

1 19A NCAC 03A .0105 is adopted as published in 36:03 NCR 112-113 without changes as follows:

2

3 **19A NCAC 03A .0105 GENERAL INFORMATION**

4

5 The following is general information about the Division of Motor Vehicles:

- 6 (1) The mailing address is 3101 Mail Service Center, Raleigh, North Carolina 27697-3101.
- 7 (2) The physical location is 1515 North Church Street, Rocky Mount, North Carolina 27804.
- 8 (3) The web page address is www.ncdmv.org.

9

10 *History Note: Authority G.S. 20-1; 20-2;*

11 *Eff. November 1, 2021.*

12

13

1 19A NCAC 03B .0103 is repealed through readoption as published in 35:18 NCR 2049-2050 without changes as
2 follows:

3

4 **19A NCAC 03B .0103 FORMS**

5

6 *History Note: Authority G.S. 20-7; 20-39;*

7 *Eff. July 1, 1978;*

8 *Amended Eff. November 1, 1991; June 5, ~~1981-1981~~;*

9 *Repealed Eff. November 1, 2021.*

10

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03B .0201

DEADLINE FOR RECEIPT: Wednesday, October 13, 2021

NOTE: This request when viewed on computer extends 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:

In order to match the language on lines 5-7, in (a)(1), please consider adding a comma and "which" after "the knowledge examination" so that it reads "The Knowledge Examination, which is an automated..."

In (a)(2), please consider adding a comma and "which" after "the road sign examination" so that it reads "The Road Sign Examination, which tests the applicant's..."

In (a)(3), please consider adding a comma and "which" after "The road sign examination" so that it reads "The Road Sign Examination, which tests the applicant's..."

In (a)(3), you've deleted the reference to both eyes on line 19, but kept it on line 20. Was this intentional?

In (a)(3), is this requirement waived if the applicant does remote renewal?

In (a)(4), please consider adding a comma and "which" after "the road test"

In (a)(4), in this context, what is meant by "correctly" in "correctly execute"

In (a)(4), do you mean "shall be waived", rather than "may be waived" as is stated in (a)(1) and (2).

In (a)(5), what is meant by "Applicants shall find instructions for remote renewal on the DMV website"? I am concerned that this is essentially rule-making outside of rules? Do you need this language here? If so, I understand that applicants essentially have to go through an online portal to renew electronically, but would it be accurate to say "Eligible applicants who wish to renew remotely by electronic means, may go to www.ncdot.gov/dmv and submit (whatever information is necessary)"? This is not great rule language, but I am hopeful that it helps explain my note.

In (a)(6), who are "eligible applicants"? Please provide the appropriate cross-reference.

What is meant by “The photo requirement instructs”? Would it suffice to say something like “If the applicant for remote renewal has an existing DMV photo on file, no additional photographs are required.”

If you keep the language in (a)(7), please delete or define “newly”

In (b)(5), please add a comma after “more than two years”

Do you still need S.L. 2014-100 as authority in the History Note? It looks like this revised G.S. 20-7 to allow remote renewals and has been incorporated into

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

1 19A NCAC 03B .0201 is readopted as published in 36:03 NCR 112-113 without changes as follows:

2
3 **19A NCAC 03B .0201 DRIVER'S LICENSE EXAMINATION AND ONLINE RENEWAL**

4
5 (a) The Division shall issue a driver's license to any person who ~~passes the tests and meets the requirements listed~~
6 ~~below and is otherwise eligible under G.S. 20 and completes to hold a license.~~ Applicants for a driver's license are
7 ~~subject to the following tests and requirements:~~

- 8 (1) ~~The Knowledge Examination Examination.~~ This is an automated computer ~~test examination that~~
9 ~~tests the applicant's on~~ knowledge of rules of the road. An audio component allows applicants with
10 reading comprehension difficulties to listen to the test questions by use of earphones. Eighty percent
11 of the questions shall be answered correctly ~~in order to pass pass the knowledge examination.~~ For
12 the issuance of a remote renewal, the requirement of a knowledge examination shall be waived.
- 13 (2) ~~The Road Sign Examination tests the applicant's Signs. This is a test on~~ knowledge of highway
14 signs and their meanings. Applicants for a regular Class "~~C~~" C license shall correctly identify ~~nine~~
15 ~~9 of twelve~~ 12 road signs. Applicants for "~~A~~" A or "~~B~~" B licenses shall correctly identify all road
16 signs. For the issuance of a remote renewal, the requirement of the road signs test shall be waived.
- 17 (3) ~~The Visual Acuity Test. The Test examines an~~ applicant's visual ability to identify letters or symbols
18 from a specific distance. The applicant's vision acuity shall be 20/40 or better in at least one ~~either~~
19 ~~eye or both eyes together~~ to receive an unrestricted license. A license ~~is~~ shall be restricted to require
20 corrective lenses if acuity is less than 20/40 in either eye or both eyes together.
- 21 (4) ~~The Road Test Test. The road test~~ measures the applicant's ability to operate a motor vehicle safely
22 in actual traffic situations. The required maneuvers are: quick stop, turnabout, backing, approach
23 corner, right turns, left turns, traffic lights, use of vehicle operating equipment, starts, use of lanes,
24 use of brakes, following, and paying attention. ~~Approval or disapproval Pass or failure is determined~~
25 ~~by the driver license examiner~~ based upon the applicant's ability to correctly execute the required
26 maneuvers. The test is scored by the driver license examiner. For the issuance of a remote renewal,
27 the requirement of a road test may be waived.
- 28 (5) ~~The Remote Renewal allows drivers to remotely renew Renewal. The renewal of a driver's license~~
29 ~~by mail, telephone, mail or electronic device.~~ Applicants ~~will~~ shall find instructions for remote
30 renewal on the Division of Motor Vehicles' Website at <http://www.ncdot.gov/dmv>. A driver's
31 license issued by remote renewal expires in accordance with G.S. 20-7(f)(6)c.
- 32 (6) ~~The Attestation allows an Attestation. An applicant-eligible applicant~~ to make an application
33 for a remote renewal to ~~shall truthfully attest to affirm~~ the following as part of the application for a
34 remote renewal:
- 35 (A) The applicant is a resident of North Carolina; ~~Carolina and currently resides at the address~~
36 ~~listed on the license to be renewed;~~
- 37 (B) The license holder's name as it appears on the license to be renewed has not changed;

