

CHAPTER 01 - DEPARTMENTAL RULES

SUBCHAPTER 01A - ORGANIZATION OF THE DEPARTMENT

SECTION .0100 - IDENTIFYING INFORMATION AND FUNCTIONS

19A NCAC 01A .0101 IDENTIFYING INFORMATION

The principal offices of the Department of Transportation are located at:

Highway Building
1 South Wilmington Street
P.O. Box 25201
Raleigh, North Carolina 27611

History Note: Authority G.S. 136-15; 136-44.1; 143B-10(b); 143B-345;
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 01A .0102 DEPARTMENTAL FUNCTIONS

19A NCAC 01A .0103 STRUCTURE OF THE DEPARTMENT

History Note: Authority G.S. 20-1; 113-28.5; 136-4; 136-44.1; 143B-10(b), (j); 143B-11; 143B-346; 147-12(7); S.L. 1844, Ch. 82; S.L. 1852, Ch. 136;
Eff. July 1, 1978;
Repealed Eff. November 1, 1993.

19A NCAC 01A .0104 RULEMAKING AUTHORITY DEFINED

Throughout this Title, "rulemaking authority" shall mean the person, board or commission empowered by statute or delegation of statutory authority to adopt and promulgate rules in the specific subject area in question.

Note: For the rulemaking authority vested in the Board, Department or Secretary of Transportation, see G.S. 136-18(5); 143B-10(a), (j); 143B-346; 143B-348; 143B-350(f), (g).

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

SECTION .0200 - SECRETARY OF TRANSPORTATION

19A NCAC 01A .0201 IDENTIFYING INFORMATION

The office of the Secretary of Transportation is located at:

Highway Building
1 South Wilmington Street
P.O. Box 25201
Raleigh, North Carolina 27611

History Note: Authority G.S. 143B-9; 143B-348;
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 01A .0202 FUNCTIONS OF SECRETARY AS HEAD OF A PRINCIPAL STATE DEPT

19A NCAC 01A .0203 FUNCTIONS AS SECRETARY OF TRANSPORTATION

History Note: Authority G.S. 20-2; 20-3; 20-183.16; 113A-54(a); 136-4; 136-20; 136-28.1(b) to (d); 143-392; 143B-10; 143B-14; 143B-348; 143B-350(b), (c), (g); 143B-360;
Eff. July 1, 1978;
Repealed Eff. November 1, 1993.

19A NCAC 01A .0204 PUBLIC AFFAIRS SECTION
19A NCAC 01A .0205 PERSONNEL
19A NCAC 01A .0206 CIVIL RIGHTS COORDINATOR

History Note: Authority G.S. 126-16; 143B-10; 143B-348;
Eff. July 1, 1978;
Repealed Eff. November 1, 1991.

SECTION .0300 - BOARD OF TRANSPORTATION

19A NCAC 01A .0301 IDENTIFYING INFORMATION

The office of the Board of Transportation is located at:

Highway Building
1 South Wilmington Street
P.O. Box 25201
Raleigh, North Carolina 27611

Note: The exact composition of the Board of Transportation is given in G.S. 143B-350(b) to (d).

History Note: Authority G.S. 143B-350;
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 01A .0302 FUNCTIONS: POWERS AND DUTIES: GENERAL
19A NCAC 01A .0303 SPECIFIC FUNCTIONS: POWERS AND DUTIES

History Note: Authority G.S. 136-18(8), (16); 136-19.4(a), (d); 136-28.1(a); 136-44.1; 136-44.3; 136-44.4; 136-44.7; 136-44.8; 136-44.10; 136-54; 136-49; 136-60; 136-62; 136-63; 136-102.6; 143B-350(a); 143B-350(f);
Eff. July 1, 1978;
Repealed Eff. November 1, 1993.

SECTION .0400 - DIVISION OF HIGHWAYS

19A NCAC 01A .0401 IDENTIFYING INFORMATION

The principal offices of the Division of Highways are located at:

Highway Building
1 South. Wilmington Street
P.O. Box 25201
Raleigh, North Carolina 27611

History Note: Authority G.S. 136-141.1; 136-15; 143B-10(b), (j)
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 01A .0402 FUNCTIONS
19A NCAC 01A .0403 STATE HIGHWAY ADMINISTRATOR

History Note: Authority G.S. 136-4; 136-18; 143B-10; 143B-10(a), (b); 143B-350(g);
Eff. July 1, 1978;
Repealed Eff. November 1, 1993.

