

SUBCHAPTER 06B - PUBLIC TRANSPORTATION AND RAIL PROGRAM

SECTION .0100 - GENERAL PROVISIONS

19A NCAC 06B .0101 DEFINITION

The term "public transportation" as used in this Subchapter means transportation by bus, rail, or other conveyance, either publicly or privately owned, which provides to the public general or special service on a regular and continuing basis. The term "public transportation" does not include school buses or charter or sight-seeing service.

*History Note: Authority G.S. 136-44.20; 143B-348;
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.*

19A NCAC 06B .0102 LEAD STATE AGENCY

19A NCAC 06B .0103 DIRECTOR OF PUBLIC TRANSPORTATION

*History Note: Authority G.S. 136-44.20;
Eff. July 1, 1978;
Repealed Eff. November 1, 1991.*

SECTION .0200 - TECHNICAL ASSISTANCE

19A NCAC 06B .0201 ELIGIBILITY

(a) Public Agencies. State and local public agencies are eligible to receive technical assistance on all aspects of public transportation. These agencies include:

- (1) municipalities, or other political subdivisions of the state;
- (2) public agencies and instrumentalities of one or more municipalities, or of other political subdivisions of the state;
- (3) public corporations, boards, and commissions established under state law; and
- (4) public institutions of higher learning.

(b) Private Organizations. Private public transportation companies, private non-profit corporations providing public transportation services, and private non-profit institutions of higher learning are eligible to receive technical assistance on all aspects of public transportation providing the requests for such assistance are made on their behalf by eligible public agencies.

*History Note: Authority G.S. 136-44.20; 143B-348;
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.*

19A NCAC 06B .0202 ASSISTANCE IN PREPARING GRANT APPLICATIONS

Eligible public agencies may receive assistance in the preparation of applications for grants of state and federal public transportation funds. Requests for assistance shall be made in writing to the Department of Transportation stating the nature of the assistance required. The offer of assistance is made contingent upon the availability of staff.

*History Note: Authority G.S. 136-44.20; 143B-348;
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.*

19A NCAC 06B .0203 ASSISTANCE IN CONDUCTING PLANNING AND MANAGEMENT STUDIES

Eligible public agencies may receive assistance on technical matters during the conduct of public transportation planning and management studies. Requests for assistance shall be made to the Department of Transportation prior to the start of the study and the requests shall state the nature of the technical assistance. The offer of assistance is made contingent upon the availability of staff.

History Note: Authority G.S. 136-44.20; 143B-348;
Eff. July 1, 1978;
Amended Eff. November 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 06B .0204 ASSISTANCE IN OPERATIONAL TECHNIQUES

Eligible public agencies may receive advice on administrative and operational aspects of public transportation systems that have received state or federal financial assistance. Requests for assistance shall be made in writing to the Department of Transportation stating the nature of the assistance. The offer of assistance is made contingent upon the availability of staff.

History Note: Authority G.S. 136-44.20; 143B-348;
Eff. July 1, 1978;
Amended Eff. November 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 06B .0205 ASSISTANCE IN TRAINING ACTIVITIES

Eligible agencies may receive training assistance on operational and administrative aspects of public transportation systems. Requests for assistance shall be in writing to the Department of Transportation stating the nature of the assistances. The offer of assistance is made contingent upon the availability of staff.

History Note: Authority G.S. 136-44.20; 143B-348;
Eff. November 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

SECTION .0300 - FINANCIAL ASSISTANCE

19A NCAC 06B .0301 ELIGIBILITY

(a) Public Agencies. State and local public agencies are eligible to receive financial assistance from state and federal public transportation programs. These agencies include:

- (1) municipalities, or other political subdivisions of the state;
- (2) public agencies and instrumentalities of one or more municipalities, or of other political subdivisions of the state;
- (3) public corporations, boards, and commissions established under state law; and
- (4) public institutions of higher learning.

(b) Private Organizations. Private public transportation companies, private non-profit corporations providing public transportation services, and private non-profit institutions of higher learning are eligible to receive state and federal financial assistance providing the request for financial assistance is endorsed by resolution of the local public body. Such financial assistance may be made directly to the private organization or may be channeled through an eligible public agency.

History Note: Authority G.S. 136-44.20; 143B-348;
Eff. July 1, 1978;
Amended Eff. February 1, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 06B .0302 FINANCIAL ASSISTANCE FOR PLANNING AND MANAGEMENT

Eligible agencies may receive state and/or federal funds for the planning, management, engineering, design, and evaluation of public transportation projects. Requests for state financial assistance shall be made in writing to the Department of Transportation.