- 1 (C) All information provided during the application for a remote renewal has been provided
2 truthfully;
- 3 (D) ~~That the~~ The applicant knows of no change in his or her vision since the last time the
4 applicant passed the visual acuity test in Subparagraph (a)(3) of this Rule that would impair
5 the applicant's ability to safely drive a motor vehicle; and
- 6 (E) That no change in physical or mental abilities has occurred since the last issuance.
- 7 (7) ~~The Photo Requirement instructs that Requirement. The requirement of~~ a newly captured photo in
8 G.S. 20-7(n)(4) shall be waived for an applicant eligible to make application for a remote renewal,
9 providing the applicant has an existing DMV photo on file.
- 10 (8) Upon completion of the remote renewal process, the license shall be renewed if all criteria in G.S.
11 20-7 are met. The applicant ~~may~~ shall use the current license for all ~~legitimate~~ driver license
12 purposes until the license becomes invalid for some other reason, or receipt of the new license card.
- 13 (b) The tests contained in Paragraph (a) of this Rule shall be administered as follows:
- 14 (1) ~~First time applicants.~~ Applicants applying for a driver's license for the first time shall complete the
15 full ~~examination, examination~~ to include the knowledge examination, road signs test, visual acuity
16 test, and road test. Applicants in this Subparagraph are not eligible to apply for remote renewal.
- 17 (2) ~~Renewals and licenses expired less than two years.~~ Applicants seeking to renew a valid, unexpired
18 North Carolina driver's license shall complete the road signs test and visual acuity test, unless the
19 applicant is renewing remotely. Applicants possessing a previously issued North Carolina driver's
20 license, expired less than two years, shall complete the road signs test and visual acuity test. An
21 applicant shall attest during the application for a remote driver license renewal that the applicant
22 knows of no change in his or her vision as set out in ~~Part Subparagraph~~ (a)(6)(D) of this Rule.
- 23 (3) Applicants possessing a previously issued North Carolina driver's license expired greater than two
24 ~~years.~~ Applicants years shall complete the full examination, to include the knowledge examination,
25 road signs test, visual acuity test, and road test. Applicants in this Subparagraph are not eligible to
26 apply for remote renewal.
- 27 (4) ~~Applicants with a driver's license issued by another State, which is valid and current, or expired~~
28 ~~less than two years.~~ Applicants seeking to transfer their current driver's license from another state
29 or applicants possessing a driver's license issued by another state that is expired less than two years
30 shall complete the road signs test and visual acuity test. Applicants in this Subparagraph are not
31 eligible to apply for remote renewal.
- 32 (5) Applicants with a driver's license issued by another state, expired more than two years ~~years.~~
33 ~~Applicants~~ shall complete the full examination, to include the knowledge examination, road signs
34 test, visual acuity test, and road test. Applicants in this Subparagraph are not eligible to apply for
35 remote renewal.
- 36

37 *History Note: Authority G.S. 20-2; 20-7(a),(c),(f); 20-39; S.L. 2014-100, s. 34.8(a), 34.8(b);*

1 *Eff. July 1, 1978;*
2 *Amended Eff. May 4, 2015; May 1, 2014; December 1, 1993; July 1, 1982; June 5, 1981;*
3 *Emergency Amendment Eff. July 22, 2020 to expire pursuant to S.L. 2020-97, ~~s. 3.20~~ s. 3.20;*
4 *Readopted Eff. November 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03B .0301

DEADLINE FOR RECEIPT: Wednesday, October 13, 2021

NOTE: This request when viewed on computer extends 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:

Given G.S. 20-9 and 20-17.1, is this Rule necessary?