19A NCAC 01A .0404 DUTIES AND RESPONSIBILITIES: STATE HIGHWAY ADMINISTRATOR

History Note: Authority G.S. 20-119; 133-5; 136-18.3; 136-18(5); 136-18(11); 136-19; 136-28.1; 136-29; 136-30;
136-44.1; 136-64.1(d); 136-71.9; 136-71.10; 136-89.51; 136-89.59; 136-93; 143B-10(j); 143B-350(f),
(g);
Eff. July 1, 1978;
Amended Eff. January 1, 1986; October 1, 1983;
Repealed Eff. November 1, 1991.

19A NCAC 01A .0405 SECONDARY ROADS SECTION

History Note: Authority G.S. 143B-10(b); 143B-348; 143B-350(g);
Eff. July 1, 1978;
Repealed Eff. December 29, 1993.

19A NCAC 01A .0406 HIGHWAY PLANNING SECTION

19A NCAC 01A .0407 PROJECT MANAGEMENT AND PRODUCTIVITY CONTROL SECTION

19A NCAC 01A .0408 OPERATIONS SECTION

History Note: Authority G.S. 136-12; 136-14.1; 136-15; 136-17.2; 136-18; 136-19; 136-28.6; 136-44.2; 136-44.2B;
136-44.4; 136-44.11; 136-44.50; 136-66.1; 136-66.3; 136-66.5; 136-82; 136-89; 136-184;
143B-10(b),(g),(j); 143B-348; 143B-350;
Eff. July 1, 1978;
Amended Eff. November 1, 1985;
Repealed Eff. November 1, 1991.

SECTION .0500 - ASSISTANT SECRETARY FOR MANAGEMENT

19A NCAC 01A .0501 IDENTIFYING INFORMATION

19A NCAC 01A .0502 FUNCTIONS

19A NCAC 01A .0503 TRANSPORTATION COMPUTING CENTER SECTION

19A NCAC 01A .0504 FISCAL

19A NCAC 01A .0505 PURCHASING

19A NCAC 01A .0506 INTERNAL AUDIT

19A NCAC 01A .0507 OCCUPATIONAL SAFETY AND EMERGENCY PLANNING

19A NCAC 01A .0508 MANAGEMENT ENGINEERING

History Note: Authority G.S. 20-3; 20-26; 20-27; 20-43; 95-126(b)(2)1; 95-127(10); 95-148; 136-10; 143-49;
143-51; 143-157; 143B-10(b); 143B-348;
Eff. July 1, 1978;
Amended Eff. July 1, 1982; July 1, 1981;
Repealed Eff. November 1, 1991.

SECTION .0600 - ASSISTANT SECRETARY FOR PLANNING

19A NCAC 01A .0601 IDENTIFYING INFORMATION

19A NCAC 01A .0602 FUNCTIONS

19A NCAC 01A .0603 TRANSPORTATION SYSTEMS PLANNING SECTION

19A NCAC 01A .0604 BICYCLE AND BIKEWAY SECTION

19A NCAC 01A .0605 PUBLIC TRANSPORTATION DIVISION

19A NCAC 01A .0606 IDENTIFYING INFORMATION: DIVISION OF AERONAUTICS

19A NCAC 01A .0607 FUNCTIONS: DIVISION OF AERONAUTICS

19A NCAC 01A .0608 AIRPORT DEVELOPMENT SECTION
19A NCAC 01A .0609 AIR TRANSPORTATION DEVELOPMENT SECTION
19A NCAC 01A .0610 AIR SAFETY SECTION
19A NCAC 01A .0611 AERONAUTICS COUNCIL

History Note: Authority G.S. 113-28.5; 113-28.6; 113-28.12; 136-44.20; 143B-10(a),(b); 143B-350(f),(g); 143B-355; 143B-356;
Eff. July 1, 1978;
Repealed Eff. November 1, 1991.

