

1 19A NCAC 02D .1107 is proposed for adoption without substantive changes as follows:

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3 **19A NCAC 02D .1107 APPEALS OF DENIAL OF CERTIFICATION**

4 (a) Any Minority Business Enterprise firm or Women Business Enterprise firm denied certification or decertified
5 may file an appeal of that action to the Department's DBE/UCP Program Manager. ~~State Contractor Management~~
6 ~~Engineer~~ as follows:

7 (1) The appeal shall be received by the Department within 30 calendar days of the notice of denial.
8 Upon receipt of the appeal, the ~~State Contractor Management Engineer~~ DBE/UCP Program
9 Manager shall schedule a hearing for the firm with the Department's Disadvantaged Business
10 Enterprise, Minority Business Enterprise, Women Business Enterprise Appeals Committee.

11 (2) If the denial of certification or decertification is upheld by the Department's appeals committee, the
12 Minority Business Enterprise firm or Women Business Enterprise firm may file a written appeal to
13 the Secretary of Transportation within 30 days of the committee's decision.

14 (3) If the denial of certification is upheld by the Secretary of Transportation, the decision shall be final.

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

17 (1) The Disadvantaged Business Enterprise firm may file an appeal to the Department's DBE/UCP
18 Program Manager. ~~State Contractor Management Engineer~~. The appeal shall be received by the
19 Department within 30 calendar days of the notice of denial. Upon receipt of the appeal, the ~~State~~
20 ~~Contractor Management Engineer~~ DBE/UCP Program Manager shall schedule a hearing for the firm
21 with the Department's appeals committee.

22 (2) The Disadvantaged Business Enterprise firm may file a written appeal within 90 days of notice of
23 appeal directly to the U.S. Department of Transportation, Office of Civil Rights in accordance with
24 Parts 23 and 26 of Title 49 of the Code of Federal Regulations. ~~the 49 CFR 26.~~

25 (3) The appeals may be filed simultaneously.

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27 *History Note: Authority G.S. 143B-348;*
28 *Eff. April 30, 1997;*
29 *Amended Eff. February 1, 2008.*