If this Rule is necessary, G.S. 20-9(g) references "physical or mental disability that affects his or her ability to exercise control of a motor vehicle." I assume that is what is meant by "Certain illnesses..."?

What is the intent of Paragraph (b)? G.S. 20-9(g) appears to provide the process regarding restrictions related to physical or mental disability. Please review and revise as necessary.

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

Amber May
Commission Counsel
Date submitted to agency: September 29, 2021

1 19A NCAC 03B .0301 is readopted as published in 35:18 NCR 2049-2050 without changes as follows:

2

3 **19A NCAC 03B .0301 ACUTE OR CHRONIC ILLNESSES**

4

5 (a) Certain illnesses such as uncontrolled epilepsy, diabetes, severe vision problems, certain forms of mental illness,
6 ~~alcoholism~~ alcoholism, and ~~others~~, others may make driving unadvisable either temporarily or permanently. Drivers
7 suffering from such an illness may be referred to the Division for evaluation by any one of the following:

- 8 (1) driver license ~~examiner~~, examiner;
- 9 (2) driver license hearing ~~officer~~, officer;
- 10 (3) driver education ~~specialist~~, specialist;
- 11 (4) law enforcement ~~officers~~, officers;
- 12 (5) court ~~officials~~, officials;
- 13 (6) ~~physicians~~;
- 14 (7) citizens.

15 (b) Reports of chronic illness will be evaluated by a ~~Division of Health Services physician~~ and may be reviewed by a
16 ~~panel of practicing physicians~~ the Medical Review Program. The ~~panel of physicians~~ Medical Advisors may
17 recommend approval of the subject's driving privilege, approval with ~~restrictions~~ restrictions, or disapproval. A driver
18 receiving an unfavorable decision may appeal the decisions to the Medical Review Board.

19

20 *History Note: Authority G.S. ~~20-1~~; 20-2(b); 20-9; 20-17.1;*
21 *Eff. July 1, 1978;*
22 *Amended Eff. November 1, 1991; June 5, ~~1981~~, 1981;*
23 *Readopted Eff. November 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03B .0403

DEADLINE FOR RECEIPT: Wednesday, October 13, 2021

NOTE: This request when viewed on computer extends 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:

Given G.S. 20-26, is this Rule necessary? G.S. 20-26(b) refers back to (a), which provides what kind of records are required to be kept. Do you need this Rule for the last sentence which provides where collision reports can be obtained?

On line 6, what is the "appropriate fee"? Is there a cross-reference available?

On line 7, what is considered "public information"? That information contained in G.S. 20-26(a) (that's how I read G.S. 20-26(b).)

On line 7, what is your authority to say "Collision reports are not public information and shall not be part of the driver license record check"? I agree that it is not included in the record check since it's not included in G.S. 20-26. My concern is more related to "collision reports are not public information..." This statement also seems to contradict the last sentence, which I read to say where collision reports can be obtained.

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

Amber May
Commission Counsel
Date submitted to agency: September 29, 2021

1 19A NCAC 03B .0403 is readopted as published in 35:18 NCR 2049-2050 without changes as follows:

2

3 **19A NCAC 03B .0403 DRIVING RECORDS**

4

5 North Carolina G.S. 20-26(c) provides for copies of driver license records to be furnished, upon prepayment of the
6 appropriate fee, to persons, ~~firms~~ firms, or corporations for uses other than official. The record check ~~will~~ shall contain
7 only public information concerning the subject of the driver license check. Collision reports are not public information
8 and shall not be a part of the driver license record check. Information on a specific collision ~~may~~ shall be obtained
9 from the Collision Reports/General Services Section of the Division of Motor Vehicles, 1100 New Bern Avenue,
10 Raleigh, North Carolina 27697.

11

12 *History Note: Authority G.S. 20-1; 20-26(b),(c); 20-39;*

13 *Eff. July 1, 1978;*

14 *Amended Eff. December 1, 1993; November 1, 1991; July 1, ~~1982~~ 1982;*

15 *Readopted Eff. November 1, 2021.*

16

17

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03B .0702

DEADLINE FOR RECEIPT: Wednesday, October 13, 2021

NOTE: This request when viewed on computer extends 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 put the terms being defined in quotation marks.

In Item (6), please change "which shall be" to "that is"

Also, in Item (6), it appears as though this testing is required federally and statutorily, rather than "by the Division." If that's correct, please say "as required by xxxxxx (whatever the appropriate cross-references are", as opposed to "by the Division." Based upon G.S. 20-37.13, it looks like 49 CFR, Part 383, Subparts F, G, and H provide the required testing.

