring 24 hours a day, each day per year, shall not be authorized for vehicle or vehicle combinations with a gross weight in excess of 112,000 pounds. Self-propelled equipment shall be authorized for continuous travel if the overhang is less than 10 feet in length and meets all other requirements of this Subparagraph. The overhang shall be marked on both sides and end with high-intensity, glass-bead, retro-reflective sheeting tape. Each side of the self-propelled equipment shall be marked 24 inches from the road surface at the nearest feasible center point, between the steer and drive axles. The sheeting tape shall be 2 inches by 12 inches. Any rear overhang shall display a mounted brake light and flashing amber light, 8 inches in diameter with a minimum candlepower of 800 watts.
 - (4) Permitted vehicles owned or leased by the same company or permitted vehicles originating at the same location shall travel no less than two miles apart. Convoy travel shall not be authorized except as directed by law enforcement escort or permit office.
 - (5) Blades of construction equipment and front-end loader buckets shall not extend more than 14 feet across the roadway. A blade, bucket, or other attachment that is an original part of the manufactured equipment may be removed and hauled with the equipment without being considered a divisible load.
 - (6) Permitted vehicle or vehicle combination movements shall not travel at a speed in excess of the posted speed limit. The issuing office shall be permitted to impose speed restrictions below the posted speed limit considering safety and load. A towing unit and mobile or modular home combination shall not exceed a maximum speed of 60 miles per hour. The driver of the permitted vehicle shall avoid creating traffic congestion by relinquishing the traffic way when a buildup of traffic occurs.
 - (7) The object to be transported shall not be loaded or parked on the highway right of way without permission from the office that originally issued the permit and after confirmation of an emergency condition, such as mechanical problems or weather events.
 - (8) No movements shall be made when visibility is less than 500 feet. Moves shall not be made when travel conditions are considered unsafe by the Division of Highways, State Highway Patrol, or other law enforcement officers having jurisdiction. Movement of a mobile or modular unit that exceed a width of 10 feet shall be prohibited if wind speed gusts are in excess of 25 miles per hour.
 - (9) The mover shall be responsible for any expenses, arrangements, or approvals associated with removing or replacing any obstructions, including traffic signals, signs, and utility lines. Trees, shrubs, or State signs shall not be cut, trimmed, or removed without approval from the Division of Highways District Engineer having jurisdiction over the area involved. In determining whether to grant approval for cutting or trimming trees or shrubs, the District Engineer shall consider the species, age, and appearance of the tree or shrub in question and its contribution to the aesthetics of the area.
- (b) Movement of all vehicles and vehicle combinations subject to this Section shall adhere to the following safety requirements.
- (1) A yellow banner measuring a total length of 7 feet x 18 inches high bearing the legend "Oversize Load" in 10-inch black letters 1.5-inch-wide brush stroke shall be displayed in one or two pieces totaling the required length on the front and rear bumpers of a permitted vehicle and vehicle combination with a width greater than 10 feet. A towing unit mobile or modular home combination shall display banners of the size specified bearing the legend "Oversize ---- feet Load" identifying the actual width of the unit in transport. Escort vehicles shall display banners as specified in this Subparagraph with the exception of length to extend the entire width of the bumpers.
 - (2) Red or orange flags measuring 18 inches square shall be displayed on all sides at the widest point of load for all loads in excess of 8 feet 6 inches wide, but the flags shall be mounted so as not to increase the overall width of the load.
 - (3) All permitted vehicles and vehicle combinations shall be equipped with tires, axels and brakes in accordance with North Carolina Statutes and Motor Carrier and Housing and Urban Development (HUD) regulations.
 - (4) Rear view mirrors and other safety devices on towing units attached for movement of overwidth loads shall be removed or retracted to conform with legal width when unit is not towing or hauling such vehicle or load.
 - (5) Flashing amber lights shall be used as determined by the issuing permit office.

History Note: Authority G.S. 20-116; 20-118; 20-119; 136-18(5);
Eff. July 1, 1978;
Amended Eff. October 1, 1994; December 29, 1993; October 1, 1991; October 1, 1990;
Temporary Amendment Eff. January 10, 2002; December 31, 2000; October 1, 2000;
Amended Eff. August 1, 2012; June 1, 2010; April 1, 2009; August 1, 2002;
Readopted Eff. July 1, 2019.

19A NCAC 02D .0608 LENGTH
19A NCAC 02D .0609 HEIGHT
19A NCAC 02D .0610 WEIGHT
19A NCAC 02D .0611 TIME LIMIT

History Note: Authority G.S. 20-116; 20-119; 136-18(5); Board of Transportation Minutes for February 16, 1977 and
November 10, 1978;
Eff. July 1, 1978;
Amended Eff. September 1, 1990; October 1, 1987; April 1, 1984; February 1, 1983;
Repealed Eff. October 1, 1991.

19A NCAC 02D .0612 PERMITS - HOUSE MOVES

History Note: Authority G.S. 20-119; 20-360; 136-18(5); 150B-21.3A;
Eff. July 1, 1978;
Amended Eff. November 1, 1993; October 1, 1991; April 1, 1984; January 1, 1979;
Filed as a Temporary Rule Eff. October 1, 2000;
Amended Eff. August 1, 2002;
Repealed Eff. July 1, 2019.

19A NCAC 02D .0613 TIME AND SAFETY REQUIREMENTS - BUILDING MOVES
19A NCAC 02D .0614 SIZE AND WEIGHT - BUILDING MOVES
19A NCAC 02D .0615 ESTIMATE OF GROSS WEIGHT - BUILDINGS

History Note: Authority G.S. 20-119; 136-18(5);
Eff. July 1, 1978;
Amended Eff. April 11, 1980;
Repealed Eff. October 1, 1991.

19A NCAC 02D .0616 DISTANCE LIMITATIONS - BUILDING MOVES - REPEALED

History Note: Authority G.S. 20-119; 136-18(5);
Eff. July 1, 1978;
Repealed Eff. January 1, 1979.

19A NCAC 02D .0617 REMOVAL OF OBSTRUCTIONS - BUILDING MOVES

History Note: Authority G.S. 20-119; 136-18(5);
Eff. July 1, 1978;
Amended Eff. April 11, 1980;
Repealed Eff. October 1, 1991.

19A NCAC 02D .0618 INDEMNITY - BUILDING MOVES

History Note: Authority G.S. 20-119; 136-18(5);
Eff. July 1, 1978;
Amended Eff. January 1, 1979;

Repealed Eff. November 1, 1993.

19A NCAC 02D .0619	LIMITATIONS - BUILDING MOVES
19A NCAC 02D .0620	REQUIRING OF ESCORT VEHICLE
19A NCAC 02D .0621	POSITION OF ESCORT VEHICLES
19A NCAC 02D .0622	ESCORT OF VEHICLE REQUIREMENTS
19A NCAC 02D .0623	SLOW SPEED: ESCORT
19A NCAC 02D .0624	TIME OF MOVE
19A NCAC 02D .0625	SPEED LIMITS
19A NCAC 02D .0626	SIGNS: FLAGS
19A NCAC 02D .0627	STATE HIGHWAY PATROL NOTIFICATION

History Note: Authority G.S. 20-119; 136-18(5); Board of Transportation Minutes for February 16, 1977 and November 10, 1978; Eff. July 1, 1978; Amended Eff. October 1, 1990; September 1, 1990; January 1, 1985; July 1, 1981; Repealed Eff. October 1, 1991.

