

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: North Carolina Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09F .0103

RECOMMENDATION DATE: February 6, 2024

RECOMMENDED ACTION:

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

COMMENT:

In 12 NCAC 09F .0103, the North Carolina Criminal Justice Education and Training Standards Commission ("CJETS") sets qualifications for concealed carry "approved courses" and the procedure by which the courses would be approved by CJETS.

North Carolina's law concerning the carrying of concealed weapons is contained in Chapter 14 of the North Carolina General Statutes entitled "Criminal Law."

Pursuant to G.S. 14-415.12, the sheriff of a county "shall" issue concealed carry permit to any qualifying applicant who meets certain criteria.

Among the criteria is G.S. 14-415.12(a)(4) wherein an applicant for a concealed carry permit must successfully complete "an approved firearms safety course". The statute does not identify by whom the course must be approved; however, the statute goes on define "an approved course":

An approved course shall be any course which satisfies the requirements of this subdivision and is **certified or sponsored by any of the following:** (emphasis added)

- a. The North Carolina Criminal Justice Education and Training Standards Commission.
- b. The National Rifle Association.
- b1. The United States Concealed Carry Association.

William W. Peaslee
Commission Counsel

c. A law enforcement agency, college, private or public institution or organization, or firearms training school, taught by instructors certified by the North Carolina Criminal Justice Education and Training Standards Commission, the United States Concealed Carry Association, or the National Rifle Association.

Pursuant to this language, there are two prerequisites for a course to be “approved”. 1) The course satisfies the requirements of the subdivision¹ and 2) the course must be certified or sponsored² by “any of” the enumerated entities.

G.S. 14-415.12(a)(4) sets forth four alternatives to meet the second prerequisite of an “approved course.” Courses sponsored by CJETS, the NRA, or the CCA meet this prerequisite to be approved courses. The fourth alternative is a course “taught by instructors certified by” CJETS, the NRA, or the CCA but sponsored by “a law enforcement agency, college, private or public institution or organization, or firearms training school.”

Agency Rule Making Authority

CJETS is established in Chapter 17C of the North Carolina General Statutes. CJETS rulemaking authority is contained in Chapter 17C, mostly in G.S. 17C-6. The term “concealed carry” does not appear in Chapter 17C. The only reference to concealed carry in Chapter 17C is in G.S. 17C-6(a)(16) which possession of concealed carry firearms by current and former law enforcement officers and exempting from obtaining a permit by the sheriff.³

However, in G.S. 14-415.12, CJETS is charged with preparing and publishing “general guidelines” for courses and qualifications “which would satisfy the requirements of this subdivision.” It is upon this language that the agency claims authority to adopt rules regulating the courses on the topic of concealed carry, including those courses sponsored by the National Rifle Association, and the United States Concealed Carry Association, and the instructors thereof.

Analysis

“General guidelines” are not “rules” as defined in G.S. 150B-2(8a). While guidelines can become rules if they meet the definition of a rule⁴, the instruction by the General Assembly to write guidelines does not grant rulemaking authority.

By the plain language of G.S. 14-415.12, it does not appear that the General Assembly intended to grant the agency rule-making authority. Simply put, if the General Assembly had intended to grant rulemaking authority over the instruction of concealed carry or requiring CJETS approval, it would have stated so plainly and employed the word “rule” or “regulation” in the grant.

¹ The only requirement of the subdivision is that the course “involves the actual firing of handguns and instruction in the laws of this State governing the carrying of a concealed handgun and the use of deadly force.”

² NOTE THE USE OF THE LANGUAGE “CERTIFIED OR SPONSORED.” “CERTIFIED” IMPLIES OFFICIAL OR GOVERNMENTAL RECOGNITION WHILE “SPONSORED” IMPLIES PRIVATE.

³ G.S. 17C-6(A)(16) IS ALSO THE ONLY USE OF THE TERM “GUIDELINES” IN CHAPTER 17C AND THERE IT IS USED IN THE CONTEXT OF “STANDARDS AND GUIDELINES,”; STANDARDS BEING RULES AND GUIDELINES NOT.

⁴ SEE G.S. 150B-18.

I.

Rule .0103 establishes additional prerequisites to be “an approved course” beyond those prescribed by the statute. As written, these prerequisites would be applicable to courses sponsored by the National Rifle Association (“NRA”) and United States Concealed Carry Association (“CCA”), or those courses taught by instructors certified by the NRA or CCA and sponsored by a law enforcement agency, college, private or public institution or organization, or firearms training school.

Rule .0103 also requires courses to be approved by CJETS to be an approved course.

Pursuant to G.S. 14-415.12(a)(4)b. and b1., NRA and CCA sponsored courses do not need to be approved by anyone but the NRA or CCA. CJETS simply lacks the authority to prescribe prerequisites or “approve” of NRA and CCA sponsored courses.

Further, pursuant to G.S. 14-415.12(a)(4)c., courses taught by instructors certified by the NRA or CCA and sponsored by a law enforcement agency, college, private or public institution or organization, or firearms training school are not subject to CJETS regulatory authority, nor do they require approval by CJETS.

It appears to staff counsel that CJETS can regulate CJETS sponsored classes and make those classes subject to its approval, but not other entities other sponsoring a course.

Staff recommends objection to the rules pursuant to G.S. 150B-21.9(a)(1) for lack of authority.

William W. Peaslee
Commission Counsel

§ 150B-21.9. Standards and timetable for review by Commission.