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

Amber May
Commission Counsel
Date submitted to agency: September 29, 2021

1 19A NCAC 03B .0702 is readopted as published in 35:18 NCR 2049-2050 without changes as follows:

2
3 **19A NCAC 03B .0702 DEFINITIONS**

4
5 The following ~~words and terms, when used in these requirements,~~ definitions shall apply for purposes of the Rules of
6 this Section: have the following meaning:

- 7 (1) ~~"Division"~~ The Division means the North Carolina Division of Motor Vehicles.
- 8 (2) ~~"Commissioner"~~ The Commissioner means the North Carolina Commissioner of Motor Vehicles.
- 9 (3) ~~"CDL"~~ CDL means Commercial Drivers License.
- 10 (4) ~~"FHWA"~~ FHWA means the Federal Highway Administration.
- 11 (5) ~~"FMCSR"~~ The FMCSR means the Federal Motor Carrier Safety Regulations promulgated by the
12 U.S. Department of Transportation.
- 13 (6) ~~"Approved Testing Program"~~ The Approved Testing Program means the skills tests required by
14 the Division which shall be administered by a Third Party Tester.
- 15 (7) ~~"Tester Certificate"~~ The Tester Certificate means the document issued to a Third Party Tester
16 authorizing ~~them~~ him or her to administer the approved testing program on behalf of the Division.
- 17 (8) ~~"Third Party Tester"~~ A Third Party Tester means a government entity, association, educational
18 ~~institution~~ institution, or business entity engaged in the use of commercial motor vehicles, licensed
19 by the Division to administer the approved testing program for CDL applicants in accordance with
20 these ~~requirements.~~ Rules.
- 21 (9) ~~"Third Party Examiner"~~ An Third Party Examiner means an individual who is a payroll employee
22 of a Third Party Tester and who has been issued an examiner certificate to conduct the skills tests
23 required for a CDL.

24
25 *History Note: Authority G.S. 20-37.22;*
26 *Eff. September 1, 1990-1990;*
27 *Readopted Eff. November 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03B .0703

DEADLINE FOR RECEIPT: Wednesday, October 13, 2021

NOTE: This request when viewed on computer extends 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:

Based upon the definition of a "tester" in .0702, it looks like testers are going to be a business or an entity. So, is it accurate to say "a person must" do these things to be certified?

In (a)(1), would it be more accurate to say "apply in accordance with Rule .0706 of this Section and enter into an agreement with the Division in accordance with 49 CFR 383.75;"

In (a)(2), please delete or define "permanent" and "regularly."

In (a)(3), what are these "requirements of state law and local ordinances"?

In (a)(4), would it be more accurate to say "certified third party examiners", rather than "qualified and approved third party examiner"?

In (a)(5), add a comma after "representatives"

Begin (a)(7) with a lower-case letter.

In (a)(7), line 17 delete "or not"

In (a)(7)(H), please add a comma after "or copy"

Please begin (a)(8) with a lower case letter.

In (a)(11), what is the required skills test? That required by G.S. 20-37.13(a)(3)?

In (a)(11), what is the intent of lines 7-10? Are they necessary here? I read this rule to tell what testers are to do and this Subparagraph, in specific, is intended to tell testers to upload proof for the driver. As such, lines 7-10 appear to apply to the driver. Is this language here to let testers know what to tell drivers as to what their next steps will be?

In (a)(12), I don't understand "in accordance with the requirements of this Section" in this context.

Amber May
Commission Counsel

Date submitted to agency: September 29, 2021

In (b)(1)(C), should the “truck of bus” be “truck or bus”

*In (b)(2)(A), what constitutes an “established commercial motor vehicle training program”?
Here, do you just mean something like “have a commercial motor vehicle training program
in operation in North Carolina for a minimum of six months prior to (application or
certification)”?*

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

1 19A NCAC 03B .0703 is readopted as published in 35:18 NCR 2049-2050 without changes as follows:

2
3 **19A NCAC 03B .0703 REQUIREMENTS FOR THIRD PARTY TESTERS**
4

5 (a) To be certified as a Third Party Tester a person must:

- 6 (1) ~~Make application to apply~~ and enter into an agreement with the Division as provided in Rule .0706
7 of this ~~Section~~.Section;
- 8 (2) ~~Maintain~~maintain a place of business with at least one permanent regularly occupied structure
9 within the state of North ~~Carolina~~.Carolina;
- 10 (3) ~~Ensure~~ensure its place of business meets all requirements of state law and local
11 ~~ordinances~~.ordinances;
- 12 (4) ~~Have~~have at least one qualified and approved Third Party Examiner in its ~~employ~~.employ;
- 13 (5) ~~Allow~~allow FHWA, its ~~representative(s)~~,representatives and the Division to conduct random
14 examinations, ~~inspections~~.inspections, and audits without prior ~~notice~~.notice;
- 15 (6) ~~Allow~~allow the Division to conduct periodic, but at least annual on-site ~~inspections~~.inspections;
- 16 (7) Maintain at each third party testing location, for a minimum of two years, a record of each
17 driver for whom the Third Party Tester conducts a skills test, whether or not the driver passes or
18 fails the test. Each such record shall include:
- 19 (A) ~~The~~the complete name and address of the driver;
- 20 (B) ~~The~~the driver's social security number, driver's license ~~number~~.number, and the name of
21 the state or jurisdiction that issued the license held by the driver at the time of the test;
- 22 (C) ~~The~~the date the driver took the skills test;
- 23 (D) ~~The~~the test score ~~sheet(s)~~.sheets showing the results of the test;
- 24 (E) ~~The~~the name and identification number of the Third Party Examiner conducting the skills
25 test;
- 26 (F) ~~The~~the record of all receipts and disbursements;
- 27 (G) ~~The~~the make, ~~model~~.model, and registration number of the commercial motor ~~vehicle(s)~~
28 vehicles used to conduct the testing; and
- 29 (H) ~~The~~the written contract (~~copy~~),or copy if applicable, with any person or group of persons
30 being tested.
- 31 (8) Maintain at each approved testing location, a record of each Third Party Examiner in the
32 employ of the Third Party Tester at that location. Each record shall include:
- 33 (A) ~~A~~a valid Examiner Certificate indicating the Examiner at that location;
- 34 (B) ~~A~~a copy of the Third Party Examiner's current driving record, ~~which must that shall be~~
35 updated annually; and
- 36 (C) ~~Evidence~~.evidence that the Third Party Examiner is a payroll employee of the Third Party
37 Tester.