SECTION .0700 - DIVISION OF MOTOR VEHICLES

19A NCAC 01A .0701 IDENTIFYING INFORMATION
19A NCAC 01A .0702 FUNCTIONS
19A NCAC 01A .0703 STRUCTURE OF THE DIVISION
19A NCAC 01A .0704 COMMISSIONER
19A NCAC 01A .0705 DRIVER LICENSE SECTION
19A NCAC 01A .0706 VEHICLE REGISTRATION SECTION
19A NCAC 01A .0707 ENFORCEMENT SECTION
19A NCAC 01A .0708 INTERNATIONAL REGISTRATION PLAN (IRP) SECTION
19A NCAC 01A .0709 COLLISION REPORTS/GENERAL SERVICES SECTION
19A NCAC 01A .0710 SCHOOL BUS AND TRAFFIC SAFETY SECTION
19A NCAC 01A .0711 GOVERNOR'S HIGHWAY SAFETY PROGRAM

History Note: Authority G.S. 15A-401; 15-402; 20-1; 20-2; 20-3; 20-4.3; 20-7; 20-39; 20-40; 20-43; 20-49; 20-50; 20-63(h); 20-77; 20-84.2; 20-86.1; 20-87 to 20-93; 20-102; 20-104; 20-110; 20-111; 20-114; 20-118.1; 20-177; 20-183.2; 20-183.4; 20-183.5; 20-183.9; 20-218; 20-279.3; 20-279.4; 20-285; 20-315; 20-316; 20-321; 44A-4; 143B-360; 147-12(10);
Eff. July 1, 1978;
Amended Eff. November 1, 1991; April 22, 1981;
Repealed Eff. December 1, 1993.

SECTION .0800 - NORTH CAROLINA TRAFFIC SAFETY AUTHORITY

19A NCAC 01A .0801 IDENTIFYING INFORMATION
19A NCAC 01A .0802 FUNCTIONS

History Note: Authority G.S. 143-392 through 143-394; 143B-359;
Eff. July 1, 1978;
Repealed Eff. June 1, 1982.

SECTION .0900 - NORTH CAROLINA RAILROAD COMPANY

19A NCAC 01A .0901 IDENTIFYING INFORMATION
19A NCAC 01A .0902 FUNCTIONS

History Note: Authority G.S. 143B-358; 147-12(7); S.L. 1849, Ch. 82, s. 1;
Eff. July 1, 1978;
Amended Eff. November 1, 1991;
Repealed Eff. November 1, 1993.

SECTION .1000 - ATLANTIC AND NORTH CAROLINA RAILROAD COMPANY

19A NCAC 01A .1001 IDENTIFYING INFORMATION
19A NCAC 01A .1002 FUNCTIONS

History Note: Authority G.S. 143A-106; S.L. 1852, Ch. 136, s. 1;
Eff. July 1, 1978;
Repealed Eff. November 1, 1993.

SUBCHAPTER 1B - RULEMAKING PROCEDURE

SECTION .0100 - RULEMAKING GENERALLY

19A NCAC 01B .0101 PROCEDURAL REQUIREMENTS

History Note: Authority G.S. 20-1; 136-18; 143B-346; 143B-350(f), (g); 150A-1; 150A-10; 150A-23;
Resolutions of the Board of Transportation: November 7, 1975, July 24, 1973;
Eff. July 1, 1978;
Repealed Eff. November 1, 1993.

19A NCAC 01B .0102 GENERAL PROCEDURE

This Subchapter is to be read and applied in conjunction with the applicable statutes of the Administrative Procedure Act.

History Note: Authority G.S. 143B-350; 150B-18;
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 01B .0103 STATUTORY PROVISIONS

The procedures set forth in this Subchapter are in accordance with Article 2A of the Administrative Procedure Act. These procedures are established to implement Article 2A of the Administrative Procedure Act and should be read in conjunction with those statutory provisions.

History Note: Authority G.S. 143B-10(j); 143B-350; 150B-1; 150B-10(j);
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

SECTION .0200 - PETITIONING FOR RULEMAKING

19A NCAC 01B .0201 PETITIONING PROCEDURES

Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule by the Department of Transportation shall submit a written petition to:

Secretary, Department of Transportation
Highway Building
1 South Wilmington Street
P.O. Box 25201
Raleigh, North Carolina 27611

The outside envelope containing the petition shall clearly display the notation:
RULEMAKING PETITION, RE: and then the subject area.