(a) Standards. - The Commission must determine whether a rule meets all of the following criteria:

- (1) It is within the authority delegated to the agency by the General Assembly.
- (2) It is clear and unambiguous.
- (3) It is reasonably necessary to implement or interpret an enactment of the General Assembly, or of Congress, or a regulation of a federal agency. The Commission shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed.
- (4) It was adopted in accordance with Part 2 of this Article.

The Commission shall not consider questions relating to the quality or efficacy of the rule but shall restrict its review to determination of the standards set forth in this subsection.

The Commission may ask the Office of State Budget and Management to determine if a rule has a substantial economic impact and is therefore required to have a fiscal note. The Commission must ask the Office of State Budget and Management to make this determination if a fiscal note was not prepared for a rule and the Commission receives a written request for a determination of whether the rule has a substantial economic impact.

(a1) Entry of a rule in the North Carolina Administrative Code after review by the Commission creates a rebuttable presumption that the rule was adopted in accordance with Part 2 of this Article.

(b) Timetable. - The Commission must review a permanent rule submitted to it on or before the twentieth of a month by the last day of the next month. The Commission must review a rule submitted to it after the twentieth of a month by the last day of the second subsequent month. The Commission must review a temporary rule in accordance with the timetable and procedure set forth in G.S. 150B-21.1. (1991, c. 418, s. 1; 1995, c. 507, s. 27.8(f); 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2003-229, s. 9.)

§ 150B-18. Scope and effect.

This Article applies to an agency's exercise of its authority to adopt a rule. A rule is not valid unless it is adopted in substantial compliance with this Article. An agency shall not seek to implement or enforce against any person a policy, guideline, or other interpretive statement that meets the definition of a rule contained in G.S. 150B-2(8a) if the policy, guideline, or other interpretive statement has not been adopted as a rule in accordance with this Article. (1991, c. 418, s. 1; 2011-398, s. 1; 2012-187, s. 2.)

§ 14-415.12. Criteria to qualify for the issuance of a permit.

(a) The sheriff shall issue a permit to an applicant if the applicant qualifies under the following criteria:

- (1) The applicant is a citizen of the United States or has been lawfully admitted for permanent residence as defined in 8 U.S.C. § 1101(a)(20), and has been a resident of the State 30 days or longer immediately preceding the filing of the application.
- (2) The applicant is 21 years of age or older.
- (3) The applicant does not suffer from a physical or mental infirmity that prevents the safe handling of a handgun.
- (4) The applicant has successfully completed an approved firearms safety and training course which involves the actual firing of handguns and instruction in the laws of this State governing the carrying of a concealed handgun and the use of deadly force. The North Carolina Criminal Justice Education and Training Standards Commission shall prepare and publish general guidelines for courses and qualifications of instructors which would satisfy the requirements of this subdivision. An approved course shall be any course which satisfies the requirements of this subdivision and is certified or sponsored by any of the following:
 - a. The North Carolina Criminal Justice Education and Training Standards Commission.
 - b. The National Rifle Association.
 - b1. The United States Concealed Carry Association.
 - c. A law enforcement agency, college, private or public institution or organization, or firearms training school, taught by instructors certified by the North Carolina Criminal Justice Education and Training Standards Commission, the United States Concealed Carry Association, or the National Rifle Association.

Every instructor of an approved course shall file a copy of the firearms course description, outline, and proof of certification annually, or upon modification of the course if more frequently, with the North Carolina Criminal Justice Education and Training Standards Commission.

- (5) The applicant is not disqualified under subsection (b) of this section.
- (b) The sheriff shall deny a permit to an applicant who:
- (1) Is ineligible to own, possess, or receive a firearm under the provisions of State or federal law.
 - (2) Is under indictment or against whom a finding of probable cause exists for a felony.
 - (3) Has been adjudicated guilty in any court of a felony, unless: (i) the felony is an offense that pertains to antitrust violations, unfair trade

practices, or restraints of trade, or (ii) the person's firearms rights have been restored pursuant to G.S. 14-415.4.

- (4) Is a fugitive from justice.
- (5) Is an unlawful user of, or addicted to marijuana, alcohol, or any depressant, stimulant, or narcotic drug, or any other controlled substance as defined in 21 U.S.C. § 802.
- (6) Is currently, or has been previously adjudicated by a court or administratively determined by a governmental agency whose decisions are subject to judicial review to be, lacking mental capacity or mentally ill. Receipt of previous consultative services or outpatient treatment alone shall not disqualify an applicant under this subdivision.
- (7) Is or has been discharged from the Armed Forces of the United States under conditions other than honorable.
- (8) Except as provided in subdivision (8a), (8b), or (8c) of this section, is or has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes of violence constituting a misdemeanor, including but not limited to, a violation of a misdemeanor under Article 8 of Chapter 14 of the General Statutes except for a violation of G.S. 14-33(a), or a violation of a misdemeanor under G.S. 14-226.1, 4-258.1, 14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-277, 14-277.1, 14-277.2, 14-283 except for a violation involving fireworks exempted under G.S. 14-414, 14-288.2, 14-288.4(a)(1), 14-288.6, 14-288.9, former 14-288.12, former 14-288.13, former 14-288.14, 14-415.21(b), or 14-415.26(d) within three years prior to the date on which the application is submitted.
- (8a) Is or has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes of violence constituting a misdemeanor under G.S. 14-33(c)(1), 14-33(c)(2), 14-33(c)(3), 14-33(d), 14-277.3A, 14-318.2, 14-134.3, 50B-4.1, or former G.S. 14-277.3.
- (8b) Is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(g) as a result of a conviction of a misdemeanor crime of domestic violence.
- (8c) Has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes involving an assault or a threat to assault a law enforcement officer, probation or parole officer, person employed at a State or local detention facility, firefighter, emergency medical technician, medical responder, or emergency department personnel.
- (9) Has had entry of a prayer for judgment continued for a criminal offense which would disqualify the person from obtaining a concealed handgun permit.