19A NCAC 02D .0628 SAFETY DEVICES

History Note: Authority G.S. 20-119; 136-18(5); Eff. July 1, 1978; Repealed Eff. September 1, 1990.

19A NCAC 02D .0629	TOWING UNIT
19A NCAC 02D .0630	ROUTE CHANGES
19A NCAC 02D .0631	HIGHWAY RIGHT OF WAY RESTRICTIONS
19A NCAC 02D .0632	WEATHER

History Note: Authority G.S. 20-119; 136-18(5); Eff. July 1, 1978; Amended Eff. October 1, 1990; April 11, 1980; Repealed Eff. October 1, 1991.

19A NCAC 02D .0633 PERMITS – DECISIONS, APPEALS, AND ENFORCEMENT

(a) A permit that is revoked or voided by the Chief Engineer's office shall be surrendered without any refund of fees. An oversize or overweight permit application may be denied for a period of up to six months upon written documentation that the applicant operated in violation of any of the rules contained in this Section, or any state or local law or any rule or ordinance regulating the operation of oversize or overweight vehicles. Repeated violations may result in a permanent denial of the right to use State highway system for transportation of oversize/overweight loads or vehicles. An oversize/overweight permit may be revoked and considered void by the Chief Engineer's office upon inspection and written documentation that the permittee:

- (1) violated either the terms and conditions of the permit, state or local laws, or ordinances regulating the operation of oversize and overweight vehicles;
- (2) misrepresented, fraudulently obtained, altered, or used in an unauthorized manner any information on the permit application; and
- (3) operated or is currently operating a vehicle or vehicle combination in violation of the General Statutes of North Carolina, these rules, the authorized route of travel, time of movement, escort requirements, axle weights, number of axles, or any other conditions of the permit.

(b) No permit application shall be denied, renewal refused, permit revoked, or considered void unless the Chief Engineer's office provides verbal or written notice to the permittee. The permittee may appeal in writing to the Chief Engineer's office within 10 business days of the permittee receiving notice. If a hearing is requested, the Chief Engineer's office shall provide the permittee with written notice, sent by certified mail, return receipt requested, no fewer than 10 business days prior to the scheduled date of the hearing. The Chief Engineer's office shall provide to the permittee a written decision, sent by certified mail, return receipt requested, within 10 business days from the date of the hearing.

(c) A permittee who has permit privileges suspended or revoked by the Chief Engineer's office may make a written appeal to the Secretary of Transportation within 15 days following the date listed on the return receipt. The Secretary of Transportation or the Secretary's designee may affirm or set aside the suspension or revocation based on a review of the written appeal, the suspension or revocation decision, as well as any available documents, exhibits or other evidence bearing on the appeal. The individual appealing shall be advised of the final disposition of the action within 21 days following receipt of the appeal.

(d) The following pertains to enforcement, inspections, and alternate routes as set out in this Rule.

- (1) Law enforcement officers may perform on-site inspections at the point of manufacture or dealer lot for mobile or modular homes ready for shipment. Notification of violations shall be submitted by enforcement personnel to the Central Permit Office.
- (2) Irrespective of the route shown on the permit, a permitted vehicle shall travel an alternate route if:
 - (A) directed by a law enforcement officer with jurisdiction;
 - (B) directed to follow a specific route, for weighing purposes, by an official traffic control device; or
 - (C) the specified route on the permit is detoured by an officially erected highway sign, traffic control devices, or law enforcement officer. If the specified route on the permit is detoured by an officially erected highway sign, traffic control device, or law enforcement officer, the driver of the permitted vehicle shall contact the Central Permit Office or the issuing field office for house move permits for clearance of route or revision of the permit.

History Note: Authority G.S. 20-119; 20-360; 20-361; 20-367; 20-369; 20-371; 136-18(5); 143B-346;
Eff. July 1, 1978;
Amended Eff. November 1, 1993; October 1, 1991; April 1, 1984; April 11, 1980;
Temporary Rule Eff. October 1, 2000;
Amended Eff. December 1, 2012; April 1, 2009; August 1, 2002;
Readopted Eff. July 1, 2019.

19A NCAC 02D .0634 DELEGATION
19A NCAC 02D .0635 COORDINATION OF MOVEMENT
19A NCAC 02D .0636 SPECIAL CONDITIONS
19A NCAC 02D .0637 SPECIAL PERMIT LIMITATIONS
19A NCAC 02D .0638 UNUSUAL CIRCUMSTANCES

History Note: Authority G.S. 20-119; 136-14.1; 136-18(5);
Eff. July 1, 1978;
Amended Eff. December 1, 1990; April 1, 1984; November 1, 1978;
Repealed Eff. October 1, 1991.

19A NCAC 02D .0639 SPECIAL PERMITS FOR PASSENGER BUSES

History Note: Authority G.S. 20-118(8);
Eff. September 1, 1978;
Repealed Eff. October 1, 1991.

19A NCAC 02D .0640 PERMIT MANUAL OVERSIZE: OVERWEIGHT MOVEMENTS

History Note: Authority G.S. 20-119; 20-360; 20-361; 20-367; 20-369; 20-371; 136-18(5);
143B-346; 143B-350(f); 150A-62; 150A-63(c);
Eff. April 11, 1980;
Repealed Eff. April 3, 1981.

19A NCAC 02D .0641 PERMIT FEES

History Note: Authority G.S. 20-119; 136-18(5); 143B-359(f)(13); 12-3.1;
Eff. April 1, 1984;
Repealed Eff. October 1, 1991.

19A NCAC 02D .0642 TEMPORARY AUTHORIZATION FOR ISSUANCE OF PERMITS

*History Note: Authority G.S. 20-118(f); 20-119; 136-18(5);
Temporary Adoption Eff. October 19, 2000;
Temporary Adoption Expired August 12, 2001.*

19A NCAC 02D .0643 ESCORT VEHICLE DRIVER CERTIFICATION

When an escort vehicle is required, escort vehicle drivers shall be certified in accordance with 19A NCAC 02D .0644. Certification credentials shall be carried in the vehicle and shall be available for inspection by law enforcement officials with jurisdiction.

*History Note: Authority G.S. 20-119;
Temporary Adoption Eff. March 11, 2002;
Eff. April 1, 2003;
Readopted Eff. July 1, 2019.*

19A NCAC 02D .0644 OVERSIZE/OVERWEIGHT LOAD ESCORT VEHICLE OPERATOR CERTIFICATION PROGRAM

(a) Prior to obtaining certification as an oversize/overweight load escort vehicle operator, a person shall complete a program that provides instruction on escort skills and shall pass an examination. The escort vehicle operator certification program shall provide for reciprocity with other states having similar escort certification programs.

