

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03F .0201, .0202, and .0203

RECOMMENDED ACTION:

- Approve, but note staff's comment
- X Object, based on:
 - Lack of statutory authority
 - Unclear or ambiguous
- X Unnecessary
 - Failure to comply with the APA
- Extend the period of review

COMMENT:

Staff recommends objection for lack of necessity. G.S. 20-166.1(j) states: "The Division may periodically publish statistical information on motor vehicle accidents based on information in accident reports." These rules are purely informational, restating the information contained in the Division's statistical reports. Further, these rules do not affect the procedural or substantive rights of the public. As a result, staff recommends objection for lack of necessity because the contents of .0201, .0202, and .0203 do not meet the definition of a "rule" in 150B-2(8a).

May 12, 2021
Ashley Snyder
Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03F .0201, .0202, and .0203

DEADLINE FOR RECEIPT: May 11, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Do these meet the definition of a "rule" in 150B-2(8a)?

For each report, you provide a list of who the report is provided to. Does the DMV still proactively send the report to these individuals or is it, for example, posted on your website? If you keep these lists in the Rule, please be specific about who you are sending the report to.

.0201(b) states the report is available to the general public but the other rules do not. Is this language necessary since this is a public record? If it is not necessary, please delete from .0201(b). If it is necessary, should that language be included in the other rules for consistency or was that language intentionally only included in one rule?

In your History Notes, why is G.S. 20-1 listed? Does that statute convey rulemaking authority for these rules?

In your History Notes, why is G.S. 20-3 listed? Are you saying the Secretary needs to approve the rules?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03F .0201

DEADLINE FOR RECEIPT: May 11, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On your Submission for Permanent Rule form, please update Box 2 to reflect the Rule name – Traffic Accident Summary.

In (a), please replace the slash with an “and” or an “or,” whichever is appropriate.

In (a), line 5, please change “motor vehicles” to “motor vehicle.”

In (b), please add a comma after “institutes.”

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

1 19A NCAC 03F .0201 is readopted as published in 35:14 NCR 1569-1572 without changes as follows:

2
3 **19A NCAC 03F .0201 TRAFFIC ACCIDENT SUMMARY**

4 (a) The Collision Reports/General Services Section publishes a summary of motor vehicle traffic accidents monthly
5 and annually. This publication contains information on all types of motor vehicles, pedestrian, ~~pedestrian~~ and bicycle
6 accidents. The accidents are categorized by:

- 7 (1) county; ~~county~~;
8 (2) rural or urban; ~~rural or urban~~;
9 (3) time of day; ~~time of day~~;
10 (4) day of week; and ~~day of week~~;
11 (5) drivers by age and sex.

12 (b) The summary is provided to federal and State ~~state~~ agencies, officers of the court, the Division of Highways,
13 research institutes and libraries. It is also available to the general public upon request.

14
15 *History Note: Authority G.S. 20-1; 20-3; 20-39; 20-166.1;*
16 *Eff. July 1, 1978;*
17 *Amended Eff. November 1, 1991; February 1, ~~1982-1982~~;*
18 *Readopted Eff. June 1, 2021.*
19

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03F .0202

DEADLINE FOR RECEIPT: May 11, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

At line 4, please replace the slash with an "and" or an "or," whichever is appropriate.

At line 6, add a comma after "Highway Patrol."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

1 19A NCAC 03F .0202 is readopted as published in 35:14 NCR 1569-1572 without changes as follows:

2
3 **19A NCAC 03F .0202 FATAL ACCIDENT REPORTS**

4 The Collision Reports/General Services Section publishes monthly a report on the number of fatal accidents and the
5 number of persons killed in these accidents. Comparisons are made with information from the prior year. This report
6 is furnished to officers of the court, the Highway Patrol and the news media.

7
8 *History Note: Authority G.S. 20-1; 20-3; 20-39; 20-166.1;*

9 *Eff. July 1, 1978;*

10 *Amended Eff. November 1, 1991; February 1, ~~1982~~1982;*

11 *Readopted Eff. June 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03F .0203

DEADLINE FOR RECEIPT: May 11, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Please consider using active voice by saying who shall do what. "The Collision Reports and General Services Section publishes special holiday reports..."

At line 5, please replace the slash with either an "and" or "or."

At line 6, why is it necessary to so "and are used by the news media to project accidents over a holiday period." Does this meet the definition of a "rule" in 150B-2(8a)?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

1 19A NCAC 03F .0203 is readopted as published in 35:14 NCR 1569-1572 without changes as follows:

2
3 **19A NCAC 03F .0203 SPECIAL HOLIDAY REPORTS**

4 Special holiday reports giving information on prior year fatalities, injuries, accidents, ~~accidents~~ and driver violations
5 are published by the Collision Reports/General Services Section. These reports are provided to the National Safety
6 Council and the Highway Patrol and are used by the news media to project accidents over a holiday period.

7
8 *History Note: Authority G.S. 20-1; 20-3; 20-39; 20-166.1;*

9 *Eff. July 1, 1978;*

10 *Amended Eff. November 1, 1991; February 1, ~~1982~~ 1982;*

11 *Readopted Eff. June 1, 2021.*
12
13

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03F .0602

DEADLINE FOR RECEIPT: May 11, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Does the process set forth in this Rule allow the Commissioner to suspend a license within 60 days of receipt of a report as required by G.S. 20-279.5(b)?

Throughout this Rule, please change "must" and "will" to "shall."

In (a), is "automobile" the correct term? Should (a) refer to "reportable accidents" as used in 20-279.5 or should you use the term "motor vehicle" here?

In (c), please refer to "a request for hearing" instead of "such request."

In (c), is it "30 days or until the hearing is held, whichever is later" or "30 days or until the hearing is held, whichever is earlier?"

In (d), please delete or define "brief."

In (e), what do you mean by "due process will be satisfied?" Consider whether you need to keep the first sentence in (e). The second sentence in (e) repeats a lot of the same information.

At lines 16 and 18, should it be "hearing officer" instead of "hearings officer?"

In your History Note, please delete 20-279.4 because it has been repealed.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

1 19A NCAC 03F .0602 is readopted as published in 35:14 NCR 1569-1572 without changes as follows:

2
3 **19A NCAC 03F .0602 ADMINISTRATIVE FINANCIAL RESPONSIBILITY HEARINGS**

4 (a) Any person who has received notice of a driver's license suspension due to an automobile accident for failure to
5 file proof of financial responsibility may request a hearing.

6 (b) Request for a hearing must be made in writing to the Division within 15 days from the date shown on the proposed
7 suspension order.

8 (c) The receipt of such request will extend the original effective date of the suspension order for 30 days or until the
9 hearing is held.

10 (d) The petitioner must furnish the Division with a brief statement of the circumstances of the accident in which his
11 ~~he or his~~ her vehicle was involved, grounds relied upon to exonerate him or her from suspension, and a certified copy
12 of any traffic court judgment related to the accident. This information must be received at the Division at least five
13 days prior to the date fixed for hearing.