- (10) Is free on bond or personal recognizance pending trial, appeal, or sentencing for a crime which would disqualify him from obtaining a concealed handgun permit.
 - (11) Has been convicted of an impaired driving offense under G.S. 20-138.1, 20-138.2, or 20-138.3 within three years prior to the date on which the application is submitted.
- (c) An applicant shall not be ineligible to receive a concealed carry permit under subdivision (6) of subsection (b) of this section because of an adjudication of mental incapacity or illness or an involuntary commitment to mental health services if the individual's rights have been restored under G.S. 14-409.42. (1995, c. 398, s. 1; c. 509, s. 135.3(d); 1997-441, s. 4; 2007-427, s. 5; 2008-210, s. 3(b); 2009-58, s. 1; 2010-108, s. 5; 2011-2, s. 1; 2011-183, s. 16; 2012-12, s. 2(bb); 2013-369, s. 11; 2015-195, ss. 7, 11(l), 17; 2022-75, s. 16(a).)

§ 14-415.13. Application for a permit; fingerprints.

(a) A person shall apply to the sheriff of the county in which the person resides to obtain a concealed handgun permit. The applicant shall submit to the sheriff all of the following:

- (1) An application, completed under oath, on a form provided by the sheriff, and such application form must be provided by the sheriff electronically. The sheriff shall not request employment information, character affidavits, additional background checks, photographs, or other information unless specifically permitted by this Article.
- (2) A nonrefundable permit fee.
- (3) A full set of fingerprints of the applicant administered by the sheriff.
- (4) An original certificate of completion of an approved course, adopted and distributed by the North Carolina Criminal Justice Education and Training Standards Commission, signed by the certified instructor of the course attesting to the successful completion of the course by the applicant which shall verify that the applicant is competent with a handgun and knowledgeable about the laws governing the carrying of a concealed handgun and the use of deadly force.
- (5) A release, in a form to be prescribed by the Administrative Office of the Courts, that authorizes and requires disclosure to the sheriff of any records concerning the mental health or capacity of the applicant to be used for the sole purpose of determining whether the applicant is disqualified for a permit under the provisions of G.S. 14-415.12. This provision does not prohibit submitting information related to involuntary commitment to the National Instant Criminal Background Check System (NICS).

(b) The sheriff shall submit the fingerprints to the State Bureau of Investigation for a records check of State and national databases. The State Bureau of Investigation shall submit the fingerprints to the Federal Bureau of Investigation as necessary. The sheriff shall determine the criminal and background history of an applicant also by conducting a check through the National Instant Criminal Background Check System (NICS). The cost of processing the set of fingerprints shall be charged to an applicant as provided by G.S. 14-415.19. (1995, c. 398, s. 1; c. 507, ss. 22.2(a), 22.1(b); 2006-39, s. 2; 2011-268, s. 15; 2015-195, s. 11(g).)

§ 17C-6. Powers of Commission.

(a) In addition to powers conferred upon the Commission elsewhere in this Article, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

- (1) **Promulgate rules and regulations** for the administration of this Article, which rules may require (i) the submission by any criminal justice agency of information with respect to the employment, education, retention, and training of its criminal justice officers, and (ii) the submission by any criminal justice training school of information with respect to its criminal justice training programs that are required by this Article.
- (2) Establish minimum educational and training standards that must be met in order to qualify for entry level employment and retention as a criminal justice officer in temporary or probationary status or in a permanent position. The standards for entry level employment shall include all of the following:
 - a. Education and training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions.
 - b. Education and training on juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.
 - c. Education and training to develop knowledge and increase awareness of effective mental health and wellness strategies for criminal justice officers.
- (3) Certify and recertify, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, persons as qualified under the provisions of this Article to be employed at entry level and retained as criminal justice officers.
- (4) Establish minimum standards for the certification of criminal justice training schools and programs or courses of instruction that are required by this Article.
- (5) Certify and recertify, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, criminal justice training schools and programs or courses of instruction that are required by this Article.