(b) Any person seeking to be certified as an oversize/overweight load escort vehicle operator in North Carolina shall submit an application to the Department and attach a State certified copy of their driving record. The application shall contain the applicant's name and contact information; driver's license number and state; physical and demographic identification information; school name, location, and date of class; and Social Security number if the applicant is applying with an out-of-state driver's license. Any person seeking to be certified as an oversize/overweight load escort vehicle operator shall be qualified as follows:

- (1) an escort certified by another state's approved program;
- (2) a North Carolina law enforcement officer; or
- (3) a person who:
 - (A) is at least 21 years of age or 18 years of age with a Class A commercial driver's license;
 - (B) possesses a valid driver's license without restrictions other than for the use of corrective lenses and shall not have received a citation in the previous 12 months for operating a vehicle in a reckless manner or driving while impaired;
 - (C) possesses and provides with their application documentation of their completion of a defensive driving course that has been approved by the National Safety Council; and
 - (D) has received a certification examination score of at least 75 percent after completing all eight classroom-hours of the North Carolina Department of Transportation Oversize/Overweight Load Escort Vehicle Operator Certification Program. The program is offered by the North Carolina Community College System.

(c) Upon completion of the requirements set forth in this Rule, the Department shall issue a certificate that provides recognition of completion of the escort vehicle operator certification program. The certificate shall be effective for four years from the issue date and reissued upon completion of a current escort certification program examination administered by Department training providers.

(d) An authorized operator's certification shall be revoked during its effective period upon any of the following occurrences:

- (1) failure to maintain a valid driver's license without restrictions other than for corrective lenses; or
- (2) failure to operate a motor vehicle safely as evidenced by receiving a conviction for operating a vehicle in a reckless manner, driving while impaired, or other evidence that the operator performed their escort duties in a manner likely to cause an accident, personal injury, or damage to property.

(e) If certification is revoked pursuant to this Rule, subsequent certification as an Escort Vehicle Operator shall require reapplication, satisfaction of program prerequisites, and requalification through the certification program.

(f) An individual who has had his or her certificate revoked may make written appeal within 15 days following notification of the adverse action to the Secretary of Transportation for review of the revocation. The Secretary may affirm or set aside the revocation based on a review of the written appeal, the revocation decision, as well as any available documents, exhibits, or

other evidence bearing on the appeal. The individual appealing shall be advised of the final disposition within 21 days following receipt of the appeal.

(g) The Secretary of Transportation or the Secretary's designee shall only recognize certificates of other states if those programs meet State objectives as outlined in this Rule and G.S. 20-119.

History Note: Authority G.S. 20-119;
Temporary Adoption Eff. March 11, 2002;
Eff. April 1, 2003;
Amended Eff. April 1, 2009;
Readopted Eff. July 1, 2019.

SECTION .0700 - HIGHWAY DESIGN BRANCH

19A NCAC 02D .0701 APPLICATIONS FOR INTERMITTENT ROAD CLOSING

History Note: Authority G.S. 136-64.1(a);
Eff. July 1, 1978;
Repealed Eff. October 1, 1993.

19A NCAC 02D .0702 HIGHWAY SYSTEM LIMITATIONS

The rules in this Section apply only to secondary roads on the state highway system.

History Note: Authority G.S. 136-64.1(a);
Eff. July 1, 1978;
Amended Eff. October 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0703 REVIEW AND APPROVAL AUTHORITY

History Note: Authority G.S. 136-64.1(d);
Eff. July 1, 1978;
Repealed Eff. October 1, 1993.

19A NCAC 02D .0704 APPLICATION PROCEDURES

Application for intermittent road closing shall be submitted to the Chief Engineer in the form of a resolution from the requesting agency and must include the following information plus any additional supportive data the agency deems pertinent to the request:

- (1) county where the road(s) is(are) located;
- (2) secondary road(s) to be affected by flooding (number and local name);
- (3) a plan and profile sheet of the affected secondary road(s) indicating the 5, 10, 25, 50 year and maximum flood stage elevations. The duration of flooding shall also be indicated showing the total time the roadway surface will be inundated for each storm frequency;
- (4) a statement that the applicant will reimburse the North Carolina Department of Transportation for all damages by reason of the flooding of the highway right of way;
- (5) a statement that the applicant shall be responsible for all damages, by reason of the flooding, to any public utilities upon the highway right of way; and
- (6) a request that a permit be granted to the applicant agency to allow the intermittent closing of the road.

History Note: Authority G.S. 136-64.1(a); 136-64.1(b);
Eff. July 1, 1978;
Amended Eff. December 1, 2012; October 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0705 REVIEW PROCEDURES

- (a) Upon receipt of a completed application, the Chief Engineer shall acknowledge the receipt and initiate a preliminary investigation and review.
- (b) In reviewing the application, the following factors shall be taken into consideration as a basis for approval or disapproval:
- (1) traffic count;
 - (2) availability of an acceptable detour;
 - (3) length of an acceptable detour;
 - (4) type road surface (paved or unpaved);
 - (5) school bus route – number of buses;
 - (6) anticipated frequency of flooding;
 - (7) anticipated duration of flooding;
 - (8) cost estimates to raise the roadway above flood stage;
 - (9) probability of future significant changes in traffic characteristics;
 - (10) comments from affected utilities; and
 - (11) comments from general public.
- (c) Under no condition shall a permit be issued to allow flooding which would isolate any home, business, or other commercial establishment.

History Note: Authority G.S. 136-64.1(d);
Eff. July 1, 1978;
Amended Eff. December 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0706 PUBLIC NOTICE

History Note: Authority G.S. 136-64.1(c);
Eff. July 1, 1978;
Repealed Eff. October 1, 1993.

19A NCAC 02D .0707 PERMIT FORM

The permit, if issued, shall be sent in the form of a letter to the applicant from the Chief Engineer.

History Note: Authority G.S. 136-64.1(d);
Eff. July 1, 1978;
Amended Eff. December 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0708 WARNING SIGNS

- (a) Upon approval of an application and the issuance of a permit for flooding, the Department of Transportation will erect the warning signs required by G.S. 136-64.1(d) on the secondary road(s) to advise the general public of the intermittent closing of the road(s) involved unless the applicant has notified the Department that it will erect the signs.
- (b) The applicant must reimburse the department for all costs associated with the fabrication, erection and maintenance of the warning signs.

History Note: Authority G.S. 136-64.1(d);
Eff. July 1, 1978;
Amended Eff. October 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0709 APPEAL PROCEDURES

In the event an application is denied by the Chief Engineer, the applicant shall have the right to appeal the decision to the full Board of Transportation pursuant to the procedures below:

Within 30 days after receiving notice from the administrator that the application has been denied, the applicant must submit to the Secretary of Transportation, by registered mail, a written appeal setting forth with particularity the facts upon which the appeal is based. After receiving this appeal, the secretary will notify the applicant of the date when the full Board of Transportation shall consider a review of the application.