History Note: Authority G.S. 143B-10(j); 143B-350; 150B-20;
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 01B .0202 CONTENTS OF PETITION

A petition for adoption, amendment or repeal of a rule shall include the following information:

- (1) the rulemaking authority to which the petition is directed;
- (2) an indication of the subject areas to which petition is directed;
- (3) a draft of the proposed rule including a citation of any prior rules which will be amended by the proposed rule, and the statutory authority for the agency to adopt the rule;
- (4) a statement of the reasons and argument for the proposal;
- (5) a statement of the effect on existing rules or orders;
- (6) the effects of the proposed rule or rule change;
- (7) names and addresses of those who will be affected by the proposed rule or rule change; and
- (8) names, addresses, and telephone numbers of petitioners.

History Note: Authority G.S. 143B-350; 150B-20;
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 01B .0203 CONSIDERATION AND DISPOSITION OF PETITION

(a) The Secretary of Transportation may designate a member of the Department of Transportation to determine whether to grant or deny the request for a rulemaking petition. The Secretary or his designee will determine, based on a study of the facts submitted in the petition, whether the public interest will be served by granting the petition. Prior to making this determination, the Secretary or his designee may request additional information from the petitioner; he may contact interested persons who will be affected by the proposed rule or rule change and request comments; he may use any other appropriate method for obtaining information on which to base his determination.

(b) Any designate of the Secretary shall make a recommendation to the Secretary for the institution of rulemaking proceedings or for the denial of the petition, as the case may be.

(c) If the decision is to deny the petition, the Secretary will notify the petitioner in writing, stating the reasons for the denial. If the decision is to grant the petition, the Secretary will initiate the rulemaking process and inform the petitioner in writing.

History Note: Authority G.S. 143B-350; 150B-20;
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

SECTION .0300 - RULEMAKING HEARING

19A NCAC 01B .0301 HEARING OFFICER

The Board of Transportation, as rulemaking authority for all transportation functions assigned to the Department of Transportation, has delegated the power to appoint the hearing officer or board to the Secretary of Transportation, who may, in his discretion, reassign this function.

History Note: Authority G.S. 143B-10(a); 143B-350;
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 01B .0302 RECORD OF HEARINGS

(a) The rulemaking coordinator shall make a complete record of every rulemaking proceeding and it shall contain:

- (1) the original petition;
- (2) all notices;
- (3) all written comments received or presented;
- (4) a transcript or recording of all oral presentations made at a public hearing;
- (5) the final draft of the rule;

- (6) all written explanations made by the agency for adopting the rule;
 - (7) all filing submitted to the Office of Administrative Hearings;
 - (8) a copy of the published rule; and
 - (9) any other pertinent correspondence or records.
- (b) A copy of this record shall be maintained in the Office of the Secretary.

History Note: Authority G.S. 143B-350; 150B-21; 150B-21.2;
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

SECTION .0400 - DECLARATORY RULINGS

19A NCAC 01B .0401 REQUEST FOR DECLARATORY RULING

A request for a declaratory ruling must include the following information:

- (1) the name, address and telephone numbers of the requesting party;
- (2) the statute, rule, order, or ordinance to which the request relates; and
- (3) a concise statement of the manner in which the requesting party is aggrieved by the rule, order, ordinance, or statute, or its potential application to him.

All requests for declaratory rulings shall be written and mailed or delivered to:

Secretary, Department of Transportation
Highway Building
1 South Wilmington Street
P.O. Box 25201
Raleigh, North Carolina 27611

History Note: Authority G.S. 150B-4;
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 01B .0402 PROCEDURE

A declaratory ruling procedure may consist of written submissions or such other procedure as may be deemed appropriate in a particular case by the hearing officer.

History Note: Authority G.S. 150B-4;
Eff. July 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 01B .0403 BASIS FOR DENIAL OF REQUEST FOR DECLARATORY RULING

The hearing officer may deny a request for a declaratory ruling for any of the following reasons:

- (1) Similar determination made elsewhere that applies;
- (2) Contested case hearing would be more appropriate;
- (3) Matter is currently under litigation.

History Note: Authority G.S. 150B-4;
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

SECTION .0500 - PUBLIC INSPECTION

19A NCAC 01B .0501 INSPECTION OF GENERAL RULES: POLICIES: ETC.