1 (9) ~~Retain~~retain all Third Party Examiner records for at least two years after the Third Party Examiner
2 leaves the employ of the Third Party ~~Tester~~Tester;

3 (10) ~~Ensure~~ensure that the skills tests are conducted in accordance with the requirements of this
4 ~~Section~~Section;

5 (11) ~~Provide~~provide documented proof through electronic means provided through a portal by the
6 American Association of Motor Vehicle Administrators (using a form provided by the Division) to
7 for each driver applicant who ~~has~~ takes ~~taken~~ and ~~passes~~ passed the required skills tests. The driver

8 applicant ~~in turn~~ will then present ~~the form~~themselves to the Division and skills test scores will be
9 verified through electronic means provided through a portal by AAMVA as evidence that they
10 successfully passed the driving tests administered by the Third ~~Party~~and;

11 (12) ~~To~~to maintain certification the Third Party Tester must administer skills tests to a minimum of ~~five~~
12 10 different driver applicants annually in accordance with the requirements of this Section.

13 (b) In addition to the requirements listed in Paragraph (a) of this Rule, all Third Party Testers who are not governmental
14 entities or associations must:

15 (1) Truck and Bus Companies:

16 (A) ~~Employ~~employ at least 25 full-time, part-time, or seasonal North Carolina commercial
17 motor vehicle licensed drivers; drivers (full time, part time, or seasonal) of commercial
18 ~~motor vehicles.~~

19 (B) ~~Employ~~employ an individual who ~~would be~~is responsible for the organization's third party
20 testing ~~operation~~operation; and

21 (C) ~~Have~~have been in operation in North Carolina a minimum of six months. ~~(If~~If the truck
22 of bus company has been in operation less than six months under the current company
23 name, the company shall identify previous company ~~name(s)~~names to cover the ~~six~~
24 ~~month period.~~six-month period.

25 (2) Educational Institutions:

26 (A) ~~Have~~have an established commercial motor vehicle training ~~program~~program and

27 (B) ~~Have~~have been in operation in North Carolina a minimum of six months.

28
29 *History Note: Authority G.S. 20-37.13; 20-37.22;*
30 *Eff. September 1, 1990;*
31 *Amended Eff. August 1, 1994; December 1, ~~1993~~, 1993;*
32 *Readopted Eff. November 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03B .0704

DEADLINE FOR RECEIPT: Wednesday, October 13, 2021

NOTE: This request when viewed on computer extends 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:

In (b)(1), please consider providing the cross-reference to .0707.

I read (b) to be what is necessary to qualify and be approved to be a third party examiner; however, I read (b)(5) and (b)(9) to apply to an examiner after approval. If that's correct, should they be separate paragraphs?

In (b)(4), what is this training course?

In (b)(4), delete "successfully" – also, given the first sentence of (b)(4), do you need

In (b)(4)(a), what is considered to be a "comprehensive understanding"

In (b)(4)(B), what is considered to be "working knowledge"

In (b)(4)(C), what is meant by "correctly score"?

In (b)(4)(D), what are "testing site and route requirements"? Are these going to be in the agreement between the Division and the tester?

In (b)(5), what are the "division required advanced training courses, workshops and seminars"?

In (b)(9), what are "current instructions provided by the Division"? Are these not subject to the rules process?

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

Amber May
Commission Counsel
Date submitted to agency: September 29, 2021

1 19A NCAC 03B .0704 is readopted as published in 35:18 NCR 2049-2050 without changes as follows:

2
3 **19A NCAC 03B .0704 REQUIREMENTS FOR THIRD PARTY EXAMINERS**
4

5 (a) Third Party Examiners may conduct skills tests on behalf of only one Third Party Tester at any given time. If a
6 Third Party Examiner leaves the employ of a Third Party Tester ~~he/she~~ he or she must reapply ~~in order~~ to conduct
7 tests on behalf of a new Third Party Tester.