*History Note: Authority G.S. 136-64.1(d);
Eff. July 1, 1978;
Amended Eff. December 1, 2012; October 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

SECTION .0800 - PREQUALIFICATION: ADVERTISING AND BIDDING REGULATIONS

19A NCAC 02D .0801 PREQUALIFYING TO BID: REQUALIFICATION

- (a) In order to ensure that contracts let pursuant to G.S. 136-28.1(a) are awarded to responsible bidders, prospective bidders and contractors shall comply with the rules set forth in this Section except as otherwise provided by law. For highway construction, maintenance and repair contracts other than those specified in G.S. 136-28.1(a), specific project prequalification requirements to satisfy Paragraph (c) of this Rule shall be specified in the bid documents for specific project contracts.
- (b) In order to be eligible to contract with the Department pursuant to G.S. 136-28.1(a), all prospective bidders and subcontractors shall be prequalified with the Department to ensure that they are responsible bidders and reputable contractors capable of effectively and efficiently performing the work awarded to them.
- (c) The requirements of prequalification are as follows:
- (1) Applicants shall demonstrate the necessary experience, knowledge, and expertise to safely perform and timely complete highway construction projects in which they bid or subcontract;
 - (2) Applicants shall demonstrate that they have sufficient financial resources, including available equipment and qualified personnel, to adequately perform and timely complete highway construction projects in which they bid or subcontract;
 - (3) Applicants shall demonstrate that they have the necessary knowledge and expertise to comply with all state and federal environmental laws relating to highway construction, maintenance and repair contracts; and
 - (4) Applicants shall certify they are independent and not affiliated with other bidders of the same project.
- (d) Bidders shall comply with all applicable laws regulating the practice of general contracting as contained in G.S. 87.
- (e) Prospective bidders and subcontractors shall update their prequalification status annually and shall requalify every three years.
- (f) A prequalified bidder or subcontractor must maintain compliance with the rules in this section at all times in order to be eligible to contract with the Department pursuant to G.S. 136.28.1(a). If at any time a bidder or subcontractor fails to comply with these rules, the Department shall disqualify the bidder or subcontractor from any further bidding until he is able to demonstrate compliance with these requirements by requalifying.

*History Note: Authority G.S. 136-18(1); 136-28.1; 136-44.1; 136-45; 143B-350(f);
Eff. April 3, 1981;
Amended Eff. February 1, 2008; October 1, 1995; December 1, 1994; December 29, 1993; November 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

19A NCAC 02D .0802 INVITATION TO BID

*History Note: Authority G.S. 136-18(1); 136-28.1; 143B-350(g);
Eff. April 3, 1981;
Amended Eff. December 1, 1993;
Repealed Eff. February 1, 2008.*

19A NCAC 02D .0803 ADVERTISEMENT AND INVITATIONS FOR BIDS

- (a) All projects shall be advertised by the Department of Transportation in newspapers having general circulation in the State of North Carolina four weeks prior to the bid opening as set forth in G.S. 143-129(b).
- (b) On the date of advertisement, an invitation to bid shall be made available on the Department's website at connect.ncdot.gov/letting.
- (c) The invitation to bid shall state the contract identification number and description of the projects to be let to contract, a general summary of the items and approximate quantities of work to be performed, and the time and place for the public opening and reading of the bids received. Information concerning the cost and the availability of bid documents shall also be provided in the invitation to bid.

(d) As a prerequisite for submitting a bid, prospective bidders shall sign up for the Interested Parties List for each project they intend to submit a bid on by providing their firm name, a contact name, and contact information via the Department's website at connect.ncdot.gov/letting. Only prospective bidders that have prequalified status pursuant to Rule .0801 of this Section and who sign up for the Interested Parties List will be eligible to bid.

History Note: Authority G.S. 136-28.1; 143-129;
Eff. April 3, 1981;
Amended Eff. February 1, 2008; December 1, 1993; November 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016;
Amended Eff. September 1, 2022.

19A NCAC 02D .0804 CONTENTS OF PROPOSAL FORMS

History Note: Authority G.S. 136-18(1); 136-28.1;
Eff. April 3, 1981;
Repealed Eff. February 1, 2008.

19A NCAC 02D .0805 COMBINATION BIDS

The Department may issue proposals for projects in combination or separately, so that bids may be submitted either on the combination or on separate units of the combination. The Department shall make awards on combination bids or separate bids to the best advantage of the Department. No combination bids, other than those specified by the Department in the proposals, shall be considered.

History Note: Authority G.S. 136-18(1); 136-28.1;
Eff. April 3, 1981;
Amended Eff. February 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0806 INTERPRETATION OF QUANTITIES IN PROPOSAL FORM

(a) The quantities appearing in the proposal are approximate only and shall be used for the comparison of bids. Payment to the contractor shall be made only for the actual quantities of the various items that are completed and accepted in accordance with the terms of the contract.

(b) When quantities are shown for items to be bid on a lump sum basis, these quantities are furnished for the convenience of bidders, and the Department shall not be responsible for, nor guarantee as correct, any quantity given.

History Note: Authority G.S. 136-18(1); 136-28.1;
Eff. April 3, 1981;
Amended Eff. February 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0807 EXAMINATION OF PLANS: SPECS: CONTRACT: AND SITE OF WORK

A bidder shall examine the site of the work contemplated, the plans and specifications, and the proposal therefor. A bidder or contractor shall make such independent investigation and examination as he deems necessary to satisfy himself as to conditions to be encountered in the performance of the work and with respect to possible local material sources, the quality and quantity of material available from such property, and the type and extent of processing that may be required in order to produce material conforming to the requirements of the contract. Upon submission of the bid, the Department shall deem that the bidder has completed the requirements set out in the bid documents as to the conditions to be encountered, the character, quality, and scope of work to be performed, the quantities of materials to be furnished and as to the conditions and requirements of the proposal and plans under which his bid is offered.

History Note: Authority G.S. 136-18(1); 136-28.1;
Eff. April 3, 1981;
Temporary Amendment Eff. March 15, 1982, for a period of 47 days to expire on May 1, 1982;
Amended Eff. February 1, 2008; October 1, 1993; March 1, 1984; May 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0808 PREPARATION AND SUBMISSION OF BIDS
19A NCAC 02D .0809 BID BOND OR BID DEPOSIT

History Note: Authority G.S. 136-18(1); 136-28.1; 143-129;
Eff. April 3, 1981;
Amended Eff. October 1, 1993; November 1, 1991, July 1, 1982;
Repealed Eff. February 1, 2008.

19A NCAC 02D .0810 DELIVERY OF BIDS

- (a) All bidders shall submit bids in accordance with the bid documents to the Department.
- (b) Any bid not delivered within the time or manner specified in the bid documents shall not be accepted and shall be returned to the bidder unopened or, in the case of electronic bids, not read publicly.