14 (e) Due process will be satisfied by an inquiry limited to the determination of whether there is a reasonable possibility
15 of a judgment being rendered against the petitioner should he or she be sued in a civil action and lose his case. The
16 burden of proof is on the petitioner to demonstrate to the hearings officer that there is no reasonable possibility that a
17 judgment would be rendered against him or her in a court of law.

18 (f) If the hearings officer establishes that liability insurance was in effect on the date of the accident, or that the
19 petitioner has assumed financial responsibility for the damages in the accident, the officer will rescind the Division's
20 prior notice of revocation.

21
22 *History Note: Authority G.S. 20-39; 20-279.2; 20-279.4; 20-279.5;*

23 *Eff. November 1, 1991;*

24 *Amended Eff. December 1, ~~1993~~ 1993;*

25 *Readopted Eff. June 1, 2021.*
26

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03G .0208

DEADLINE FOR RECEIPT: May 11, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Please delete line 4, the extra space between the rule name and the body of the rule.

How does this Rule work with the school bus S endorsement in G.S. 20-37.16(c)? Are the endorsement and certificate two different things, both being required to drive a school bus?

Throughout this Rule, I take it the "School Bus and Traffic Safety Representative" is the representative designated by the Commissioner and the Director of Transportation, correct?

In (1), do you mean "county" instead of "district?" G.S. 20-218(a) refers to "a designee of the Director in charge of school buses in the county."

In (1), do certification records go to the "School Bus and Traffic Safety Representative" or to the county superintendent? See G.S. 20-218(a).

At line 5, please capitalize "State" if you are only referring to North Carolina.

At line 10, please use "shall" instead of "must."

In (2), where is your statutory authority to require bus drivers to "meet all requirements of the school system?" Where is your authority to delegate the ability to set these requirements?

In (2), where is your statutory authority to delegate authority to "school officials" to require training for bus drivers? Which school officials have this authority?

In (2), where is your authority to set different certification requirements for bus drivers in different school districts of the State? G.S. 20-218(a) says "...showing that the person has been examined by them and is fit and competent to drive a school bus over the highways and public vehicular areas of the State."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel

Date submitted to agency: April 27, 2021

1 19A NCAC 03G .0208 is readopted as published in 35:14 NCR 1569-1572 without changes as follows:

2
3 **19A NCAC 03G .0208 TRANSFER OF CERTIFICATION**
4

5 Certification as a school bus driver may be transferred from any part of this state to any other, under the following
6 conditions:

- 7 (1) All records compiled by the ~~Driver Education Specialist School Bus and Traffic Safety~~
8 Representative in the former district for which the driver drove shall be forwarded to the ~~Driver~~
9 ~~Education Specialist School Bus and Traffic Safety Representative~~ in the new district.
10 (2) The driver must meet all requirements of the school system in the new district and ~~accept complete~~
11 any training which may be required by school officials and the ~~Driver Education Specialist School~~
12 Bus and Traffic Safety Representative working in that area.
13

14 *History Note: Authority G.S. 20-39(b); 20-218;*
15 *Eff. April 1, ~~1989~~.1989;*
16 *Readopted Eff. June 1, 2021.*

1 19A NCAC 03G .0212 is repealed through readoption as published in 35:14 NCR 1569-1572 as follows:

2
3 **19A NCAC 03G .0212 DATE OF CANCELLATION**

4
5 *History Note: Authority G.S. 20-39(b); 20-218;*

6 *Eff. April 1, 1989;*

7 *Amended Eff. December 1, ~~1993~~, 1993;*

8 *Repealed Eff. June 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03G .0301

DEADLINE FOR RECEIPT: May 11, 2021

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Please remove the extra line between the rule name and body of the rule.

Why is (a) necessary? It repeats G.S. 20-7(m)(1).

At line 8, define "qualified students."

At 8-9, when you say "when requested to do so from the school," are you saying the school submits the application mentioned in 20-7(m)? If so, please make that clear.

In your History Note, why is G.S. 20-1 listed? Does that statute grant authority for this Rule?

In your History Note, why is G.S. 20-88.1 listed? Portions of that statute were repealed in 2011 and 2014. Does the remaining language grant authority for this Rule?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

1 19A NCAC 03G .0301 is readopted as published in 35:14 NCR 1569-1572 without changes as follows:

2
3 **19A NCAC 03G .0301 DRIVER EDUCATION PERMIT**

4
5 (a) North Carolina G.S. 20-7(m) provides for issuance of a restricted instruction permit to persons under the age of
6 18 enrolled in driver education.

7 (b) The student's vision and physical condition shall be checked and the results recorded on the permit. A School
8 Bus and Traffic Safety Representative ~~driver education specialist~~ shall issue this permit to qualified students, when
9 requested to do so by the school.

10
11 *History Note: Authority G.S. 20-1; 20-7(m); 20-39; 20-88.1;*

12 *Eff. July 1, 1978;*

13 *Amended Eff. December 1, 1993; November 1, 1991; February 1, ~~1982~~, 1982;*

14 *Readopted Eff. June 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03I .0303

DEADLINE FOR RECEIPT: May 11, 2021

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Please delete the extra line 4.

Does this Rule govern the requirements for a commercial driving school to obtain a license as discussed in G.S. 20-322, the authority cited in your history note? If so, please make that clear.

At line 5, please use "shall only" instead of "may only" if that is your intent.

Line 6, why specify these are "minimum requirements?" All rules set minimum requirements.

In (1), please consider deleting "minimum overall size of not less than." All rules set minimum requirements. If you keep this, please either say "minimum size" or "not less than" to avoid being repetitive. Please also consider deleting "at least" at line 8.

At line 8, please use "his or her."

In (2), please capitalize "State" if you are only referring to North Carolina.

In (3), just to be sure, do you still require "blackboards" in classrooms?

At line 13, please add a comma after "mock-ups."

At line 15, which textbooks are on the "approved list."

In (4), since this list already sets requirements please consider deleting "must be provided."

In (4), please delete or clarify under what circumstances restroom facilities are "sufficient" for the class size? How do you determine whether a classroom facility meets the requirement in (4)?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

1 19A NCAC 03I .0303 is readopted as published in 35:14 NCR 1569-1572 without changes as follows:

2
3 **19A NCAC 03I .0303 CLASSROOM FACILITY**

4
5 Classwork may only be conducted in locations approved by the Division of Motor Vehicles. The classroom facility
6 shall meet the following minimum requirements:

- 7 (1) a minimum overall size of not less than 120 square feet, which ~~feet (which~~ includes at least 70
8 square feet for the instructor and his equipment and at least 12 square feet for each student;
9 ~~student~~);
- 10 (2) lighting, heating, and ventilation systems that are in compliance with all state and local laws and
11 ordinances including ~~including, but not limited to,~~ zoning, public health, safety, and sanitation;
- 12 (3) seats and writing surfaces for all students; blackboards visible from all seats; charts, diagrams,
13 mock-ups and pictures relating to the operation of motor vehicles, traffic laws, physical forces,
14 and correct driving procedures; a copy of the Driver's Handbook published by the Division for
15 each student; and a textbook from the approved list for each student; and
- 16 (4) restroom facilities sufficient for the class size must be provided.