8 (b) To qualify as a Third Party Examiner, an individual must:

9 (1) ~~Make application apply~~ on a form provided and sent to the applicant via email by the Division;

10 (2) ~~Be be~~ a payroll employee of the Third Party Tester;

11 (3) ~~Possess possess~~ a valid North Carolina Driver's License with classification and endorsements
12 required for operation of the class and type of commercial motor vehicle used in the skills tests
13 conducted by the Examiner; ~~and~~

14 (4) ~~Have have~~ successfully completed the CDL Examiner Training Course conducted by the Division.
15 At a minimum upon completion of the training the Third Party Examiner shall have acquired and
16 demonstrated the following knowledge and skills:

17 (A) ~~A a~~ comprehensive understanding of ~~North Carolina G.S., Chapter G.S. 20~~ G.S. 20 Article 2C and
18 the rules adopted pursuant thereto;

19 (B) ~~A a~~ working knowledge of the CDL testing procedures and forms;

20 (C) ~~Ability ability~~ to administer and ~~score correctly~~ correctly score each of the CDL skills test;
21 and

22 (D) ~~Knowledge knowledge~~ of testing site and route requirements.

23 (5) ~~Take take~~ part in all Division required advanced training courses, workshops and seminars;

24 (6) ~~Within ten~~ within 10 years prior to application have had no convictions for Driving While Impaired
25 (DWI);

26 (7) ~~Within within~~ five years prior to application have had no driver's license suspensions, revocations,
27 ~~cancellations cancellations~~, or disqualifications;

28 (8) ~~Be be~~ at least 21 years of age; and

29 (9) ~~Conduct conduct~~ skills tests on behalf of the Third Party Tester, in accordance with these Rules and
30 in accordance with current instructions provided by the Division.

31
32 *History Note: Authority G.S. 20-37.13; 20-37.22;*

33 *Eff. September 1, 1990;*

34 *Amended Eff. August 1, 1994; December 1, ~~1993-1993~~;*

35 *Readopted Eff. November 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03B .0705

DEADLINE FOR RECEIPT: Wednesday, October 13, 2021

NOTE: This request when viewed on computer extends 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:

Paragraph (a) and (b) appear to be missing something. I assume that you all will issue a certificate after application and a determination by the Division that a tester or examiner meets the requirements of these Rules? I think for testers, it is .0703 and for examiners, it is .0704?

In (b), who are "qualified employees"? Are these "third party examiners" as defined in .0702? Please be consistent where you can.

Should (c) and (e) go together since they are both applicable to the examiner?

In (d), delete or define "prominently"

In (d) and (e), is there a cross-reference available for the revocation or cancellation by the Division? I assume that it is .0716?

Please add any additional relevant authority to the History Note, including G.S. 20-37.13.

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

Amber May
Commission Counsel
Date submitted to agency: September 29, 2021

1 19A NCAC 03B .0705 is readopted as published in 35:18 NCR 2049-2050 without changes as follows:

2

3 **19A NCAC 03B .0705 CERTIFICATES**

4

5 (a) A certificate ~~will~~shall be issued allowing the Third Party Tester to operate an approved testing program to give
6 skills tests to applicants for a CDL.

7 (b) An examiner certificate ~~will~~shall be issued to qualified employees of the Third Party Tester.

8 (c) A copy of the Examiner's Certificate ~~must~~shall be displayed in the office of the Third Party Tester.

9 (d) The certificate issued by the Division to operate a Third Party Testing Program ~~will~~shall be effective on the date
10 of issuance and shall be prominently displayed in the place of business of the Third Party Tester until cancelled or
11 revoked.

12 (e) The Examiner's certificate ~~will~~shall be effective on the date of issuance and remain in effect unless the Examiner
13 ~~must surrender~~surrenders the certificate to the Division when that Examiner becomes inactive ~~or, or~~until the
14 certificate has been revoked or cancelled by the Division.

15 (f) A certificate to operate a Third Party Testing program shall be non-transferable.

16

17 *History Note: Authority G.S. 20-37.22;*

18 *Eff. September 1, ~~1990~~1990;*

19 *Readopted Eff. November 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03B .0706

DEADLINE FOR RECEIPT: Wednesday, October 13, 2021

NOTE: This request when viewed on computer extends 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:

In (a), certificate for what? A third party tester? Since titles of rules can be changed without going through the rule-making process, please make it clear within the body of the text of the Rule as to what this rule applies.

Assuming that this rule is applicable to third party testers, please consider revising line 6 to say something like "The application shall include the following information of the third party tester applicant:"

In (a)(3), please add a comma after "institution"

In (a)(4), I assume that your regulated public knows that equipment is necessary to be included in the roster for insurance purposes?

In (a)(6), is it up to the tester to determine what constitutes "full-time", "part-time", and "seasonal"?

In (a)(8), is there a statutory cross-reference?

On line 27, was this intended to be (a)(9)? I think that it makes sense as a (b). If you intended to keep this as a (b), please remove the indent, end (a)(8) with a period, and move the "; and;" to the end of (a)(7).

In (b), please add a comma after "equipment"

Please add any additional relevant authority to the History Note.