History Note: Authority G.S. 136-18(1); 136-28.1;
Eff. April 3, 1981;
Temporary Amendment Eff. March 15, 1982, for a period of 47 days to expire on May 1, 1982;
Amended Eff. February 1, 2008; November 1, 1991; July 1, 1982; May 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0811 WITHDRAWAL OR REVISION OF BIDS

History Note: Authority G.S. 136-18(1); 136-28.1; 143-29.1;
Eff. April 3, 1981;
Amended Eff. October 1, 1993; November 1, 1991;
Repealed Eff. February 1, 2008.

19A NCAC 02D .0812 RECEIPT AND OPENING OF BIDS

- (a) The Department shall open and read bids publicly at the time and place indicated in the invitation to bid. Bidders, their authorized agents, and other interested parties may be present.
- (b) Bid evaluation, including bid rejection, waiver of irregularities, or award shall be conducted in accordance with the terms of the bid documents.
- (c) Bid revisions by the Department or bid withdrawal by the bidder shall be made in accordance with the terms of the bid documents.

History Note: Authority G.S. 136-18(1); 136-28.1;
Eff. April 3, 1981;
Amended Eff. February 1, 2008; July 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0813 WITHDRAW OF BIDS - MISTAKE
19A NCAC 02D .0814 CORRECTION OF BID ERRORS

History Note: Authority G.S. 136-18(1); 143B-350(f);
Eff. May 1, 1984;
Amended Eff.; October 1, 1993; November 1, 1991;
Repealed Eff. February 1, 2008.

19A NCAC 02D .0815 REJECTION OF BIDS
19A NCAC 02D .0816 DISQUALIFICATION OF BIDDERS
19A NCAC 02D .0817 CONSIDERATION OF BIDS

History Note: Authority G.S. 136-18(1); 136-28.1; 143B-350(f);
Eff. April 3, 1981;
Recodified from 19A NCAC 02D .0813 (Rule .0815);

*Recodified from 19A NCAC 02D .0814 (Rule .0816);
Recodified from 19A NCAC 02D .0815 (Rule .0817);
Amended Eff. April 1, 1999; December 1, 1994; October 1, 1993; November 1, 1991; May 1, 1984; March
1, 1984;
Repealed Eff. February 1, 2008.*

19A NCAC 02D .0818 NON-COLLUSION CERTIFICATIONS

(a) Every bidder shall furnish to the Department an unsworn certification made under penalty of perjury under the laws of the United States, a non-collusion certification at the time of bid, certifying that the bidder has not entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with his or her bid on the project.

(b) A Non Collusion Certification form means a form provided on the Department's website, www.ncdot.gov, for execution by the bidding prequalified contractor certifying that:

- (1) neither the individual, nor any official, agent, or employee has entered into any agreement, participated in any collusion, or otherwise taken any action that is in restraint of free competitive bidding in connection with any bid or contract;
- (2) the bidder has not been convicted of violating G.S. 133-24 within the last three years; and
- (3) the bidder intends to do the work with its own employees or subcontractors and the bid is not for the benefit of another contractor.

(c) In the Non Collusion Certification form, the prospective bidder shall certify his or her debarment status under penalty of perjury under the laws of the United States. In the event the prospective bidder cannot certify that he or she is not disbarred, the prospective bidder shall provide a written explanation, which the Department shall review and evaluate to determine if the bidder is prequalified, according to the requirements set out in Rule .0801 of this Section, for bidding, contracting, or subcontracting on Department projects.

*History Note: Authority G.S. 136-18(1); 136-28.1; 133-30;
Eff. April 3, 1981;
Recodified from 19A NCAC 2D .0816;
Amended Eff. February 1, 2008; October 1, 1993; November 1, 1991; October 1, 1991; July 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016;
Amended Eff. July 1, 2017.*

19A NCAC 02D .0819 AWARD OF CONTRACT

*History Note: Authority G.S. 136-18(1); 136-28.1;
Eff. April 3, 1981;
Recodified from 19A NCAC 2D .0817;
Amended Eff. October 1, 1993; November 1, 1991;
Repealed Eff. February 1, 2008.*

19A NCAC 02D .0820 CANCELLATION OF AWARD

The Board of Transportation may rescind the award of any contract at any time before the receipt of the properly executed contract bonds from the successful bidder.

*History Note: Authority G.S. 136-18(1); 136-28.1; 143B-350(f);
Eff. April 3, 1981;
Recodified from 19A NCAC 2D .0818;
Amended Eff. October 1, 1993; November 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

19A NCAC 02D .0821 RETURN OF BID BOND OR BID DEPOSIT

19A NCAC 02D .0822 CONTRACT BONDS

19A NCAC 02D .0823 EXECUTION OF CONTRACT

19A NCAC 02D .0824 FAILURE TO FURNISH CONTRACT BONDS

History Note: Authority G.S. 44A-33; 136-18(1); 136-28.1;
Eff. April 3, 1981;
Recodified from 19A NCAC 2D .0819 (Rule .0821);
Recodified from 19A NCAC 2D .0820 (Rule .0822);
Recodified from 19A NCAC 2D .0821 (Rule .0823);
Recodified from 19A NCAC 2D .0822 (Rule .0824);
Amended Eff. December 1, 1993; December 1, 1992; November 1, 1991;
Repealed Eff. February 1, 2008.

19A NCAC 02D .0825 CONFIDENTIALITY OF COST ESTIMATES

All cost estimates prepared by the Department for the purpose of comparing bids shall be confidential and not disclosed until after the opening of bids.

History Note: Authority G.S. 133-33;
Eff. September 1, 1981;
Amended Eff. May 1, 1983;
Recodified from 19A NCAC 2D .0823;
Amended Eff. February 1, 2008; February 1, 1995; October 1, 1993; October 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0826 AWARD LIMITS ON MULTIPLE PROJECTS

History Note: Authority G.S. 136-18(1);
Eff. July 1, 1983;
Recodified from 19A NCAC 2D .0824;
Repealed Eff. November 1, 1991.

19A NCAC 02D .0827 SUBSURFACE INFORMATION

- (a) If a subsurface investigation report is available on a project, a copy may be obtained from the Department by the prospective bidders upon request.
- (b) The subsurface investigation is made for the purpose of study, planning, and design, and not for construction or pay purposes. The various field boring logs, rock cores, and soil test data available may be reviewed or inspected in Raleigh at the office of the Geotechnical Unit. Neither the subsurface investigation report nor the field boring logs, rock cores, or soil test data shall be part of the contract.
- (c) General soil and rock strata description and indicated boundaries are based on geotechnical interpretation of all available subsurface data and may not necessarily reflect the actual subsurface conditions between borings or between sample strata within the borehole. The laboratory sample and the in situ (in-place) test data can be relied on only to the degree of reliability inherent in the test. The observed water levels or soil moisture conditions indicated in the subsurface investigation are as recorded at the time of the investigation. These water levels or soil moisture conditions may vary considerably with time according to climatic conditions including temperature, precipitation and wind, as well as other nonclimatic factors.
- (d) Details shown on the subsurface investigation reports are preliminary only; the final design details may be different. For bidding and construction purposes, the contract contains the documents for final design information on this project. The Department shall not warrant or guarantee the sufficiency or accuracy of the investigation made, nor the interpretations made or opinions of the Department as to the type of materials and conditions that may be encountered. The bidder or subcontractor shall make such independent subsurface investigations as he deems necessary to satisfy himself as to conditions to be encountered on this project. The contractor shall have no claim for additional compensation or for an extension of time for any reason resulting from the actual conditions encountered at the site differing from those indicated in the subsurface information.