- (6) Establish minimum standards and levels of education and experience for all criminal justice instructors and school directors who participate in programs or courses of instruction that are required by this Article.
- (7) Certify and recertify, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, criminal justice instructors and school directors who participate in programs or courses of instruction that are required by this Article or are required and approved by their respective criminal justice agency to include those certified under Chapter 17E or an educational institution accredited by the Commission.
- (8) Investigate and make such evaluations as may be necessary to determine if criminal justice agencies, schools, and individuals are complying with the provisions of this Article.
- (9) Adopt and amend bylaws, consistent with law, for its internal management and control.
- (10) Enter into contracts incident to the administration of its authority pursuant to this Article.
- (11) Establish minimum standards and levels of training for certification and periodic recertification of operators of and instructors for training programs in radio microwave, laser, and other electronic speed-measuring instruments.
- (12) Certify and recertify, suspend, revoke, or deny, pursuant to the standards that it has established, operators and instructors for training programs for each approved type of radio microwave, laser, and other electronic speed-measuring instruments.
- (13) In conjunction with the Secretary of Public Safety, approve use of specific models and types of radio microwave, laser, and other speed-measuring instruments and establish the procedures for operation of each approved instrument and standards for calibration and testing for accuracy of each approved instrument.
- (13a) Expired effective September 30, 2007.
- (14) Establish minimum standards for in-service training for criminal justice officers. In-service training standards for sworn law enforcement officers shall include all of the following training topics:
 - a. Response to, and investigation of, domestic violence cases, as well as training investigation for evidence-based prosecutions.
 - b. Juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting

relationship building with youth as a key to delinquency prevention.

- c. Training to develop knowledge and increase awareness of effective mental health and wellness strategies for justice officers. The standards established shall include two hours of training on this issue every three years.
 - d. Ethics.
 - e. Mental health for criminal justice officers.
 - f. Community policing.
 - g. Minority sensitivity.
 - h. Use of force.
 - i. The duty to intervene and report.
- (15) Establish minimum standards and levels of training for certification of instructors for the domestic violence training and juvenile justice training required by subdivisions (2) and (14) of this subsection.
- (16) Establish standards and guidelines for the annual firearms certification of qualified retired law enforcement officers, as defined in G.S. 14-415.10(4b), to efficiently implement the provisions of G.S. 14-415.25. The standards shall provide for the courses, qualifications, and the issuance of the annual firearms qualification certification. **The Commission may adopt any rules** necessary to effect the provisions of this section, and may charge a reasonable fee to applicants for the costs incurred in compliance with this subdivision.
- (17) Establish minimum educational and training standards for employment and continuing education for criminal justice officers concerning:
- a. Recognizing and appropriately interacting with persons who are deaf or hard of hearing.
 - b. Drivers license and vehicle registration identifiers of persons who are deaf or hard of hearing, as authorized by G.S. 20-7(q2), including that those identifiers are optional.
- (18) Monitor compliance with G.S. 20-185.1(d).
- (19) Establish minimum standards and levels of training for certification of diversion investigators and diversion supervisors, as defined in G.S. 90-113.74(i). As part of these minimum standards, the Commission shall require that certified diversion investigators receive training in the following:
- a. Definition of drug diversion.
 - b. Categories of drugs most subject to diversion and misuse.
 - c. Methods used to divert drugs.
 - d. Proper investigation of drug diversion cases.

- e. Appropriate use of the controlled substances reporting system to investigate drug diversion cases.
 - f. Requests of prescriptions and records related to prescriptions pursuant to G.S. 90-107.1, including best practices for working with pharmacies in a manner that minimizes disruption of customer service and pharmacy operations.
 - g. Data privacy and security provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and other pertinent federal and State laws governing privacy and security of confidential data and records.
 - h. Proper handling of confidential data and records from any source.
 - i. Criminal and civil penalties under federal and State law for improperly accessing, handling, or disclosing confidential prescription data or other confidential data or records.
- (20) Certify and recertify at least once every three years, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, persons as qualified to be employed at entry level and retained as diversion investigators and diversion supervisors, as defined in G.S. 90-113.74(i).
- (21) Search the National Decertification Index (NDI) maintained by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) using the name of every applicant for certification or applicant for lateral transfer, and any other personal identifying information necessary to complete the search, and shall utilize any record of conviction of a criminal offense received as a result of the search during the application and lateral transfer process to determine if the applicant has any record that would disqualify the applicant for certification.

(b) The Commission shall have the following powers, which shall be advisory in nature and for which the Commission is not authorized to undertake any enforcement actions:

- (1) Identify types of criminal justice positions, other than entry level positions, for which advanced or specialized training and education are appropriate, and establish minimum standards for the certification of persons as being qualified for those positions on the basis of specified education, training, and experience; provided, that compliance with these minimum standards shall be discretionary on the part of criminal justice agencies with respect to their criminal justice officers;
- (2) Certify, pursuant to the standards that it has established for the purpose, criminal justice officers for those criminal justice agencies that

elect to comply with the minimum education, training, and experience standards established by the Commission for positions for which advanced or specialized training, education, and experience are appropriate;

- (3) Consult and cooperate with counties, municipalities, agencies of this State, other governmental agencies, and with universities, colleges, junior colleges, and other institutions concerning the development of criminal justice training schools and programs or courses of instruction;
- (4) Study and make reports and recommendations concerning criminal justice education and training in North Carolina;
- (5) Conduct and stimulate research by public and private agencies which shall be designed to improve education and training in the administration of criminal justice;
- (6) Study, obtain data, statistics, and information and make reports concerning the recruitment, selection, education, retention, and training of persons serving criminal justice agencies in this State; to make recommendations for improvement in methods of recruitment, selection, education, retention, and training of persons serving criminal justice agencies;
- (7) Make recommendations concerning any matters within its purview pursuant to this Article;
- (8) Appoint such advisory committees as it may deem necessary;
- (9) Do such things as may be necessary and incidental to the administration of its authority pursuant to this Article;
- (10) Formulate basic plans for and promote the development and improvement of a comprehensive system of education and training for the officers and employees of criminal justice agencies consistent with its rules and regulations;
- (11) Maintain liaison among local, State and federal agencies with respect to criminal justice education and training;
- (12) Promote the planning and development of a systematic career development program for criminal justice professionals.

