

**§ 136-64.1. Applications for intermittent closing of roads within watershed improvement project by Department of Transportation; notice; regulation by Department; delegation of authority; markers.**

(a) Upon proper application by the board of commissioners of a drainage district established under the provisions of Chapter 156 of the General Statutes of North Carolina, by the board of trustees of a watershed improvement district established under the provisions of Article 2 of Chapter 139 of the General Statutes, by the board of county commissioners of any county operating a county watershed improvement program under the provisions of Article 3 of Chapter 139 of the General Statutes, by the board of commissioners of any watershed improvement commission appointed by a board of county commissioners or by the board of supervisors of any soil and water conservation district designated by a board of county commissioners to exercise authority in carrying out a county watershed improvement program, the Department of Transportation, for roads coming under its jurisdictional control, is hereby authorized to permit the intermittent closing of any secondary road within the boundaries of any watershed improvement project operated by the applicants, whenever in the judgment of the Department of Transportation it is necessary to do so, and when the secondary road will be intermittently subject to inundation by floodwaters retained by an approved watershed improvement project.

(b) Before any permit may be issued for the temporary inundation and closing of such a road, an application for such permit shall be made to the Department of Transportation by the public body having jurisdiction over the watershed improvement project. The application shall specify the secondary road involved, the anticipated frequency and duration of intermittent flooding of the secondary road involved, and shall request that a permit be granted to the applicant public body to allow the intermittent closing of the road.

(c) Upon receipt of such an application the Department of Transportation shall give public notice of the proposed action by publication once each week for two consecutive weeks in a newspaper of general circulation in the county or counties within which the proposed intermittent closing of road or roads would occur; and such notices shall contain a description of the places of beginning and the places of ending of such intermittent closing. In addition, the Department of Transportation shall give notice to all public utilities or common carriers having facilities located within the rights-of-way of any roads being closed by mailing copies of such notices to the appropriate offices of the public utility or common carrier having jurisdiction over the affected facilities of the public utility or common carrier. Not sooner than 14 days after publication and mailing of notices, the Department of Transportation or the municipality may issue its permit with respect to such road.

(d) The Department of Transportation shall have the discretion to deny any application submitted pursuant to this section, or it may grant a permit on any condition it deems warranted. The Department, however, shall consider the use of alternate routes available during flooding of the roads, and any inconvenience to the public or temporary loss of access to business, homes and property. The Department shall have the authority to promulgate regulations for the issuance of permits under this section and it may delegate the authority for the consideration, issuance or denial of such permits to the Chief Engineer. Any applicant granted a permit pursuant to this section shall cause suitable markers to be installed on the secondary road to advise the general public of the intermittent closing of the road or roads involved. Such markers shall be located and approved by the Chief Engineer. (1975, c. 639, s. 1; 1977, c. 464, s. 7.1; 2012-85, s. 6.)