History Note: Authority G.S. 136-44.20; 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. October 24, 2015.

19A NCAC 06B .0303 FINANCIAL ASSISTANCE FOR CAPITAL IMPROVEMENTS

Eligible agencies may receive state and federal financial assistance in financing the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in public transportation services. Requests for state and federal financial assistance shall be made in writing to the Department of Transportation.

History Note: Authority G.S. 136-44.20; 143B-348;
Eff. July 1, 1978;
Amended Eff. November 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 06B .0304 FINANCIAL OPERATING ASSISTANCE

Eligible agencies may receive state and federal financial assistance in financing either the operation of public transportation service or projects of limited duration which demonstrate innovative approaches in the provision of local or area-wide public transportation services. Requests for state and federal financial assistance shall be made in writing to the Department of Transportation.

History Note: Authority G.S. 143B-10(j); 136-44.20;
Eff. July 1, 1978;
Amended Eff. November 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

SECTION 0400 - RAIL INDUSTRIAL ACCESS PROGRAM

19A NCAC 06B .0401 DEFINITION OF PROGRAM

For purposes of this Subchapter, the following definitions shall apply:

- (1) The term "Rail Industrial Access Program" or "RIAP" means the Department of Transportation program which provides funding to cover a portion of the costs of constructing or rehabilitating railroad industrial access tracks to serve a new or expanded industry.
- (2) "Department" means the North Carolina Department of Transportation.
- (3) "Grantee" means the entity which receives a RIAP grant from DOT.
- (4) "Project" means the construction of a railroad track and related facilities under the RIAP.

History Note: Authority G.S. 136-44.36; 143B-350(f) and (g);
Eff. April 30, 1997;
Amended Eff. April 1, 1999;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 06B .0402 IDENTIFYING INFORMATION

Information related to RIAP may be obtained from:

Branch Manager, Planning and Development
North Carolina Department of Transportation
(Mail) 1553 Mail Service Center
Raleigh, NC 27699-1553

(Delivery) 1 South Wilmington Street

Raleigh, NC 27601
Telephone 919-707-4700

<http://www.ncbytrain.org/projects/industrial/default.html>

*History Note: Authority G.S. 136-44.36; 143B-348;
Eff. April 30, 1997;
Readopted Eff. December 1, 2016.*

19A NCAC 06B .0403 ELIGIBLE GRANTEES

The following organizations shall be eligible to apply for Rail Industrial Access Funding:

- (1) Municipal and county governments;
- (2) Non-profit or for-profit community development organizations;
- (3) Railroads; and
- (4) Industries.

*History Note: Authority G.S. 136-44.36; 143B-350(f) and (g);
Eff. April 30, 1997;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24,
2015.*

19A NCAC 06B .0404 ELIGIBLE COSTS

Costs eligible for RIAP funding are as follows:

- (1) Reasonable engineering costs;
- (2) Site preparation, including necessary grading and drainage to construct track(s);
- (3) Track construction;
- (4) Switches; and
- (5) Grade crossings and signals.

*History Note: Authority G.S. 136-44.36; 143B-350(f) and (g);
Eff. April 30, 1997;
Amended Eff. April 1, 1999;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24,
2015.*

19A NCAC 06B .0405 INELIGIBLE COSTS

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

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

*History Note: Authority G.S. 136-44.36; 143B-348;
Eff. April 30, 1997;
Amended Eff. April 1, 1999;
Readopted Eff. December 1, 2016.*

19A NCAC 06B .0406 APPLICATION

Candidates for RIAP funding shall complete and submit a funding application as specified in Rule .0410 of this Section to the Department of Transportation. Copies of the application may be obtained from:

Branch Manager, Planning and Development
North Carolina Department of Transportation
(Mail) 1553 Mail Service Center
Raleigh, NC 27699-1553

(Delivery) 1 South Wilmington Street

Raleigh, NC 27601

Telephone 919-707-4700

History Note: Authority G.S. 136-44.36; 143B-348;
Eff. April 30, 1997;
Readopted Eff. December 1, 2016.

19A NCAC 06B .0407 COUNTY AND CITY CERTIFICATION

An applicant shall provide a certified copy of the resolution of support from the county and city government (if applicable) to the Department. An interim letter of support may be accepted pending receipt of a formal resolution.

History Note: Authority G.S. 136-44.36; 143B-350(f) and (g);
Eff. April 30, 1997;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 06B .0408 REQUIRED EASEMENT CERTIFICATIONS

A property easement certification shall be provided by the applicant with the completed application that provides written assurance that all required easements have or will be obtained.