(c) All decisions and rules and regulations heretofore made by the North Carolina Criminal Justice Training and Standards Council and the North Carolina Criminal Justice Education and Training System Council shall remain in full force and effect unless and until repealed or suspended by action of the North Carolina Criminal Justice Education and Training Standards Commission established herein. The present Councils are terminated on December 31, 1979, and their power, duties and responsibilities vest in the North Carolina Criminal Justice Education and Training Standards Commission effective January 1, 1980.

(d) The standards established by the Commission pursuant to G.S. 17C-6(a)(11) and 17C-6(a)(12) and by the Commission and the Secretary of Public Safety pursuant to G.S. 17C-6(a)(13) shall not be less stringent than standards established by the U.S. Department of Transportation, National Highway Traffic Safety Administration, National Bureau of Standards, or the Federal Communications Commission. (1971, c. 963, s. 6; 1975, c. 372, s. 2; 1979, c. 763, s. 1; 1979, 2nd Sess., c. 1184, ss. 1, 2; 1989, c. 757, s. 4; 1994, Ex. Sess., c. 18, s. 2; 1995, c. 509, s. 14.1; 2000-140, s. 38.1(b); 2002-159, s. 29; 2003-280, s. 3; 2004-186, ss. 2.1, 2.3, 2.5; 2005-27, ss. 1, 2; 2007-427, s. 2; 2009-546, s. 2; 2011-145, s. 19.1(g); 2016-94, s. 18.2; 2017-57, s. 16D.4(bb); 2017-191, s. 2; 2018-5, ss. 17.1(a), 35.25(d); 2018-44, s. 14(a); 2018-142, s. 23(b); 2021-136, s. 1(a); 2021-137, s. 2(a); 2021-138, ss. 7(a), 11(a), 15(a).)

1 12 NCAC 09F .0103 is amended as published in 37:19 NCR 1927-1940 as follows:

2
3 12 NCAC 09F .0103 APPROVAL OF COURSES

4 (a) An approved course is one that:

- 5 (1) meets or exceeds the criteria as specified in Rule .0102 of this Section;
- 6 (2) is certified or sponsored by one of the agencies listed in G.S. 14-415.12(a)(4)(a), (b), and (c); and
- 7 (3) is approved by the Commission.

8 (b) Pursuant to G.S. 14-415.12(a)(4)(a), (b), and (c), the Commission shall review and ensure that submitted

9 courses submitted by instructors meet or exceed the general guidelines as specified in Rule .0102 of this Section.

10 (c) Courses submitted for review shall be submitted by the instructor who is to deliver the instruction by mailing the

11 course to the Commission.

12 (d) Any modification of an approved course shall be submitted for approval and approved prior to the delivery of any

13 such modified course and shall be submitted by the instructor who is to deliver the instruction by mailing the course

14 to the Commission.

15 (e) Courses identified in paragraph (b) of this Rule ~~All courses~~ are to be taught in person. Virtually delivered

16 courses are not approved by the Commission.

17
18 *History Note:* Authority G.S. 14-415.12;

19 Temporary Adoption Eff. November 1, 1995;

20 Eff. May 1, 1996;

21 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,

22 2019; Amended Eff. March 1, 2024.

23

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COMMENT:

In 12 NCAC 09F .0104 and .0105, the North Carolina Criminal Justice Education and Training Standards Commission ("CJETTS) sets qualifications and responsibilities respectively for any persons "approved to deliver a concealed carry handgun training course, pursuant to N.C.G.S. 14-415.12(a)(4).

North Carolina's law concerning the carrying of concealed weapons is contained in Chapter 14 of the North Carolina General Statutes entitled "Criminal Law."

Pursuant to G.S. 14-415.12, the sheriff of a county "shall" issue concealed carry permit to any qualifying applicant who meets certain criteria.

Among the criteria is G.S. 14-415.12(a)(4) wherein an applicant for a concealed carry permit must successfully complete "an approved firearms safety course". The statute does not identify by whom the course must be approved; however, the statute goes on define "an approved course:

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Pursuant to this language, there are two prerequisites for a course to be “approved”. 1) The course satisfies the requirements of the subdivision¹ and 2) the course must be certified or sponsored² by “any of” the enumerated entities.

G.S. 14-415.12(a)(4) sets forth four alternatives to meet the definition of an “approved course.” Courses sponsored by CJETS, the NRA, or the CCA are approved courses. The fourth alternative is a course “taught by instructors certified by” CJETS, the NRA, or the CCA but sponsored by “a law enforcement agency, college, private or public institution or organization, or firearms training school.”

Agency Rule Making Authority

CJETS is established in Chapter 17C of the North Carolina General Statutes. CJETS rulemaking authority is contained in Chapter 17C, mostly in G.S. 17C-6. The term “concealed carry” does not appear in Chapter 17C. The only reference to concealed carry in Chapter 17C is in G.S. 17C-6(a)(16) which possession of concealed carry firearms by current and former law enforcement officers and exempting from obtaining a permit by the sheriff.³

However, in G.S. 14-415.12, CJETS is charged with preparing and publishing “general guidelines” for courses and qualifications “which would satisfy the requirements of this subdivision.” It is upon this language that the agency claims authority to adopt rules regulating the instructors and courses on the topic of concealed carry, including those courses sponsored by the National Rifle Association, and the United States Concealed Carry Association, and the instructors thereof.