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

Amber May
Commission Counsel

Date submitted to agency: September 29, 2021

1 19A NCAC 03B .0706 is readopted as published in 35:18 NCR 2049-2050 without changes as follows:

2
3 **19A NCAC 03B .0706 APPLICATION FOR THIRD PARTY TESTER CERTIFICATION**

4
5 (a) Before any certificate is issued, an application shall be made in writing to the Division on a form prepared and
6 ~~furnished~~ emailed to the applicant by the Division. The application shall include the following:

- 7 (1) ~~The the~~ official name, address, and telephone number of the principal office or
8 ~~headquarters.~~ headquarters;
- 9 (2) ~~Name, name,~~ title, ~~address~~ address, and telephone number of the individual who has been designated
10 the applicant's contact ~~person.~~ person;
- 11 (3) ~~Description~~ description of the type of organization that is applying that can include a governmental
12 ~~(governmental~~ entity, association, motor carrier, ~~or educational institution),~~ institution as well as the
13 length of time ~~they have~~ the organization has been in business in North Carolina, if
14 ~~applicable.~~ applicable;
- 15 (4) ~~A a~~ description of the vehicle fleet owned or leased by the applicant, including a complete equipment
16 roster as listed for insurance ~~purposes.~~ purposes;
- 17 (5) ~~The the~~ class of testing for which the applicant is ~~applying.~~ applying;
- 18 (6) ~~The the~~ total number of North Carolina licensed drivers employed to operate commercial motor
19 vehicles, and the number of such drivers who are full-time, part-time, and ~~seasonal.~~ seasonal;
- 20 (7) ~~Name, the name,~~ driver's license number, social security ~~number~~ number, and home address of those
21 payroll ~~employee(s).~~ employees who wish to be approved as Third Party ~~Examiners.~~ Examiners;
- 22 (8) ~~Proof~~ proof of the Third Party Tester meets the insurance requirements as stated in Rule .0714 (a) –
23 ~~(d).~~ (d);
- 24 (9) ~~The the~~ address of each North Carolina location where the applicant intends to conduct the skills
25 tests as well as a description of the off-road facilities including a map, ~~drawing.~~ drawing, or written
26 description of the road test route that will be used for the on-road portion of the skills ~~test.~~ test; and
- 27 (b) ~~Educational Institutions must~~ educational institutions shall submit with their application a
28 description of their facilities, equipment and training curriculum. The number of applications for
29 the previous year and the percent graduated must also be included.

30 (c) An applicant for a certificate shall also execute an agreement form provided via email by the Division in which
31 the applicant agrees, at a minimum, to comply with the requirements and instructions of the Division for Third Party
32 Tester, including audit procedures, and agrees to hold the Division harmless from liability resulting from the Third
33 Party Tester's administration of its CDL Skills Test Program.

34
35 *History Note:* Authority G.S. 20-37.22;
36 Eff. September 1, 1990;
37 Amended Eff. December 1, ~~1993.~~ 1993;

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03B .0707

DEADLINE FOR RECEIPT: Wednesday, October 13, 2021

NOTE: This request when viewed on computer extends 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:

Assuming that you want the applicant's information, please consider revising lines 6 to say "shall ~~require at least contain~~ the following ~~information:~~ information of the third party examiner applicant."

Please add any additional relevant authority to the History Note.

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

1 19A NCAC 03B .0707 is readopted as published in 35:18 NCR 2049-2050 without changes as follows:

2

3 **19A NCAC 03B .0707 APPLICATION FOR THIRD PARTY EXAMINER CERTIFICATION**

4

5 Application for an Examiner Certificate shall be made on a form ~~supplied~~emailed by the Division. The form shall
6 require at least the following information:

- 7 (1) ~~Full the full~~ name, home and business ~~addresses~~address, and telephone numbers;
- 8 (2) ~~Driving~~the driving history, including class of current license and any endorsements, and restrictions;
- 9 (3) ~~Name, address~~ the name, address, and telephone number of the applicant's employer who has applied
10 for or received a certificate as a Third Party Tester; and
- 11 (4) ~~Employer's~~ the employer's recommendation of the applicant for and examiner certificate, as well as
12 proof that the applicant is a payroll employee.

13

14 *History Note: Authority G.S. 20-37.22;*
15 *Eff. September 1, ~~1990~~1990;*
16 *Readopted Eff. November 1, 2021.*

17

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03B .0709

DEADLINE FOR RECEIPT: Wednesday, October 13, 2021

NOTE: This request when viewed on computer extends 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:

In (a), what is meant by "is qualified to be certified"? What are these qualifications? Do you mean whether they meet certain rules, statutes, or cfrs?

In (b), what are the "certification requirements"? Please provide the appropriate cross-reference.

Given .0703(a)(5), do you need Paragraph (c)? If so, how will it be determined whether notice is provided?

In (c)(7), what else could this be? I understand

In (d), please delete "at a minimum"

In (d)(2), delete the apostrophe in "FMCSR's" so that it reads "FMCSRs"

In (d)(2), what kind of evidence would be sufficient?

Please add any additional relevant authority to the History Note.