17
18 *History Note:* ~~Authority G.S. 20-322 through 20-324;~~
19 ~~Eff. July 2, 1979;~~
20 ~~Amended Eff. December 1, 1993; November 1, 1991; April 1, 1989; June 1, 1982; 1982-1982;~~
21 ~~Readopted Eff. June 1, 2021.~~

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03I .0307

DEADLINE FOR RECEIPT: May 11, 2021

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Please delete the blank line 4.

Throughout this Rule, please change "must" to "shall."

Throughout this Rule, when creating a list please either make each item in the list a sentence beginning with a capital letter and ending with a period or begin each item in the list with a lowercase letter and end in a semicolon.

In (1)(a), line 9, please change "may" to "shall" if that was your intent.

In (1)(d), you refer to a person holding a "driver's license." However, (1) only applies to "unlicensed persons." Please clarify.

In (2), please add a comma after "licensed persons."

Please review (3) for statutory authority. Does DMV set the curriculum or does the State Board of Education? See G.S. 115C-215(a) and (b). I note courses given by high schools are exempt from your listed statutory authority by G.S. 20-236. If the DMV and the State Board set the curriculum together, did the State Board approve this Rule? Also, throughout (3) when you refer to the Superintendent did you intend to refer to the State Board?

On page 1, line 30, consider deleting "no more than" because it repeats "shall be limited to."

In (3)(a)(iv), please replace the semicolon after "laws" with a comma.

In (3)(a)(vii) and (viii), please replace the semicolon after "impaired" and "persons" with a colon to match the other items in the list.

In (3)(b), is the correct terminology "behind" the wheel or "under" the wheel?

In (3)(b)(i), please change the semicolons to commas, except for the one after "traffic."

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

In (3)(b), please delete the “and” at the end of (i) and move it to the end of (b)(ii): “to complex situations; and”

In (3)(b)(iii), do you mean “shall not” instead of “may not.”

In (3)(c)(ii), please delete or define “immediate.”

In (3)(c)(iii), is it necessary to say “i.e. mere presence in the car while someone else is driving” since you already say “shall not include any hours of observation of other students?”

In (3)(c)(iv), please change “may not” to “shall not.”

Throughout (3)(d), when you refer to forms, are the contents or substantive requirements of those forms in rule in accordance with 150B-2(8a)(d)?

In (3)(d)(iii), under what circumstances are instructors approved? How does this process work? Is it in rule?

In (d)(d)(v), please delete the “or” before “the superintendent” since you have an “or” at the end of the list.

In (3)(d)(viii), please insert a cross reference to the rules requiring reports.

Please clarify the meaning of (3)(e). I thought students could already contract for the behind-the-wheel instruction as mentioned in (3)(c)(i) and (iv). Why is (e) necessary?

On page 4, lines 15-16, what rules are you referring to? Can you provide a cross reference?

On page 4, line 18, please delete or define “fully” and “properly.”

Page 4, line 19, why is “Instructor Trainers” capitalized?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

1 19A NCAC 03I .0307 is readopted as published in 35:14 NCR 1569-1572 without changes as follows:

2
3 **19A NCAC 03I .0307 COURSES OF INSTRUCTION**
4

5 Commercial driver training schools may teach the following courses:

6 (1) For unlicensed persons 18 years of age or older, a course as follows:

7 (a) Classroom Instruction. A minimum of six hours, including ~~(but not limited to)~~ rules of
8 the road and other laws affecting the operation of motor vehicles, safe driving practices,
9 pedestrian safety, and the general responsibilities of the driver. No class may consist of
10 more than 50 students. Classroom work shall be limited to no more than six hours per
11 day.

12 (b) Behind-the-Wheel Instruction. A minimum of six hours, including instruction and
13 practice in all the basic physical skills necessary for proper control of a motor vehicle in
14 all normal driving situations, such as starting, stopping, steering and turning, controlling
15 the vehicle in traffic, backing, and parking. A valid learner's permit issued by the Driver
16 License Section of the Division is required.

17 (c) A person holding a valid learner's permit issued by the Driver License Section of the
18 Division shall not be required to take the six hours of classroom instruction set forth in
19 Sub-item (1)(a) of this Rule.

20 (d) A person holding a valid learner's permit or driver's license issued by the Driver License
21 Section of the Division may contract for any portion of the six-hour behind-the-wheel
22 instruction.

23 (2) For licensed persons a course for purposes of driver improvement, such as improving their
24 knowledge and skill in the operation of a motor vehicle.

25 (3) For unlicensed persons under the age of 18 years, a course which must be approved by the
26 Commissioner and the State Superintendent of Public Instruction as follows:

27 (a) Classroom Instruction shall not include workbook assignments or other work out of the
28 presence of an instructor. An instructor or employee of a commercial driver education
29 school shall not administer a proficiency test. No class may consist of more than 50
30 students. Classroom work shall be limited to no more than three hours per day on school
31 days and six hours per day on non-school days. A minimum of 30 hours shall be taught,
32 consisting of instruction in:

- 33 (i) highway transportation: its social and economic influences upon life in America;
34 (ii) drivers: their physical and mental characteristics and how their capabilities and
35 limitations influence the traffic scene;
36 (iii) the automobile: its construction, maintenance, and safe operation;
37 (iv) traffic law and enforcement: laws of nature and man-made laws; and their

- relationship to traffic safety;
- (v) pedestrians and bicycles: their influence upon the traffic scene;
 - (vi) engineering: its influence upon automobiles, highways, traffic controls, and people;
 - (vii) driving while impaired; six hours of instruction on the effects of drinking upon driving and upon accident and death rates; and
 - (viii) rights and privileges of handicapped persons; their rights to use flags, placards, cards, license plates, and parking places.
- (b) Behind-the-Wheel Instruction. A minimum of six hours, actually under the wheel, including:
- (i) familiarization with the automobile; the use of its controls; and the development of skills essential to safe operation in traffic; and
 - (ii) driving in traffic with the instructor in a dual control car to develop abilities needed to follow the soundest course of action in responding to complex situations.
 - (iii) simulators may not be substituted for any part of the six hours of behind-the-wheel instruction.
- (c) Restrictions:
- (i) Behind-the-Wheel instruction shall be offered to a student only after he or she has completed the classwork section. If a student has contracted for both classwork and behind-the-wheel training, behind-the-wheel training may begin after classwork starts and before classwork has been completed. At no time shall a student be taken out of class to attend behind-the-wheel training.
 - (ii) No student shall operate a motor vehicle upon any public street or highway unless such student shall have in his or her immediate possession a valid Restricted Instruction Permit issued by the Division.
 - (iii) No more than two hours of behind-the-wheel training shall be given in any one day. A written record indicating the date and time of this training shall be kept on file for each student. The record must be signed by the student in ink after each driving session, and shall not include any hours of observation of other students, i.e. mere presence in the car while someone else is driving.
 - (iv) Whether private, or a contract with a school system, an instructor may not provide behind-the-wheel training to more than three individuals at a time. ~~time, individuals.~~ If transporting more than three individual students at a time, the instructor shall operate the vehicle.
- (d) Other requirements:
- (i) Plans for the content of the curriculum, its organization, and presentation shall