The following are available for public inspection between 8:00 a.m. and 5:00 p.m. on Monday through Friday, holidays excepted, at:

Office of the Secretary
Department of Transportation
Highway Building
1 South Wilmington Street
Raleigh, North Carolina 27611:

- (1) all rules and all other written statements of policy or interpretations formulated, adopted or used by the Department of Transportation;
- (2) all orders, decisions, opinions and declaratory rulings, together with all materials used in formulating such; and
- (3) all rules, codes, standards and regulations which have been adopted by reference by any rulemaking authority within the Department of Transportation.

History Note: Authority G.S. 132-6; 143B-350;
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

19A NCAC 01B .0502 INSPECTION OF TRAFFIC ORDINANCES

Traffic Ordinances are available for public inspection at:

Transportation Mobility and Safety
(Mail) 1561 Mail Service Center
Raleigh, 27699-1561
(Delivery) 750 N. Greenfield Parkway
Garner, NC 27529

History Note: Authority G.S. 132-6; 143B-350;
Eff. July 1, 1978;
Amended Eff. October 1, 2013; November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

SUBCHAPTER 1C - ADMINISTRATIVE HEARING PROCEDURE

SECTION .0100 - GENERAL PROVISIONS

19A NCAC 01C .0101 PROCEDURAL REQUIREMENTS

History Note: Authority G.S. 20-1; 136-18(5); 143B-346; 143B-350(f), (g); 150A-1; 150A-23;
Resolutions of the Board of Transportation of November 7, 1975, July 24, 1973;
Eff. July 1, 1978;
Repealed Eff. November 1, 1993.

19A NCAC 01C .0102 GENERAL PROCEDURE

This Subchapter is to be read and applied in conjunction with the applicable statutes of the Administrative Procedure Act, but will not apply to the extent that any statute makes provisions to the contrary.

Note: The department is subject to the following procedures set forth in the statutes: G.S. 136-20 (railroad over- and under-passes); 136-22 (drainage canal cost distribution); 136-29 (adjustment of contractor claims); 136-41.3 (Powell Bill funds); 136-44.8 (secondary roads); 136-62 (right of petition to the Board of Transportation); 136-64 (road maintenance petitions); 136-67 (neighborhood public roads); 136-83 (ferry rates); 136-89.54 (controlled access roads); 136-103

through 136-121.1 (condemnation proceedings); 136-132 and 136-134.1 (outdoor advertising); 113-54 (sedimentation control); and the various procedures relating to motor vehicles in Chapter 20 of the General Statutes.

History Note: Authority G.S. 143B-350; 150B-1(e);
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.

SECTION .0200 - INITIATING ADMINISTRATIVE HEARING

19A NCAC 01C .0201 INFORMAL NEGOTIATIONS

History Note: Authority G.S. 136-29; 143B-10(j); 143B-350; 150B-1(e)(8); 150B-22;
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Repealed Eff. March 1, 2013.

- 19A NCAC 01C .0202 REQUEST FOR ADMINISTRATIVE HEARING**
- 19A NCAC 01C .0203 HEARING OFFICER**
- 19A NCAC 01C .0204 CONTESTED CASES AND DECLARATORY RULINGS**
- 19A NCAC 01C .0205 CONSIDERATION OF AND DECISION ON REQUEST**
- 19A NCAC 01C .0206 SUBPOENA**
- 19A NCAC 01C .0207 CONTINUANCES**
- 19A NCAC 01C .0208 PROPOSAL FOR DECISION**

History Note: Authority G.S. 143B-10(a), (j); 143B-350(f); 150A-17; 150A-23; 150A-25; 150A-27; 150A-32; 150A-34;
Eff. July 1, 1978;
Repealed Eff. November 1, 1993.

19A NCAC 01C .0209 OFFICIAL RECORD

A copy of the official record as required by Article 3 of the Administrative Procedure Act shall be on file with:
Secretary, Department of Transportation
Highway Building
1 South Wilmington Street
P.O. Box 25201
Raleigh, North Carolina 27611

History Note: Authority G.S. 143B-10(j); 143B-350; 150B-37;
Eff. July 1, 1978;
Amended Eff. November 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 24, 2015.