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

1 19A NCAC 03B .0709 is readopted as published in 35:18 NCR 2049-2050 without changes as follows:

2
3 **19A NCAC 03B .0709 ON-SITE INSPECTIONS AND AUDITS**

4
5 (a) All applicants for a Third Party Tester Certificate shall permit the FHWA or the Division to inspect and audit its
6 operations, ~~facilities~~ facilities, and records as they relate to its Third Party Testing program, for the purpose of
7 determining whether the applicant is qualified to be certified.

8 (b) Third Party Testers who have been certified shall permit the Division or FHWA to periodically inspect and audit
9 its Third Party Testing program to determine whether it remains in compliance with the certification requirements.

10 (c) The Division and FHWA ~~will~~ shall perform inspections and audits with or without prior notice to the Third Party
11 Tester.

12 (d) Inspections and audits ~~will~~ shall include, at a minimum, an examination of:

- 13 (1) ~~Records~~ records relating to Third Party Testing program;
- 14 (2) ~~Evidence~~ evidence of compliance with the FMCSR's;
- 15 (3) ~~Skills~~ skills testing procedures practices and operations;
- 16 (4) ~~Vehicles~~ vehicles used for testing;
- 17 (5) ~~Qualifications~~ qualifications of Third Party Examiners;
- 18 (6) ~~Effectiveness~~ effectiveness of the skills test program by either testing a sample of drivers who have
19 been issued skills test certificates by the Third Party Tester or having Division employees take the
20 skills tests from a Third Party Examiner; and
- 21 (7) Any ~~other aspect of the~~ Third Party Tester's operation that the Division determines is necessary to
22 verify that the Third Party Tester meets the requirements for the certification.

23 (e) The Division ~~will~~ shall prepare a written report of each inspection and audit report of the results of each inspection
24 and audit. A copy of the report ~~will~~ shall be provided to the Third Party Tester.

25
26 *History Note: Authority G.S. 20-37.22;*
27 *Eff. September 1, 1990;*
28 *Amended Eff. December 1, ~~1993-1993~~;*
29 *Readopted Eff. November 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03B .0711

DEADLINE FOR RECEIPT: Wednesday, October 13, 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:

In (a), are the "materials submitted by the Third Party applicant", those referenced in (b)? If so, these paragraphs appear to be repetitive of each other. Please review and revise as necessary.

In (a), how is it determined whether the "materials are satisfactory"?

In (a), line 6, by "may" do you mean "shall"? Will you always schedule an on-site inspection? Maybe not, but if you do mean "may", please provide the factors that you will use in making this determination.

In (a), I assume that the on-site inspection and audit is that set forth in .0709?

Please add any relevant additional authority to the History Note.

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

1 19A NCAC 03B .0711 is readopted as published in 35:18 NCR 2049-2050 without changes as follows:

2

3 **19A NCAC 03B .0711 EVALUATION OF APPLICANTS BY THE DIVISION**

4

5 (a) The Division ~~will~~shall evaluate the materials submitted by the Third Party Tester applicant, and if the application
6 materials are satisfactory, the Division may schedule an on-site inspection and audit of the applicant's Third Party
7 Testing Program to complete the evaluation.

8 (b) The Division ~~will~~shall evaluate the materials submitted by the Third Party Examiner applicant including the
9 applicant's driving record, qualification questionnaire, and certificate of training.

10

11 *History Note: Authority G.S. 20-37.22;*
12 *Eff. September 1, ~~1990~~.1990;*
13 *Readopted Eff. November 1, 2021.*

14

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Transportation, Division of Motor Vehicles

RULE CITATION: 19A NCAC 03B .0801

DEADLINE FOR RECEIPT: Wednesday, October 13, 2021

NOTE: This request when viewed on computer extends 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:

Overall, what is the intent of this Rule and when is it applicable? I note that G.S. 20-37.13(a) says "for the purpose of skills testing and determining commercial drivers license classification, only the manufacturer's GVWR shall be used." So, assuming that this Rule is applicable to the commercial drivers license classifications, is this Rule necessary? If so, this Rule appears to provide other options (as in the registered weight or actual weight) and appears to potentially conflict with statute.

Please revise the first sentence of line 5 to be a complete sentence. This may aid in the clarity of this Rule.

On line 6, what is a "combination vehicle"?

Please add any relevant additional authority to the History Note.

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

1 19A NCAC 03B .0801 is readopted as published in 35:18 NCR 2049-2050 without changes as follows:

2

3 **19A NCAC 03B .0801 DEFINITION**

4

5 The value specified by the manufacturer as the maximum loaded weight of a vehicle. The ~~GVWR~~Gross Vehicle
6 Weight Rating (GVWR) of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit
7 or units. In the absence of the manufacturer's GVWR label affixed to the vehicle, the registered weight or the actual
8 weight, whichever is greater, shall be the GVWR.

9

10 *History Note: Authority G.S. 20-37.22;*
11 *Eff. July 1, ~~1992~~, 1992;*
12 *Readopted Eff. November 1, 2021.*

13