- 1 be submitted on Form SBTS-610 found at www.ncdot.gov/dmv for the approval
2 of the Commissioner and the State Superintendent of Public Instruction. In
3 addition, lesson plans for each of the 30 hours must be submitted.
- 4 (ii) Textbooks for use in the classwork section shall be chosen from those approved
5 by the State Superintendent of Public Instruction.
- 6 (iii) Instructors must be approved by both the Commissioner and the State
7 Superintendent of Public Instruction.
- 8 (iv) All expenses incurred in offering and teaching these courses shall be paid by the
9 persons enrolled therein or the school offering the course.
- 10 (v) A student may enroll for either the classroom work or behind-the-wheel
11 instruction, or both. A school may accept certification of completion of
12 classroom instruction from any school authorized to offer such a course,
13 provided the certificate (Form SBTS-611A) is signed by the principal of the
14 public school, or the superintendent of the administrative unit of which it is a
15 part, or the executive officer of a non-public secondary school. All SBTS-611A
16 forms shall be mailed or taken directly to the high school for completion by the
17 commercial school owner or instructor. Under no circumstances shall the form
18 be given to the student.
- 19 (vi) Schools offering this course shall issue to their students upon completion of
20 either or both parts of the course a certificate furnished by the Division (Form
21 SBTS-611). This certificate verifies only the training taught by the commercial
22 school. The student's name on this certificate must be as it appears on his or her
23 birth certificate. Schools shall be accountable to the Division for all certificates
24 issued to them.
- 25 (vii) The student, upon submitting certification of satisfactory completion of both
26 parts of the driver education course, shall be eligible for licensing as provided by
27 law. Such certification may be from either or both a public or non-public
28 secondary school or a commercial driver training school.
- 29 (viii) Schools shall submit reports to the Division, as may be required by the Division
30 Rules and their books and records shall be open to inspection by Division
31 representatives at all reasonable times.
- 32 (e) A person completing the 30 and six hour course who desires additional training may
33 contract for any portion of the six-hour behind-the-wheel instruction.
- 34 (4) For licensed persons taking a course offered by a restricted commercial driver training school, the
35 following courses are authorized:
- 36 (a) curriculum for evaluation and improvement for licensed adult drivers only, utilizing over-
37 the-road observation in vehicles not owned by the school or equipment such as driving

- 1 simulators;
- 2 (b) professional curricula, including one or more of the following:
- 3 (i) police pursuit driving;
- 4 (ii) auto-cross driving;
- 5 (iii) emergency-vehicle driving; or
- 6 (iv) road and track racing.
- 7 (5) Instructor training program, the requirements for which are:
- 8 (a) The school must be licensed for one full year prior to approval;
- 9 (b) all work must be with an instructor licensed as an Instructor Trainer;
- 10 (c) a proposed plan of operation must be submitted to the Division outlining the training
- 11 schedule, including:
- 12 (i) instruction in:
- 13 (A) using effective teaching methods,
- 14 (B) writing lesson plans,
- 15 (C) reviewing of Rules Governing the Licensing of Commercial Driver
- 16 Training Schools and Instructors,
- 17 (D) using audio visual equipment and teaching aids,
- 18 (E) filling out fully and properly all commercial school forms, and
- 19 (ii) listing names of Instructor Trainers to be employed for the training program.
- 20

21 *History Note: Authority G.S. 20-321; 20-322; 20-323; 20-324;*

22 *Eff. July 2, 1979;*

23 *Amended Eff. August 1, 2000; July 1, 1994; December 1, 1993; November 1, 1991; April 1,*

24 *~~1989-1989;~~*

25 *Readopted Eff. June 1, 2021.*

26

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28

29

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03I .0402

DEADLINE FOR RECEIPT: May 11, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

The Rule name is currently in the Code as "Registration: Insurance: Inspection." Please either update the rule name to match what is currently in the Code or show it as a change if you intentionally deleted the second colon.

Please delete the blank line 4.

In (a), please provide a more specific citation. Alternatively, is (a) necessary? If registration and the inspection statute are already required by statute or another rule, do you need to keep (a)?

In (c), can you provide a cross reference to the rules you are referring to in the first sentence?

In (c), just to be sure, I read this to require two inspections per year, correct? If so, what does the 2nd inspection look for? Is it a second check of the first inspection or is something else being inspected? Please clarify.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

1 19A NCAC 03I .0402 is readopted as published in 35:14 NCR 1569-1572 without changes as follows:

2
3 **19A NCAC 03I .0402 REGISTRATION: INSURANCE INSPECTION**
4

5 (a) Each vehicle used by the school shall be registered as required by G.S. 20, and bear a current inspection
6 certificate.

7 (b) Each vehicle used by the school shall be insured by a company licensed to do business in North Carolina against
8 liability in the amount of at least ~~\$50,000 fifty thousand dollars (\$50,000)~~ because of injury to or destruction of
9 property of others in any one accident, ~~\$100,000 one hundred thousand dollars (\$100,000)~~ because of bodily injury
10 to or death of one person in any one accident, and ~~\$300,000 three hundred thousand dollars (\$300,000)~~ because of
11 bodily injury to or death of two or more persons in any one accident. This insurance coverage shall be secured on an
12 annual basis. In the event coverage for any vehicle used for driver instruction or training shall not be renewed, the
13 school shall give written notice to the Division at least 10 days prior to the expiration date of the coverage. A
14 certificate of insurance coverage shall be filed by the insurance underwriter with the Division. Cancellation shall be
15 accomplished upon 15 days prior written notice to the Division by the insurance underwriter.

16 (c) Each vehicle used by a school shall be listed and inspected in the manner prescribed by the Division of Motor
17 Vehicle rules. In addition, each vehicle shall be inspected and approved by a representative of the Division before it
18 is used. Each vehicle shall be inspected and approved by a representative of the Division annually. ~~annually and at~~
19 ~~any other reasonable time as indicated by the circumstances.~~

20
21 *History Note: Authority G.S. 20-321; 20-322; ~~20-323; 20-324;~~*
22 *Eff. July 2, 1979;*
23 *Amended Eff. August 1, 2000; May 1, ~~1987-1987;~~*
24 *Readopted Eff. June 1, 2021.*
25
26

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03I .0501

DEADLINE FOR RECEIPT: May 11, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Throughout this Rule, please delete or define "immediately."