Analysis

“General guidelines” are not “rules” as defined in G.S. 150B-2(8a). While guidelines can become rules if they meet the definition of a rule⁴, the instruction by the General Assembly to write guidelines does not grant rulemaking authority.

By the plain language of G.S. 14-415.12, it does not appear that the General Assembly intended to grant the agency rule-making authority. Simply put, if the General Assembly had intended to grant rulemaking authority over the instruction of concealed carry, it would have stated so plainly and employed the word “rule” or “regulation” in the grant.

¹ The only requirement of the subdivision is that the course “involves the actual firing of handguns and instruction in the laws of this State governing the carrying of a concealed handgun and the use of deadly force.”

² NOTE THE USE OF THE LANGUAGE “CERTIFIED OR SPONSORED.” “CERTIFIED” IMPLIES OFFICIAL OR GOVERNMENTAL RECOGNITION WHILE “SPONSORED” IMPLIES PRIVATE.

³ G.S. 17C-6(A)(16) IS ALSO THE ONLY USE OF THE TERM “GUIDELINES” IN CHAPTER 17C AND THERE IT IS USED IN THE CONTEXT OF “STANDARDS AND GUIDELINES,”; STANDARDS BEING RULES AND GUIDELINES NOT.

⁴ SEE G.S. 150B-18.

I.

Rule .0104 establishes the prerequisites “to be approved to deliver a concealed carry handgun training course, pursuant to G.S. 14-415.12(a)(4)”. Rule .0105 establishes the responsibilities of an instructor “to be approved to deliver a concealed carry handgun training course, pursuant to G.S. 14-415(a)(4)”.

As written, these rules would include courses sponsored by the National Rifle Association (“NRA”) and United States Concealed Carry Association (“CCA”).

Pursuant to G.S. 14-415.12(a)(4)b. and b1., NRA and CCA sponsored-course instructors do not need to be “certified” by anyone nor approved by anyone but the NRA or CCA. CJETS simply lacks the authority to prescribe prerequisites, make requirements for, or “approve” instructors of NRA and CCA sponsored-courses.

Further, pursuant to G.S. 14-415.12(a)(4)c., NRA or CCA instructors at a course certified or sponsored by *law enforcement agencies, colleges, private or public institutions or organizations, or firearms training schools, other than a CJETS course, need only be certified by the NRA or CCA, not CJETS.*

It appears to staff counsel that CJETS can lay these rules upon CJETS instructors, and CJETS sponsored courses and the instructors thereto, but not upon NRA or CAA instructors or courses sponsored by the NRA or CAA.

Staff recommends objection to the rules pursuant to G.S. 150B-21.9(a)(1) for lack of authority.

William W. Peaslee
Commission Counsel

§ 150B-21.9. Standards and timetable for review by Commission.

(a) Standards. - The Commission must determine whether a rule meets all of the following criteria:

- (1) It is within the authority delegated to the agency by the General Assembly.
- (2) It is clear and unambiguous.
- (3) It is reasonably necessary to implement or interpret an enactment of the General Assembly, or of Congress, or a regulation of a federal agency. The Commission shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed.
- (4) It was adopted in accordance with Part 2 of this Article.

The Commission shall not consider questions relating to the quality or efficacy of the rule but shall restrict its review to determination of the standards set forth in this subsection.

The Commission may ask the Office of State Budget and Management to determine if a rule has a substantial economic impact and is therefore required to have a fiscal note. The Commission must ask the Office of State Budget and Management to make this determination if a fiscal note was not prepared for a rule and the Commission receives a written request for a determination of whether the rule has a substantial economic impact.

(a1) Entry of a rule in the North Carolina Administrative Code after review by the Commission creates a rebuttable presumption that the rule was adopted in accordance with Part 2 of this Article.

(b) Timetable. - The Commission must review a permanent rule submitted to it on or before the twentieth of a month by the last day of the next month. The Commission must review a rule submitted to it after the twentieth of a month by the last day of the second subsequent month. The Commission must review a temporary rule in accordance with the timetable and procedure set forth in G.S. 150B-21.1. (1991, c. 418, s. 1; 1995, c. 507, s. 27.8(f); 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2003-229, s. 9.)

§ 150B-18. Scope and effect.

This Article applies to an agency's exercise of its authority to adopt a rule. A rule is not valid unless it is adopted in substantial compliance with this Article. An agency shall not seek to implement or enforce against any person a policy, guideline, or other interpretive statement that meets the definition of a rule contained in G.S. 150B-2(8a) if the policy, guideline, or other interpretive statement has not been adopted as a rule in accordance with this Article. (1991, c. 418, s. 1; 2011-398, s. 1; 2012-187, s. 2.)

§ 14-415.12. Criteria to qualify for the issuance of a permit.