History Note: Authority G.S. 136-44.36; 143B-350(f) and (g);
Eff. April 30, 1997;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 06B .0409 INDUSTRY CERTIFICATION

The industry shall certify that it will provide the jobs and rail traffic (annual carloads) indicated in the project application.

History Note: Authority G.S. 136-44.36; 143B-350(f) and (g);
Eff. April 30, 1997;
Amended Eff. April 1, 1999;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 06B .0410 APPLICATION EVALUATION

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

- (1) Employment created by the project during the first two years;
- (2) Capital investment in the project during the first two years;
- (3) Annual rail traffic created by the project;
- (4) Whether the project is served by a shortline railroad; and
- (5) Impact on local or regional income or economic development.

History Note: Authority G.S. 136-44.36; 143B-348;
Eff. April 30, 1997;
Amended Eff. April 1, 1999;
Readopted Eff. December 1, 2016.

19A NCAC 06B .0411 ALLOCATION OF FUNDING

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

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

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

History Note: Authority G.S. 136-44.36; 143B-348;
Eff. April 30, 1997;
Readopted Eff. December 1, 2016.

19A NCAC 06B .0412 PROCUREMENTS

History Note: Authority G.S. 136-44.36; 143-129; 143B-350(f) and (g);
Eff. April 30, 1997;
Repealed Eff. April 1, 1999.

19A NCAC 06B .0413 REQUESTS FOR REIMBURSEMENT

- (a) Upon execution of the Grant Agreement, the Grantee shall be required by the Project Manager or Grants Administrator to submit periodic progress reports to the Department until the project tracks are completed.
- (b) The Department shall not reimburse the Grantee for eligible expenses until the Department verifies completion of the project tracks, the railroad certifies that it has used the project tracks, or the Department confirms that the railroad has used the project tracks.
- (c) The Grantee shall submit one itemized request that includes project information, sponsor, amount due, and contact information for reimbursement to the Department upon completion of project work at the following address:

Rail Planning Manager
Rail Industrial Access Program
North Carolina Department of Transportation
(Mail) 1553 Mail Service Center
Raleigh, NC 27699-1553

(Delivery) 1 South Wilmington Street
Raleigh, NC 27601

Telephone 919-707-4700

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

History Note: Authority G.S. 143B-348;
Eff. April 30, 1997;
Amended Eff. April 1, 1999;
Readopted Eff. December 1, 2016.

19A NCAC 06B .0414 RETAINAGE

History Note: Authority G.S. 143B-350(f) and (g);
Eff. April 30, 1997;
Repealed Eff. April 1, 1999.

19A NCAC 06B .0415 OWNERSHIP AND MAINTENANCE RESPONSIBILITY

- (a) Once constructed, all rail industrial access tracks shall be owned by the Grantee or by the industry served.
- (b) After construction, the track owner shall be responsible for maintaining the project tracks.

History Note: Authority G.S. 136-44.36; 143B-350(f) and (g);
Eff. April 30, 1997;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 06B .0416 REPORTING REQUIREMENTS

The grant recipient shall report to the Department as follows:

- (1) After each of the first two years following completion, the grant recipient shall provide information verifying the industry's employment as indicated in the project application and industry certification;
- (2) For the first five years following project completion, the grant recipient shall provide verification of the industry's rail use as indicated in the project application and industry certification.

*History Note: Authority G.S. 136-44.36; 143B-350(f) and (g);
Eff. April 30, 1997;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.*

19A NCAC 06B .0417 REPAYMENT

- (a) If within five years the project tracks are abandoned, relocated, or sold without the consent of the Department, the track owner shall repay the Department the state's contribution to the cost of construction and materials.
- (b) The Grantee may also be required to repay the Department if:
 - (1) During the first five years rail use falls below the goal levels specified in the industry certification;
 - (2) Job goals (as specified in the industry certification) for the first two years are not met.

*History Note: Authority G.S. 136-44.36; 143B-350(f) and (g);
Eff. April 30, 1997;
Amended Eff. April 1, 1999;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.*

19A NCAC 06B .0418 GRANT AGREEMENT

- (a) Upon grant approval by the Board of Transportation, the Grantee shall enter into a Grant Agreement with the Department of Transportation specifying the terms and conditions of the RIAP grant.
- (b) The Grantee shall not be eligible for reimbursement until a Grant Agreement has been fully executed by both the Grantee and the Department.

*History Note: Authority G.S. 136-44.36; 143B-350(f) and (g);
Eff. April 1, 1999;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.*