Please delete the blank line 4.

In (a)(1), is it necessary to say "at least?" Rules always set minimum requirements.

In (a)(2), which misdemeanors involve moral turpitude? If I am applying to be an instructor, how do I know if a prior offense falls into that category or not?

Related, do you have authority to restrict licensure based upon criminal history? See G.S. 93B-8.1?

In (a)(2), please delete or define "immediately."

In (a)(6), capitalize "Commissioner."

In (a)(6), what is an "approved" Commercial Driver Training School? Do you mean "licensed" instead of "approved?"

Throughout this Rule, who is a "Driver Education Specialist?" Why is that term capitalized?

In (a)(7), (8), and (12), delete or define "successfully."

In (a)(12), did you intend to refer to the State Board of Education instead of DPI? See 115C-215(e).

In (b), line 32, please refer to "Subparagraphs (a)(1) through (10) of this Rule."

In (b)(2) and (3), delete or define "successfully."

In (b)(3), please use either "behind-the-wheel" or "behind the wheel."

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

In (b)(5), please refer to “Subparagraphs (b)(2), (3), and (4) of this Rule.”

In (b)(5), did you intend to refer to the State Board of Education?

In (c)(2), where is your statutory authority for the \$8 fee?

In (c)(5) and (6), delete or define “successfully.”

In (c)(8), what is required to “requalify?” Is there a renewal process or do instructors go through the same process each year? To the extent you keep the current language, please change “must” to “shall.”

In your history note, why is 20-35 listed as authority for this Rule? G.S. 20-35 governs penalties for violating “this Article,” meaning G.S. 20, Article 2. The statutes related to this Rule and driver training schools are in G.S. 20, Article 14.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

1 19A NCAC 03I .0501 is readopted as published in 35:14 NCR 1569-1572 without changes as follows:

2
3 **19A NCAC 03I .0501 REQUIREMENTS**
4

5 (a) Each instructor of a commercial driver training school or branch shall:

- 6 (1) have at least four years of experience as a licensed operator of a motor vehicle;
- 7 (2) not have been convicted of a felony, or convicted of a misdemeanor involving moral turpitude, in
8 the ~~10~~^{ten} years immediately preceding the date of application;
- 9 (3) not have had a revocation or suspension of his driver's license in the five years immediately
10 preceding the date of application;
- 11 (4) have graduated from high school or hold a high school equivalency certificate;
- 12 (5) not have had convictions for moving violations totaling five or more points in the three years
13 preceding the date of application;
- 14 (6) have completed the 80-contact-hour, community-college course for driver education teachers; an
15 equivalent course approved by the commissioner, or an Instructor Training Program conducted by
16 an approved Commercial Driver Training School within four years prior to application;
- 17 (7) successfully complete the written test administered by a Driver Education Specialist; (Allowed
18 only one retest)
- 19 (8) successfully complete the Miller Road Test given by a Driver Education Specialist; (Allowed only
20 one retest)
- 21 (9) be issued an instructor's learning permit, valid for a three month probationary period;
- 22 (10) submit a criminal background check from the Clerk of Court for each county of residence for the
23 past 10 years;
- 24 (11) be observed, evaluated, and recommended by a Driver Education Specialist within the three month
25 probationary period; and
- 26 (12) be exempt from the 80-contact-hour basic course, Miller Road Test, and the probationary period if
27 the applicant is an accredited driver education teacher with a current certificate based on the
28 requirements of the Department of Public Instruction and if he or she successfully completes the
29 written Commercial Driver Education exam with a score of 80 or above, and if the test is
30 administered by a Driver Education Specialist. The applicant is allowed only one retest.

31 (b) An applicant will be issued an instructor's learner's permit which will be valid for three months. To be eligible
32 for an instructor's learner's permit, the applicant shall meet requirements in Paragraph (a)(1) through (10) of this
33 Rule and shall:

- 34 (1) submit an Instructor Application with a sixteen dollar (\$16.00) application fee, copy of high
35 school diploma or high school equivalency certificate, and physical examination form;
- 36 (2) successfully conduct two hours of classroom instruction within the three-month probationary
37 period, while being observed and evaluated by a Driver Education Specialist, if the instructor

- 1 wants to be licensed as a classroom instructor;
- 2 (3) successfully conduct two hours of behind-the-wheel instruction within the three-month
- 3 probationary period, while being observed and evaluated by a Driver Education Specialist, if the
- 4 instructor wants to be licensed for behind the wheel instruction;
- 5 (4) be recommended by a Driver Education Specialist to receive an instructor's license;
- 6 (5) be exempt from Paragraph (b)(2), (3), and (4) of this Rule if the applicant is an accredited driver
- 7 education teacher with a current certificate based on the requirements of the Department of Public
- 8 Instruction.
- 9 (c) An instructor at an approved commercial driver training school may apply for an Instructor Trainer license. The
- 10 Instructor Trainer shall:
- 11 (1) have five consecutive years as an active licensed instructor;
- 12 (2) submit an application for Instructor Trainer License with a fee of eight dollars (\$8.00);
- 13 (3) complete two hours of classroom observation by a Driver Education Specialist while training
- 14 instructors, not driver education students;
- 15 (4) complete two hours of behind-the-wheel observation by a Driver Education Specialist while
- 16 training instructors, not driver education students;
- 17 (5) successfully complete the written test administered by a Driver Education Specialist; (Allowed
- 18 only one retest)
- 19 (6) successfully complete the Miller Road Test given by a Driver Education Specialist; (Allowed only
- 20 one retest)
- 21 (7) be recommended by a Driver Education Specialist;
- 22 (8) must requalify each school year.

23

24 *History Note: Authority G.S. 20-35; 20-322; 20-323; 20-324;*

25 *Eff. July 2, 1979;*

26 *Amended Eff. August 1, 2000; April 1, 1999; August 1, 1994; December 1, 1993; November 1,*

27 *1991; September 1, ~~1990~~1990;*

28 *Readopted Eff. June 1, 2021.*

29

30

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03J .0201

DEADLINE FOR RECEIPT: May 11, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Does this Rule apply to commercial driver training schools or commercial truck driver training schools? Please clarify in the rule.

Throughout this Rule, is it necessary to say "at least?" Rules always set minimum requirements.

In (a)(3)(A), which misdemeanors involve moral turpitude?

In (a)(3)(A) and (C), delete or define "immediately."

In (a)(3)(C), I think you need to delete the "or" after "classified" at line 17.

Where is your statutory authority for (a)(4)?