History Note: Authority G.S. 136-18(1); 143B-350(f)(3);
Eff. March 1, 1984;
Amended Eff. April 1, 1984;
Recodified from 19A NCAC 2D .0825;
Amended Eff. February 1, 2008; October 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .0828 COMPUTER BID PREPARATION

History Note: Authority G.S. 136-18(1); 136-28.1;
 Eff. November 1, 1991;
 Amended Eff. October 1, 1993;
 Repealed Eff. February 1, 2008.

19A NCAC 02D .0829 CONTRACT OFFICER

History Note: Authority G.S. 136-18(1); 136-28.1;
 Eff. November 1, 1991;
 Repealed Eff. October 1, 1993.

19A NCAC 02D .0830 DEFINITIONS

This Section establishes the Department's rules for letting of contracts pursuant to G.S. 136-28.1(a). For purposes of this Section, the following definitions shall apply:

- (1) "Bid" means the offer of a bidder on the proposal furnished by the Department to perform work and furnish labor and materials at the prices quoted.
- (2) "Bidder" means an individual, partnership, firm, corporation, or joint venture formally submitting a bid for the work contemplated.
- (3) "Bid documents" means the package of materials, in paper or electronic form, containing all project specific contract information including the plans and proposals furnished by the Department.
- (4) "Contract" means the executed agreement between the Department of Transportation and the successful bidder, covering the performance of the work and the compensation for work.
- (5) "Department" means the North Carolina Department of Transportation.
- (6) "Debarment certification form" means a certification form provided by the Department for execution by the prospective bidder or subcontractor certifying that he is not, nor has been, debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from certain transactions and has not been charged, indicted or convicted of debarment related activities and shall otherwise assume debarment certification responsibilities as part of any contract with the Department.
- (7) "Invitation to bid" means the notification that bids will be received for the construction of specific projects.

History Note: Authority G.S. 136-28.1;
 Eff. October 1, 1993;
 Amended Eff. February 1, 2008;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

SECTION .0900 - REGULATIONS FOR INFORMAL CONSTRUCTION AND REPAIR CONTRACTS

19A NCAC 02D .0901 DELEGATION TO SECRETARY

History Note: Authority G.S. 136-18(1); 136-28.1; 136-44.1; 136-45; 143-350(f);
 Eff. February 1, 1987;
 Repealed Eff. December 1, 1993.

19A NCAC 02D .0902 CONTRACT REQUIREMENTS

History Note: Authority G.S. 136-18(1); 136-28.1; 136-44.1; 136-45; 143-350(f);
 Eff. February 1, 1987;
 Repealed Eff. November 1, 1991.

SECTION .1000 - ADOPT-A-HIGHWAY PROGRAM

19A NCAC 02D .1001 PURPOSE

The North Carolina Department of Transportation's Adopt-A-Highway Program exists to support the Department's litter abatement efforts.

*History Note: Authority G.S. 143B-350;
Eff. November 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

19A NCAC 02D .1002 DEFINITIONS

For purposes of rules in this Section, the following definitions shall apply.

- (1) "Adoption" shall mean the agreement by an individual or group to pick up litter and trash from a specific section of highway right-of-way.
- (2) "Adopt-A-Highway Program" shall mean the public participation program of the Department designed to assist in the control and reduction of litter on state-maintained highway right-of-way.
- (3) "Adopted Section" shall mean the portion, generally two miles in length, of state-maintained highway right-of-way approved for adoption by volunteers.
- (4) "Authorized Representative" shall mean, in the case of an adoption by a group, the group members acting on behalf of the group for the purpose of adopting a section of highway.
- (5) "Department" shall mean the North Carolina Department of Transportation.
- (6) "Program" shall mean the Adopt-A-Highway Program of the North Carolina Department of Transportation.
- (7) "Program Director" shall mean the Director of Beautification Programs of the North Carolina Department of Transportation who has oversight responsibility for the Program.
- (8) "Program Participants" shall mean the individuals or groups who have adopted sections of highways. Civic and non-profit organizations, and commercial and private enterprises may be selected as groups for the purpose of adopting a section of highway.

*History Note: Authority G.S. 143B-350;
Eff. November 1, 1991;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

19A NCAC 02D .1003 PARTICIPATION IN THE PROGRAM

- (a) The adoption of a section of highway is a privilege in consideration for public service that may be granted by the Department to individuals or groups who would assist the Adopt-A-Highway Program in achieving its purpose.
- (b) Only individuals or groups determined by the Department to exhibit in good faith the willingness and the capacity to perform the responsibilities of the Program will be allowed to adopt a highway. The Department may refuse to grant a request to adopt a section of highway if, in its opinion, granting the request would jeopardize the Program, be counterproductive to its purpose as set out in Rule 02D.1001 of this Section, or create a hazard to the safety of Department employees or the public. Highway safety is a principal concern in all decisions related to the Program. Program participants shall not be discriminated against on the basis of religion, race, national origin, sex or handicap (except where the handicap would affect the individual's safe participation in the Program) with respect to their participation in the Program.
- (c) The Division Engineer or his designee shall approve applications of individuals or groups applying to participate in the Program. A list of the newly approved participants, by division, shall be submitted to the Program Director for review on the first of each month. The approval of the Division Engineer is final unless the applications are disapproved by the Program Director by the first day of the next calendar month. If the Division Engineer has any uncertainty regarding the qualifications of the individual or group applying to the Program, the Division Engineer shall submit the application and all accompanying documents to the Program Director for final action.
- (d) Agreements of adoption shall be for a period of four years.
- (e) Each person participating in the Program shall execute a written release of the Department, its officials, employees and agents from any liability arising out of his or her participation in the Program. In the case of a minor, such release shall be executed by a parent or guardian.
- (f) Program participants may put recyclable plastic, cans, and glass in blue bags which are furnished by the department and may keep the proceeds received for the recycled materials.

*History Note: Authority G.S. 136-140.1; 143B-350;
Eff. November 1, 1991;
Amended Eff. August 1, 2002; November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

19A NCAC 02D .1004 AGREEMENT

Any individual or group desiring to participate in the Adopt-A-Highway Program shall submit an agreement to the Division Engineer of the Division in which the section of highway proposed for adoption is located. The agreement shall be in the form prescribed by the Department and shall contain at a minimum the following information:

- (1) The highway section to be adopted, as nearly as it can be described;
- (2) The dates of the requested adoption;
- (3) The approximate number of people in the group who will be participating in each cleanup;
- (4) The name, telephone number, and complete street address of the authorized representative for the group and of all members of the group who will actually participate in the Program;
- (5) An acknowledgement by the individual or group of the hazardous nature of the work involved by participating in the Program;
- (6) An acknowledgement that the members of the group agree jointly to be bound by and comply with the terms and conditions set forth in the agreement; and
- (7) The signatures of the Division Engineer, or his designee, and the Authorized Representative of the Program Participant.

