



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

DIVISION OF MOTOR VEHICLES

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SECRETARY

January 25, 2021

Fiscal Analysis

To conform and update rules to current law and Office of Administrative Hearings style changes, the North Carolina Division of Motor Vehicles (NCDMV) is proposing 12 rules changes to 19A NCAC 03B Sections .0100, .0300, .0400, .0700, and .0800. The proposed rule changes include:

Proposed NCAC Rule Changes:

- 19A NCAC 03B .0103 Repeal
- 19A NCAC 03B .0301 Technical Changes
- 19A NCAC 03B .0403 Technical Changes
- 19A NCAC 03B .0702 Technical Changes
- 19A NCAC 03B .0703 Technical Changes
- 19A NCAC 03B .0704 Technical Changes
- 19A NCAC 03B .0705 Technical Changes
- 19A NCAC 03B .0706 Technical Changes
- 19A NCAC 03B .0707 Technical Changes
- 19A NCAC 03B .0709 Technical Changes
- 19A NCAC 03B .0711 Technical Changes
- 19A NCAC 03B .0801 Technical Changes

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Statutory Authority: N.C.G.S. § 20-1, § 20-2; § 20-7; § 20-9; § 20-17.1; § 20-26(b),(c); § 20-37.13; § 20-37.22, and § 20-39

Impact Summary: Federal Government – No
State Government – No
Local Government – No
Substantial Impact – No

Necessity: NCDMV is proposing to revise Driver License Section Administrative Code Rules as they apply to General Information, Medical Evaluation, Records, Commercial Drivers' License, and Gross Vehicle Weight Rating

(GVWR). Most of these Rules have not been updated in more than 35 years.

As part of the Office of Administrative Hearings (OAH) Periodic Review, these Rules were deemed necessary with substantive public interest. The agency is updating these rules with only technical changes to conform with current law, OAH preferred style and format and modern processes and procedures.

19A NCAC 03B .0103 Forms, Repeal

This rule is being repealed.

19A NCAC 03B .0301 Acute or Chronic Illnesses,

This rule is updated to comply with style changes.

19A NCAC 03B .0403 Driving Records, Technical Changes

This rule is updated to comply with style changes.

19A NCAC 03B .0702 Definitions, Technical Changes

This rule is updated to comply with style changes.

19A NCAC 03B .0703 Requirements for Third Party Testers, Technical Changes

This rule is updated to comply with style changes.

19A NCAC 03B .0704 Requirements for Third Party Examiners, Technical Changes

This rule is updated to comply with style changes.

19A NCAC 03B .0705 Certificates, Technical Changes

This rule is updated to comply with style changes.

19A NCAC 03B .0706 Application for Third Party Tester Certification, Technical Changes

This rule is updated to comply with style changes.

19A NCAC 03B .0707 Application for Third Party Examiner Certification, Technical Changes

This rule is updated to comply with style changes.

19A NCAC 03B .0709 On-Site Inspections and Audits, Technical Changes
This rule is updated to comply with style changes.

19A NCAC 03B .0711 Evaluation of Applicants by the Division, Technical Changes
This rule is updated to comply with style changes.

19A NCAC 03B .0801 Definition, Technical Changes
This rule is updated to comply with style changes.

1 19A NCAC 03B .0103 is proposed for repeal through readoption as follows:

2

3 **19A NCAC 03B .0103 FORMS**

4

5 ~~The forms used by the driver license section of the Division of Motor Vehicles are on file in the commissioner's office~~
6 ~~and are available for review during normal working hours.~~

7

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

9 *Eff. July 1, 1978;*

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

11 *Repealed Eff. _____, 2021.*

12

1 19A NCAC 03B .0301 is proposed for readoption without substantive changes as follows:

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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. ~~20-4~~; 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. _____, 2021.*

1 19A NCAC 03B .0403 is proposed for readoption without substantive 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. _____, 2021.*

16

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1 19A NCAC 03B .0702 is proposed for readoption without substantive 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. _____, 2021.

1 19A NCAC 03B .0703 is proposed for readoption without substantive 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. _____, 2021.*

1 19A NCAC 03B .0704 is proposed for readoption without substantive 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.~~ 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. _____, 2021.*

1 19A NCAC 03B .0705 is proposed for readoption without substantive 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. _____, 2021.*

1 19A NCAC 03B .0706 is proposed for readoption without substantive 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-entirety, association, motor carrier, or educational institution)-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;

1 19A NCAC 03B .0707 is proposed for readoption without substantive 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. _____, 2021.*

17

1 19A NCAC 03B .0709 is proposed for readoption without substantive 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. _____, 2021.*

30

1 19A NCAC 03B .0711 is proposed for re adoption without substantive 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. _____, 2021.

14

1 19A NCAC 03B .0801 is proposed for readoption without substantive changes as follows:

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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.

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

11 *Eff. July 1, ~~1992~~, 1992;*

12 *Readopted Eff. _____, 2021.*

13