Please clarify who Paragraph (b) applies to. Is it any school recruiting in North Carolina, including those based in North Carolina? If you are requiring a bond of schools not licensed, where is your statutory authority to require a surety bond? As I read it, 20-322 lists the requirements for a license.

In your History Note, why are 20-320, 20-324, 20-325, 20-326, 20-327, and 20-328 listed?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

1 19A NCAC 03J .0201 is readopted as published in 35:14 NCR 1569-1572 without changes as follows:

2
3 **19A NCAC 03J .0201 REQUIREMENTS**

4 (a) The Division shall not issue a commercial driver training school license to any individual, partnership, group,
5 association, or corporation unless:

- 6 (1) The individual, partnership, group, association, or corporation has at least one motor vehicle
7 registered or leased in the name of the school, which vehicle has been inspected by a representative
8 of the Division and vehicle insurance certified as required by this Subchapter for use by the school
9 for driver training purposes and driver instruction.
- 10 (2) The individual, partnership, group, association, or corporation has at least one person licensed by
11 the Division as a commercial driver training instructor for that school.
- 12 (3) Each manager or owner-operator of a commercial driver training school or branch shall:
- 13 (A) be of good moral character which is defined as not having been convicted of a felony or
14 misdemeanor involving moral turpitude in the five years immediately preceding the date
15 of application;
- 16 (B) be at least 18 years of age; and
- 17 (C) not have had a revocation or suspension of his or her operator's ~~classified or chauffeur's~~
18 license in the two years immediately preceding the date of application.
- 19 (4) In the case of a foreign commercial driver training school, recruiting in North Carolina, the school
20 submits the following items to the Division:
- 21 (A) a copy of the school's license;
- 22 (B) a course description, including topics taught and the length of the course;
- 23 (C) a list of equipment available for training;
- 24 (D) a copy of the contract complete with the fee charged; and
- 25 (E) the names of the persons who represent the school in North Carolina; provided,
26 Subparagraphs (a)(1) and (a)(4)(C) of this ~~Paragraph~~ Rule shall not apply to schools
27 offering seminar training only.

28 (b) All commercial driver training schools recruiting in North Carolina shall submit to the Division a surety bond in
29 the amount of \$30,000 ~~thirty thousand dollars (\$30,000)~~ for schools offering courses of instruction of 160 hours or
30 more and \$10,000 ~~ten thousand dollars (\$10,000)~~ for schools offering seminar training only.

31
32 *History Note:* Authority G.S. 20-320; 20-321; 20-322; 20-323; 20-324; 20-325; 20-326; 20-327; 20-328;
33 Eff. May 1, 1987;
34 Amended Eff. August 1, 2002; January 1, 1994; February 1, ~~1991~~ 1991;
35 Readopted Eff. June 1, 2021.
36

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03J .0204

DEADLINE FOR RECEIPT: May 11, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

At line 7, is the zip code "27804-0001?"

In your History Note, why is G.S. 20-320 listed? Does it convey authority for this Rule?

In your History Note, please insert dashes in the statutes.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

1 19A NCAC 03J .0204 is readopted as published in NCR 1569-1572 without changes as follows:

2
3 **19A NCAC 03J .0204 DUPLICATE COPIES**

4 All applications, either original or renewal, for a commercial driver training school or branch shall be completed in
5 duplicate. The original copy of each form shall be submitted to the Enforcement Commercial Driver License (CDL)
6 Compliance Section of the Division of Motor Vehicles, ~~Vehicles at the following address: 1100 New Bern Avenue,~~
7 ~~Raleigh, North Carolina 27697-0001.~~ 1417 North Church Street, Rocky Mount, North Carolina 27804 0001. A copy
8 of each form shall be filed at the place of business.

9
10 *History Note: Authority G.S. 20 320; 20 321; 20 324;*
11 *Eff. May 1, 1987;*
12 *Amended Eff. August 1, 2002; February 1, ~~1991~~ 1991;*
13 *Readopted Eff. June 1, 2021.*
14
15

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03J .0303

DEADLINE FOR RECEIPT: May 11, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Throughout this Rule, please change "must" to "shall."

At line 4, is it necessary to say "minimum?" All rules set minimum requirements.

In (1), is it necessary to say "minimum," "not less than," and "at least?"

At line 5, replace "includes" with "including."

At line 6, please say "his or her."

In (2), please capitalize "State" if you are only referring to North Carolina.

In (4), under what circumstances are restroom facilities considered "sufficient for the class size?"

At line 19, close the parentheses after "CDL."

Please review the statutes in the History Note and only retain the ones that provide authority for this Rule.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

1 19A NCAC 03J .0303 is readopted as published in 35:14 NCR 1569-1572 without changes as follows:

2
3 **19A NCAC 03J .0303 CLASSROOM FACILITY**

4 The classroom facility shall meet the following minimum requirements:

- 5 (1) A minimum overall size of not less than 120 square ~~feet, feet (which~~ includes at least 70 square feet
6 for the instructor and his equipment and at least 12 square feet for each ~~student, student).~~
7 (2) Lighting, heating, and ventilation systems that are in compliance with all state and local laws and
8 ordinances ~~including including, but not limited to,~~ zoning, public health, safety, and sanitation.
9 (3) Seats and writing surfaces for all students; blackboards ~~or whiteboards~~ visible from all seats; charts,
10 diagrams, mock-ups, and pictures relating to the operation of motor vehicles, traffic laws, physical
11 forces, and correct driving procedures; a copy of the Driver's Handbook published by the Division
12 for each student; and other textbooks deemed necessary by the instructor.
13 (4) Restroom facilities sufficient for the class size must be provided.
14 (5) Covered shelter must be provided for students when on the field range to protect them from the
15 weather when not driving.
16 (6) Seminar only courses must provide seats and writing surfaces for all students and printed
17 instructional materials deemed necessary by the instructor. Seminars may be conducted at any
18 location meeting the requirements in this Rule provided prior notice is given to and approval is given
19 by the ~~Enforcement~~ Commercial Driver License (CDL Compliance Section.
20

21 *History Note: Authority G.S. 20-320 ~~through 20-328~~; 20-321; 20-322; 20-323; 20-324; 20-325; 20-326; 20-327;*
22 *20-328;*
23 *Eff. May 1, 1987;*
24 *Amended Eff. January 1, 1994; February 1, ~~1991~~-1991;*
25 *Readopted Eff. June 1, 2021.*
26

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03J .0305

DEADLINE FOR RECEIPT: May 11, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

At line 8, do you mean "rule" instead of "regulation?"