*History Note: Authority G.S. 143B-350;
Eff. November 1, 1991;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.*

19A NCAC 02D .1005 RESPONSIBILITIES OF PROGRAM PARTICIPANTS AND DEPARTMENT

(a) Any individual or group participating in the Adopt-A-Highway Program shall be subject to the following requirements and responsibilities:

- (1) Appointing or selecting an authorized representative to act on behalf of the group;
- (2) Ensuring that each person participating in the program attend a safety meeting and sign a statement acknowledging that they have attended the safety meeting and viewed the Department's safety video before participating in the cleanup of the adopted section;
- (3) Obeying and abiding by the rules adopted by the Department;
- (4) Picking up litter a minimum of four times a year, and as often as necessary to maintain a clean right-of-way;
- (5) Ensuring that each individual participant of the group wears a Department approved safety vest or shirt during the pickup;
- (6) Ensuring that each individual participant of the group wear clothing that will not impair vision or movement during the pickup;
- (7) Ensuring that attire that might divert the attention of motorists is not worn during clean up activities;
- (8) Furnishing adequate supervision by one or more adults 21 years of age or older for groups which have participants 12 - 17 years of age;
- (9) Ensuring that no one under the age of 12 is allowed to participate in the clean up activities;
- (10) Prohibiting participants from either possessing or consuming alcoholic beverages or other drugs during clean up activities;
- (11) Ensuring that no signs, posters, or other display material that might distract motorists are brought to the adopted section by group members during or between clean ups;
- (12) Filing after actions reports as prescribed by the Department; and
- (13) Ensuring that all provisions of the agreement are fully performed.

(b) The Department's participation in the Program will include the following:

- (1) Working with the group to determine the specific section of state right-of-way to be adopted;
- (2) Providing safety vests, trash bags and safety information;
- (3) Erecting two signs, one at each end of the adopted section, with the group's name or acronym displayed. The size, shape and graphic design of the sign shall be in accordance with the Adopt-A-Highway sign policy as approved by the Secretary of Transportation. In the case of theft, vandalism or destruction of a

- highway sign, the Department shall provide one free replacement of the sign. Thereafter, any replacement sign shall be paid for by the Program Participant;
- (4) Removing filled trash bags;
 - (5) Removing litter from the adopted section under unusual circumstances, i.e., removing large, heavy or hazardous items;
 - (6) Monitoring to ensure the objectives of litter abatement are being met; and
 - (7) Monitoring to evaluate the overall operation of the Program and to gauge its effectiveness.

History Note: Authority G.S. 143B-350;
Eff. November 1, 1991;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .1006 GENERAL LIMITING CONDITIONS

- (a) The Department shall determine which highways are eligible for adoption.
- (b) The Department shall determine the designation of the section of right-of-way to be adopted. The Department will consider community sentiment in determining the designation of the section of right-of-way to be adopted.
- (c) State roads in residential neighborhoods will not normally be available for adoption. Exceptions include roads adopted by the neighborhood residents. Underlying fee owners' objections to a specific adoption shall be considered.
- (d) If any of the Program's actions are determined to be contrary to any statutory restrictions, or any restrictions on the use of appropriated funds for political activities, the Department may take any necessary remedial action, including, but not limited to, the removal of the erected signs displaying the Program Participant's name or acronym or the termination of the adoption agreement.
- (e) Names, titles or words placed on Adopt-A-Highway signs shall be approved by the North Carolina Department of Transportation.

History Note: Authority G.S. 143B-350;
Eff. November 1, 1991;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .1007 MODIFICATION/RENEWAL/TERMINATION OF THE AGREEMENT

- (a) The Adopt-A-Highway agreement may be modified in scope or altered in any other manner at the discretion of the Department.
- (b) Program participants shall have the option of renewing the agreement, subject to the approval of the Department and the continuation of the Program by the Department. Information concerning Program participants is to be updated at the time of renewal.
- (c) The Department may terminate the agreement or remove the Adopt-A-Highway signs bearing the Program participant's name or acronym if it finds and determines that the participant is not meeting the terms and considerations of the agreement, that the participant is acting contrary to the rules of the Program, that the adoption is proving to be counter productive to the Program's purpose, that undesirable results such as increased litter, vandalism or sign theft, are resulting from the adoption, that Program participants have engaged in irresponsible conduct at the adopted section which would bring discredit upon the State, or that other good cause exists to terminate the agreement or remove the Adopt-A-Highway sign.

History Note: Authority G.S. 143B-350;
Eff. November 1, 1991;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

19A NCAC 02D .1008 TERMINATION OF THE PROGRAM

History Note: Authority G.S. 136-18(10);
Eff. November 1, 1991;
Repealed Eff. November 1, 1993.

**SECTION .1100 - DISADVANTAGED BUSINESS ENTERPRISE, MINORITY BUSINESS ENTERPRISE AND
WOMEN BUSINESS ENTERPRISE PROGRAMS FOR HIGHWAY AND BRIDGE CONSTRUCTION
CONTRACTS**

19A NCAC 02D .1101 PURPOSE AND SCOPE

- (a) The Department shall ensure that Disadvantaged Business Enterprises (DBE), have the opportunity to participate in the performance of contracts financed in whole or in part with Federal funds.
- (b) The Department shall ensure that Disadvantaged Minority-owned Business Enterprises (MBE) and Disadvantaged Women-owned Business Enterprises (WBE) may have the opportunity to participate in the performance of contracts financed with non-Federal funds.
- (c) 49 C.F.R. Part 23, Participation of Disadvantaged Business Enterprise in Airport Concession, and Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs, are incorporated by reference, including all subsequent amendments and editions. 49 C.F.R. 23 and 26 are available at no cost by accessing <https://www.govinfo.gov/>.
- (d) The DBE/UCP Program Manager may be contacted by phone at 919-707-2800.
- (e) The Department DBE, MBE, and WBE directory may be accessed, at no cost to the public, by visiting <https://www.ebs.nc.gov/VendorDirectory/default.html>.
- (f) Unified Certification Applications may be obtained at no cost by accessing <https://www.ncdot.gov>, or from the DBE/UCP Program Manager, 919-707-2800. The substantive requirements of the Unified Certification Application are detailed at 19A NCAC 02D .1103.