(a) The sheriff shall issue a permit to an applicant if the applicant qualifies under the following criteria:

- (1) The applicant is a citizen of the United States or has been lawfully admitted for permanent residence as defined in 8 U.S.C. § 1101(a)(20), and has been a resident of the State 30 days or longer immediately preceding the filing of the application.
- (2) The applicant is 21 years of age or older.
- (3) The applicant does not suffer from a physical or mental infirmity that prevents the safe handling of a handgun.
- (4) The applicant has successfully completed an approved firearms safety and training course which involves the actual firing of handguns and instruction in the laws of this State governing the carrying of a concealed handgun and the use of deadly force. The North Carolina Criminal Justice Education and Training Standards Commission shall prepare and publish general guidelines for courses and qualifications of instructors which would satisfy the requirements of this subdivision. An approved course shall be any course which satisfies the requirements of this subdivision and is certified or sponsored by any of the following:
 - a. The North Carolina Criminal Justice Education and Training Standards Commission.
 - b. The National Rifle Association.
 - b1. The United States Concealed Carry Association.
 - c. A law enforcement agency, college, private or public institution or organization, or firearms training school, taught by instructors certified by the North Carolina Criminal Justice Education and Training Standards Commission, the United States Concealed Carry Association, or the National Rifle Association.

Every instructor of an approved course shall file a copy of the firearms course description, outline, and proof of certification annually, or upon modification of the course if more frequently, with the North Carolina Criminal Justice Education and Training Standards Commission.

- (5) The applicant is not disqualified under subsection (b) of this section.
- (b) The sheriff shall deny a permit to an applicant who:
- (1) Is ineligible to own, possess, or receive a firearm under the provisions of State or federal law.
 - (2) Is under indictment or against whom a finding of probable cause exists for a felony.
 - (3) Has been adjudicated guilty in any court of a felony, unless: (i) the felony is an offense that pertains to antitrust violations, unfair trade

practices, or restraints of trade, or (ii) the person's firearms rights have been restored pursuant to G.S. 14-415.4.

- (4) Is a fugitive from justice.
- (5) Is an unlawful user of, or addicted to marijuana, alcohol, or any depressant, stimulant, or narcotic drug, or any other controlled substance as defined in 21 U.S.C. § 802.
- (6) Is currently, or has been previously adjudicated by a court or administratively determined by a governmental agency whose decisions are subject to judicial review to be, lacking mental capacity or mentally ill. Receipt of previous consultative services or outpatient treatment alone shall not disqualify an applicant under this subdivision.
- (7) Is or has been discharged from the Armed Forces of the United States under conditions other than honorable.
- (8) Except as provided in subdivision (8a), (8b), or (8c) of this section, is or has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes of violence constituting a misdemeanor, including but not limited to, a violation of a misdemeanor under Article 8 of Chapter 14 of the General Statutes except for a violation of G.S. 14-33(a), or a violation of a misdemeanor under G.S. 14-226.1, 4-258.1, 14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-277, 14-277.1, 14-277.2, 14-283 except for a violation involving fireworks exempted under G.S. 14-414, 14-288.2, 14-288.4(a)(1), 14-288.6, 14-288.9, former 14-288.12, former 14-288.13, former 14-288.14, 14-415.21(b), or 14-415.26(d) within three years prior to the date on which the application is submitted.
- (8a) Is or has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes of violence constituting a misdemeanor under G.S. 14-33(c)(1), 14-33(c)(2), 14-33(c)(3), 14-33(d), 14-277.3A, 14-318.2, 14-134.3, 50B-4.1, or former G.S. 14-277.3.
- (8b) Is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(g) as a result of a conviction of a misdemeanor crime of domestic violence.
- (8c) Has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes involving an assault or a threat to assault a law enforcement officer, probation or parole officer, person employed at a State or local detention facility, firefighter, emergency medical technician, medical responder, or emergency department personnel.
- (9) Has had entry of a prayer for judgment continued for a criminal offense which would disqualify the person from obtaining a concealed handgun permit.

- (10) Is free on bond or personal recognizance pending trial, appeal, or sentencing for a crime which would disqualify him from obtaining a concealed handgun permit.
 - (11) Has been convicted of an impaired driving offense under G.S. 20-138.1, 20-138.2, or 20-138.3 within three years prior to the date on which the application is submitted.
- (c) An applicant shall not be ineligible to receive a concealed carry permit under subdivision (6) of subsection (b) of this section because of an adjudication of mental incapacity or illness or an involuntary commitment to mental health services if the individual's rights have been restored under G.S. 14-409.42. (1995, c. 398, s. 1; c. 509, s. 135.3(d); 1997-441, s. 4; 2007-427, s. 5; 2008-210, s. 3(b); 2009-58, s. 1; 2010-108, s. 5; 2011-2, s. 1; 2011-183, s. 16; 2012-12, s. 2(bb); 2013-369, s. 11; 2015-195, ss. 7, 11(l), 17; 2022-75, s. 16(a).)

§ 14-415.13. Application for a permit; fingerprints.

(a) A person shall apply to the sheriff of the county in which the person resides to obtain a concealed handgun permit. The applicant shall submit to the sheriff all of the following:

- (1) An application, completed under oath, on a form provided by the sheriff, and such application form must be provided by the sheriff electronically. The sheriff shall not request employment information, character affidavits, additional background checks, photographs, or other information unless specifically permitted by this Article.
- (2) A nonrefundable permit fee.
- (3) A full set of fingerprints of the applicant administered by the sheriff.
- (4) An original certificate of completion of an approved course, adopted and distributed by the North Carolina Criminal Justice Education and Training Standards Commission, signed by the certified instructor of the course attesting to the successful completion of the course by the applicant which shall verify that the applicant is competent with a handgun and knowledgeable about the laws governing the carrying of a concealed handgun and the use of deadly force.
- (5) A release, in a form to be prescribed by the Administrative Office of the Courts, that authorizes and requires disclosure to the sheriff of any records concerning the mental health or capacity of the applicant to be used for the sole purpose of determining whether the applicant is disqualified for a permit under the provisions of G.S. 14-415.12. This provision does not prohibit submitting information related to involuntary commitment to the National Instant Criminal Background Check System (NICS).