In your History Note, why is 20-320 listed?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

1 19A NCAC 03J .0305 is readopted as published in 35:14 NCR 1569-1572 without changes as follows:

2
3 **19A NCAC 03J .0305 INSPECTIONS**

4 The Division shall make periodic ~~inspections, at least annually, inspections (at least annually)~~ of schools and branches
5 to determine compliance with statutes and rules. The inspection shall be made during ~~regular~~ business hours by
6 authorized representatives of the Division. Inspections shall include examination of all school records, contracts,
7 classroom facilities, training devices, instructional materials and instructional methods, vehicles, and any other item
8 required by law or regulation. Each owner, partner, associate, corporate officer, or employee of any commercial driver
9 training school shall cooperate with the Division's representative ~~and, upon request, and, upon demand,~~ shall exhibit
10 all records, instructional aids, equipment, and any other items which are required for the inspection. Refusal to permit
11 inspections shall be grounds for revocation of the license. Records shall be retained by the school for a period of three
12 years.

13
14 *History Note: Authority G.S. 20-320; 20-321; 20-322; 20-323; 20-325; 20-327;*
15 *Eff. May 1, 1987;*
16 *Amended Eff. August 1, 2002; January 1, ~~1994-1994~~;*
17 *Readopted Eff. June 1, 2021.*
18
19
20

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03J .0306

DEADLINE FOR RECEIPT: May 11, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Throughout this Rule, please change "must" to "shall."

Does this Rule apply to commercial truck driving courses? If so, please make that clear.

At line 29 and page 2, line 33, why is "Driver's Daily Log" capitalized?

On page 2, line 6, what "North Carolina law" are you referring to?

In (c)(1)(D), please use "behind-the-wheel" since you used dashes throughout the rest of this Rule.

Page 2, line 18, delete or define "properly."

In (c)(2) and (3), please do not capitalize the first word for each item in the list since each item is not a complete sentence.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

1 19A NCAC 03J .0306 is readopted as published in 35:14 NCR 1569-1572 without changes as follows:

2
3 **19A NCAC 03J .0306 COURSE OF INSTRUCTION**

4 (a) The commercial driving course to be taken by licensed persons who are 18 years old or older must meet the
5 following requirements:

6 (1) Minimum hours of instruction:

- | | | | |
|----|-----|--|----------|
| 7 | (A) | classroom instruction, including testing | 50 hours |
| 8 | (B) | field instruction | 50 hours |
| 9 | (C) | highway behind-the-wheel training | 20 hours |
| 10 | (D) | observation (highway behind-the-wheel) | 40 hours |

11 Total - 160 hours

12 The hours of instruction may be expressed in credit hours provided the school is accredited by an accrediting agency
13 recognized by the United States Department of Education and the conversion ratio of that accrediting agency is
14 properly used.

15 (2) Content of classroom and behind-the-wheel instruction:

- | | | |
|----|-----|---|
| 16 | (A) | laws relating to interstate and intrastate operations; |
| 17 | (B) | pre-trip inspection; |
| 18 | (C) | coupling and uncoupling of combination units, if the equipment to be driven includes such |
| 19 | | units; |
| 20 | (D) | placing the vehicle in operation; |
| 21 | (E) | use of the vehicle's controls and emergency equipment; |
| 22 | (F) | operation in inner-city and interstate highway traffic and passing; |
| 23 | (G) | turning the vehicle; |
| 24 | (H) | braking and slowing the vehicle by means other than applying the brakes; |
| 25 | (I) | backing and parking the vehicle; |
| 26 | (J) | experience operating property hauling vehicles with a minimum gross vehicle weight of |
| 27 | | 49,000 pounds or experience operating passenger motor coach vehicles having a minimum |
| 28 | | capacity of 46 persons; and |
| 29 | (K) | completing Driver's Daily Log books. |

30 (3) Other ~~requirements include:~~ requirements:

- | | | |
|----|-----|--|
| 31 | (A) | the 160 hours of instructions required by this Rule shall be completed in no less than four |
| 32 | | calendar weeks; |
| 33 | (B) | three hours of the 20 hours of behind-the-wheel highway training must be completed by |
| 34 | | each student between dusk and dawn; |
| 35 | (C) | one vehicle must be provided for each three students during highway training. Four |
| 36 | | students per vehicle are permitted if the vehicle has been inspected and approved by the |
| 37 | | Division. The Division shall approve the vehicle if it determines the vehicle will seat four |

1 people. No more than four students per vehicle and no more than four vehicles per
2 instructor shall be allowed for field training; and

3 (D) a Driver's Daily Log must be kept for each student to reflect the 160 hours of instruction.

4 ~~(b) Credit for Prior Instruction.~~ Credit for prior instruction or training given by another agency or school may be
5 granted. Such credit may be granted by the school to which the candidate is applying if the prior instruction or training
6 is equivalent to the corresponding part or parts of the course required by North Carolina law and if such credit is
7 confirmed and authorized as equivalent by the Enforcement Section of the Division.

8 (c) In addition to the course requirements of Paragraph (a) of this Rule, schools may offer a "Refresher Course" which
9 shall meet the following requirements:

10 (1) Minimum hours of instruction shall total 80 hours as follows:

11 (A) Classroom instruction, labs, and testing	25 hours
12 (B) Field instruction	25 hours
13 (C) Highway behind the wheel training	10 hours
14 (D) Observation (highway behind the wheel)	20 hours
15 Total - 80 hours	

16 The hours of instruction may be expressed in credit hours provided the school is accredited by an accrediting agency
17 recognized by the United States Department of Education and the conversion ratio of that accrediting agency is
18 properly used.

19 (2) Content of Classroom and behind the wheel instruction shall be as follows:

20 (A) Laws relating to interstate and intrastate operations;

21 (B) Pre-trip inspection;

22 (C) Coupling and uncoupling of combination units, if the equipment to be driven includes such
23 units;

24 (D) Placing the vehicle in operation;

25 (E) Use of the vehicle's controls and emergency equipment;

26 (F) Operation in inner-city and interstate highway traffic and passing;

27 (G) Turning the vehicle;

28 (H) Braking and slowing the vehicle by means other than applying the brakes;

29 (I) Backing and parking the vehicle;

30 (J) Experience operating property hauling vehicles with a minimum gross weight of 49,000
31 pounds or experience operating passenger motor coach vehicles having a minimum
32 capacity of 46 passengers; and

33 (K) Completing Drivers Daily Log books.

34 (3) Other requirements are as follows:

35 (A) The 80 hours of instruction required by this Rule shall be completed in no less than two
36 calendar weeks;

37 (B) Two hours of the 10 hours behind the wheel highway training shall be completed by each

1 student between dusk and dawn;

- 2 (C) One vehicle must be provided for each three students during highway training. Four
3 students per vehicle are permitted if the vehicle has been inspected and approved for such
4 use by the Division. The Division shall approve the vehicle if it determines the vehicle will
5 seat four people. No more than four students shall be allowed per vehicle for field training;
6 and;
7 (D) A drivers log must be kept for each student to reflect the 80 hours of instruction.