*History Note: Authority G.S. 136-28.4; 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.*

19A NCAC 02D .1102 DEFINITIONS

In addition to the terms defined in G.S. 136-28.4, the following terms shall apply for purposes of this Section:

- (1) Disadvantaged Business Enterprise shall have the same meaning as provided in 49 C.F.R. 26.5(2).
- (2) Disadvantaged Minority-owned Business shall have the same meaning as a Disadvantaged Business Enterprise.
- (3) Disadvantaged Women-owned Business shall have the same meaning as a Disadvantaged Business Enterprise.
- (4) Minority Business Enterprise shall have the same meaning as a Disadvantaged Business Enterprise.
- (5) Women Business Enterprise shall have the same meaning as Disadvantaged Business Enterprise.
- (6) The Department's Unified Certification Program (UCP) is responsible for certification of Disadvantaged Business Enterprises in accordance with in 49 C.F.R. Part 26.

*History Note: Authority G.S. 136-28.4; 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.*

19A NCAC 02D .1103 CERTIFICATION OF FIRMS

- (a) In order to be certified by the Department as a Disadvantaged Business Enterprise, disadvantaged Minority-owned Business Enterprise, or disadvantaged Women-owned Business Enterprise, the business enterprise shall submit a Unified Certification Application and supporting documentation to the Department. Information on Unified Certification Applications and its requirements may be found at 49 C.F.R. Appendix F to Part 26 or by accessing https://connect.ncdot.gov/business/SmallBusiness/Disadvantaged%20Businesses%20Documents/DBE_1b.pdf. Please send applications to NCDOT DBE Certification, 1511 MAIL SERVICE CENTER, RALEIGH, NC 27699-1511.
- (b) Upon Receipt of the application, the Department shall review the application in accordance with the applicable certification standards and procedures as set forth in 49 C.F.R. 23.31 and 49 C.F.R. 26.61 through 26.91.

*History Note: Authority G.S. 136-28.4; 143B-348;
Eff. April 30, 1997;*

Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.

19A NCAC 02D .1104 RENEWAL OF CERTIFICATION

Each firm certified as a Disadvantaged Business Enterprise, disadvantaged Minority-owned Business Enterprise, or disadvantaged Women-owned Business Enterprise shall satisfy the annual affidavit requirements of 49 C.F.R. 26.83(i).

History Note: Authority G.S. 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.

19A NCAC 02D .1105 CHANGE IN OWNERSHIP OR CONTROL

Pursuant to, and in accordance with, 49 C.F.R. 26.83(i), any time a firm certified with the Department has a change of ownership, control, business size, type of work, or other factors that affect the firm's eligibility as a Disadvantaged Business Enterprise, disadvantaged Minority-owned Business Enterprise, or disadvantaged Women-owned Business Enterprise, the firm shall inform the Department in writing within 30 days of the change.

History Note: Authority G.S. 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.

19A NCAC 02D .1106 DECERTIFICATION

If the Department finds a firm in non-compliance with the eligibility requirements of 49 C.F.R. 23 or 26, then that firm shall be suspended or decertified in accordance with 49 C.F.R. 23.31 through 23.39, if the firm is a Disadvantaged Business Enterprise for Airport Concessions, or 49 C.F.R. 26.87 and 26.88 for all other firms.

History Note: Authority G.S. 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.

19A NCAC 02D .1107 APPEALS OF DENIAL OF CERTIFICATION

(a) Any Minority Business Enterprise firm or Women Business Enterprise firm denied certification or decertified may file an appeal of that action to the Department's DBE/UCP Program Manager.

- (1) The appeal shall be received by the Department within 30 calendar days of the notice of denial or decertification. Upon receipt of the appeal, the DBE/UCP Program Manager shall schedule a hearing for the firm with the Department's Disadvantaged Business Enterprise, Minority Business Enterprise, Women Business Enterprise Appeals Committee.
- (2) If the denial of certification or decertification is upheld by the Department's appeals committee, the Minority Business Enterprise firm or Women Business Enterprise firm may file a written appeal to the Secretary of Transportation within 30 days of the committee's decision.
- (3) If the denial of certification is upheld by the Secretary of Transportation, the decision shall be final.

(b) Any Disadvantaged Business Enterprise firm denied certification or decertified may file an appeal of that action as follows:

- (1) The Disadvantaged Business Enterprise firm may file an appeal to the Department's DBE/UCP Program Manager. The appeal shall be received by the Department within 30 calendar days of the notice of denial. Upon receipt of the appeal, the DBE/UCP Program Manager shall schedule a hearing for the firm with the Department's appeals committee.
- (2) The Disadvantaged Business Enterprise firm may file a written appeal within 90 days of notice of appeal directly to the U.S. Department of Transportation, Office of Civil Rights in accordance with Parts 23 and 26 of Title 49 of the Code of Federal Regulations.
- (3) The appeals may be filed simultaneously.

History Note: Authority G.S. 136-28.4; 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.

19A NCAC 02D .1108 GOALS

(a) The Department shall perform an analysis to determine the availability of eligibility, of Disadvantaged Business Enterprise, Minority-owned Business Enterprise, and Women-owned Business Enterprise firms relative to all businesses available to participate in Department projects in accordance with 49 C.F.R. Part 26. Goals for Disadvantaged Business Enterprise, Minority-owned Business Enterprise, and Women-owned Business Enterprise firms shall be established in accordance with 49 C.F.R. 26.41 through 26.55, and G.S. 136-28.4(b1). The goal or goals shall be prescribed in the project proposal as a percent of the bidder's construction bid price.

(b) A contractor shall ensure that eligible firms participate in at least the percentage of the contract as required by the project proposal. For purposes of these Rules, "a contractor" is any party who participate in a State funded or US Department of Transportation-assisted highway, transit, or airport project through a contract or subcontract at any tier.

History Note: Authority G.S. 136-28.4; 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.

19A NCAC 02D .1109 COUNTING PARTICIPATION TOWARD MEETING THE GOAL

Participation of Disadvantaged Business Enterprise, disadvantaged Minority-owned Business Enterprise, and Women-owned Business Enterprise firms for federally funded and non-federally funded projects shall be counted in accordance with 49 C.F.R. 26.41 through 26.55.

History Note: Authority G.S. 136-28.4; 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.

19A NCAC 02D .1110 GOOD FAITH REQUIREMENTS FOR ESTABLISHED GOALS

A contractor who does not meet the goals established in the project shall comply with the good faith requirements as set forth in 49 C.F.R. Appendix A Part 26.

History Note: Authority G.S. 136-28.4; 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.

19A NCAC 02D .1111 REPLACEMENT OF CERTIFIED FIRMS

If a certified firm, utilized to meet the goal established pursuant to 49 C.F.R. Part 26, is replaced, then the replacement shall comply with 49 CFR. 26.53.

History Note: Authority G.S. 136-28.4; 143B-348;
Eff. April 30, 1997;
Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.

19A NCAC 02D .1112 REPLACEMENT OF A FIRM REMOVED BY DECERTIFICATION

If a certified firm, utilized to meet the goal established pursuant to 49 C.F.R. Part 26, is decertified, and is replaced. The replacement shall comply with 49 C.F.R. 26.53.

History Note: Authority G.S. 136-28.4; 143B-348;
Eff. April 30, 1997;

Amended Eff. February 1, 2008;
Readopted Eff. April 1, 2019.