8
9 *History Note:* Authority G.S. 20-321; 20-322; 20-323;

10 *Eff. May 1, 1987;*

11 *Amended Eff. August 1, 2002; August 1, 1998; April 1, 1997; January 1, 1994; May 1, ~~1990~~1990;*

12 *Readopted Eff. June 1, 2021.*
13
14
15

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03J .0307

DEADLINE FOR RECEIPT: May 11, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Please use active voice by saying who shall do what. Here, consider "The owners or officers of a school shall inform students..."

Please change "must" to "shall."

At line 5, what are the age restrictions established by US DOT? Can you provide a cross reference?

At line 6, has DMV set age restrictions? Are these in rule?

Please review the statutes listed in your history note and only retain those that provide authority for this Rule.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

1 19A NCAC 03J .0307 is readopted as published in 35:14 NCR without changes as follows:

2
3 **19A NCAC 03J .0307 STUDENT REQUIREMENTS**

4 Students 18 years of age or older but less than 21 years of age must be informed by the ~~owner(s)~~ owners or officers
5 of the school of the age restrictions and limitations established by the United States Department of Transportation and
6 the Motor Carrier Safety Unit of the Division of Motor Vehicles.

7
8 *History Note:* ~~Authority G.S. 20-320 through 20-328; 20-321; 20-322; 20-323; 20-324; 20-325; 20-326; 20-327;~~
9 20-328;
10 *Eff. May 1, 1987;*
11 *Amended Eff. April 1, 1997; January 1, 1994; May 1, ~~1990~~ 1990;*
12 *Readopted Eff. June 1, 2021.*
13
14

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03J .0402

DEADLINE FOR RECEIPT: May 11, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

For the Rule name, the Code currently says "Registration: Insurance: Inspection." Please either reflect the name as it appears in the Code or show it has been changed with strikethroughs and underlines.

In (a), lines 4 and 5, when you say "as required by G.S. 20," please provide a more specific citation.

At line 5, what is a "yard vehicle?" Is this defined or is it a term known by your regulated public?

At line 10, please remove the extra space in "in."

In (c), please refer to "49 CFR 396."

At line 16, what does the Division inspect? Is this inspection for compliance with 49 CFFR 396, the Rules of this Section, statutes, or something else?

At lines 17-18, define "reasonable time as indicated by the circumstances?" When do these additional inspections occur? Is it random? Upon report of a violation?

In (d), please change "must" to "shall."

In (d), where is your authority to exempt these vehicles from registration requirements?

In your History Note, please review the listed statutes and only retain statutes that provide authority for this Rule. Please also use dashes (G.S. 20-322) in the listed statutes.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

1 19A NCAC 03J .0402 is readopted as published in 35:14 NCR 1569-1572 without changes as follows:

2
3 **19A NCAC 03J .0402 REGISTRATION: INSURANCE INSPECTION**

4 (a) Each vehicle used by the school on the highway shall be titled and registered as required by G.S. 20 and bear a
5 current inspection certificate. Each yard vehicle used by the school shall be titled as required by G.S. 20.

6 (b) Each vehicle used by the school shall be insured by a company licensed to do business in North Carolina against
7 liability in the amount of at least ~~\$25,000 twenty five thousand dollars (\$25,000)~~ because of injury to or destruction
8 of property of others in any one accident, ~~\$50,000 fifty thousand dollars (\$50,000)~~ because of bodily injury to or death
9 or one person in any one accident, and ~~\$100,000 one hundred thousand dollars (\$100,000)~~ because of bodily injury to
10 or death of two or more persons i n any one accident. This insurance coverage shall be secured on an annual basis. In
11 the event coverage for any vehicle used for driver instruction or training shall not be renewed, the school shall give
12 written notice to the Division at least 10 days prior to the expiration date of the coverage. A certificate of insurance
13 coverage shall be filed by the insurance underwriter with the Division. Cancellation shall be accomplished upon 15
14 days prior written notice to the Division by the insurance underwriter.

15 (c) Each vehicle used by a school shall be listed and inspected in the manner prescribed in CFR 49 Part 396. In
16 addition, each vehicle shall be inspected and approved by a representative of the Division before it is used. Each
17 vehicle shall be inspected and approved by a representative of the Division annually and at any other reasonable time
18 as indicated by the circumstances.

19 (d) Vehicles used for off road field training must be titled, but are not required to meet North Carolina registration
20 requirements.

21
22 *History Note: Authority G.S. 20 320; 20 321; 20 322; 20 323; 20 324; 20 325; 20 327;*
23 *Eff. May 1, 1987;*
24 *Amended Eff. August 1, ~~2002-2002~~;*
25 *Readopted Eff. June 1, 2021.*
26
27

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03J .0601

DEADLINE FOR RECEIPT: May 11, 2021

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

For the first sentence, please consider using active voice. For example, "Students taking a refresher course or a course of 160 hours or more shall contract..."

In (3), please delete or define "substantially."

Why is G.S. 20-320 listed in your History Note?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: April 27, 2021

1 19A NCAC 03J .0601 is readopted as published in 35:14 NCR 1569-1572 without changes as follows:

2
3 **19A NCAC 03J .0601 REQUIREMENTS**

4 Commercial driver training school contracts for students are required if the course of instruction contracted for by the
5 student is a refresher course or a course of 160 hours or more. The contract shall contain ~~contain, but is not limited to,~~
6 the following information:

- 7 (1) The agreed total contract charges and full terms of payment thereof.
- 8 (2) The number, nature, time, and extent of lessons contracted for, including:
- 9 ~~(a)(A)~~ (A) minimum hours of instruction as required in Rule .0306 of this ~~Subchapter;~~ Subchapter;
- 10 and
- 11 ~~(b)(B)~~ (B) rate for use of school vehicle for a driver's license road test, if an extra charge is made.
- 12 (3) A statement which reads substantially as follows: ~~"This~~ This agreement constitutes the entire
13 contract between the school and the student, and any verbal assurances or promises not contained
14 herein shall bind neither the school nor the ~~student.~~ student.
- 15 (4) A statement which reads as follows: ~~"This~~ This school is licensed by the State of North Carolina,
16 Division of Motor ~~Vehicles.~~ Vehicles.
- 17 (5) A statement which reads as follows: ~~"If~~ If you, as a student, are unable to settle a dispute with the
18 school, please direct your grievances to the North Carolina Division of Motor Vehicles,
19 ~~Enforcement Commercial Driver License (CDL) Compliance Section, 1100 New Bern Avenue,~~
20 ~~Raleigh, North Carolina 27697-0001."~~ 1417 North Church Street, Rocky Mount, North Carolina
21 27804-0001.

22
23 *History Note: Authority G.S. 20-320; 20-321; 20-322; 20-323;*

24 *Eff. May 1, 1987;*

25 *Amended Eff. August 1, 2002; August 1, 1998; January 1, 1994; February 1, 1991; May 1,*
26 *~~1990-1990.~~*

27 *Readopted Eff. June 1, 2021.*
28
29