(b) The sheriff shall submit the fingerprints to the State Bureau of Investigation for a records check of State and national databases. The State Bureau of Investigation shall submit the fingerprints to the Federal Bureau of Investigation as necessary. The sheriff shall determine the criminal and background history of an applicant also by conducting a check through the National Instant Criminal Background Check System (NICS). The cost of processing the set of fingerprints shall be charged to an applicant as provided by G.S. 14-415.19. (1995, c. 398, s. 1; c. 507, ss. 22.2(a), 22.1(b); 2006-39, s. 2; 2011-268, s. 15; 2015-195, s. 11(g).)

§ 17C-6. Powers of Commission.

(a) In addition to powers conferred upon the Commission elsewhere in this Article, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

- (1) **Promulgate rules and regulations** for the administration of this Article, which rules may require (i) the submission by any criminal justice agency of information with respect to the employment, education, retention, and training of its criminal justice officers, and (ii) the submission by any criminal justice training school of information with respect to its criminal justice training programs that are required by this Article.
- (2) Establish minimum educational and training standards that must be met in order to qualify for entry level employment and retention as a criminal justice officer in temporary or probationary status or in a permanent position. The standards for entry level employment shall include all of the following:
 - a. Education and training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions.
 - b. Education and training on juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.
 - c. Education and training to develop knowledge and increase awareness of effective mental health and wellness strategies for criminal justice officers.
- (3) Certify and recertify, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, persons as qualified under the provisions of this Article to be employed at entry level and retained as criminal justice officers.
- (4) Establish minimum standards for the certification of criminal justice training schools and programs or courses of instruction that are required by this Article.
- (5) Certify and recertify, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, criminal justice training schools and programs or courses of instruction that are required by this Article.

- (6) Establish minimum standards and levels of education and experience for all criminal justice instructors and school directors who participate in programs or courses of instruction that are required by this Article.
- (7) Certify and recertify, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, criminal justice instructors and school directors who participate in programs or courses of instruction that are required by this Article or are required and approved by their respective criminal justice agency to include those certified under Chapter 17E or an educational institution accredited by the Commission.
- (8) Investigate and make such evaluations as may be necessary to determine if criminal justice agencies, schools, and individuals are complying with the provisions of this Article.
- (9) Adopt and amend bylaws, consistent with law, for its internal management and control.
- (10) Enter into contracts incident to the administration of its authority pursuant to this Article.
- (11) Establish minimum standards and levels of training for certification and periodic recertification of operators of and instructors for training programs in radio microwave, laser, and other electronic speed-measuring instruments.
- (12) Certify and recertify, suspend, revoke, or deny, pursuant to the standards that it has established, operators and instructors for training programs for each approved type of radio microwave, laser, and other electronic speed-measuring instruments.
- (13) In conjunction with the Secretary of Public Safety, approve use of specific models and types of radio microwave, laser, and other speed-measuring instruments and establish the procedures for operation of each approved instrument and standards for calibration and testing for accuracy of each approved instrument.
- (13a) Expired effective September 30, 2007.
- (14) Establish minimum standards for in-service training for criminal justice officers. In-service training standards for sworn law enforcement officers shall include all of the following training topics:
 - a. Response to, and investigation of, domestic violence cases, as well as training investigation for evidence-based prosecutions.
 - b. Juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting

relationship building with youth as a key to delinquency prevention.

- c. Training to develop knowledge and increase awareness of effective mental health and wellness strategies for justice officers. The standards established shall include two hours of training on this issue every three years.
 - d. Ethics.
 - e. Mental health for criminal justice officers.
 - f. Community policing.
 - g. Minority sensitivity.
 - h. Use of force.
 - i. The duty to intervene and report.
- (15) Establish minimum standards and levels of training for certification of instructors for the domestic violence training and juvenile justice training required by subdivisions (2) and (14) of this subsection.
- (16) Establish standards and guidelines for the annual firearms certification of qualified retired law enforcement officers, as defined in G.S. 14-415.10(4b), to efficiently implement the provisions of G.S. 14-415.25. The standards shall provide for the courses, qualifications, and the issuance of the annual firearms qualification certification. **The Commission may adopt any rules** necessary to effect the provisions of this section, and may charge a reasonable fee to applicants for the costs incurred in compliance with this subdivision.
- (17) Establish minimum educational and training standards for employment and continuing education for criminal justice officers concerning:
- a. Recognizing and appropriately interacting with persons who are deaf or hard of hearing.
 - b. Drivers license and vehicle registration identifiers of persons who are deaf or hard of hearing, as authorized by G.S. 20-7(q2), including that those identifiers are optional.
- (18) Monitor compliance with G.S. 20-185.1(d).
- (19) Establish minimum standards and levels of training for certification of diversion investigators and diversion supervisors, as defined in G.S. 90-113.74(i). As part of these minimum standards, the Commission shall require that certified diversion investigators receive training in the following:
- a. Definition of drug diversion.
 - b. Categories of drugs most subject to diversion and misuse.
 - c. Methods used to divert drugs.
 - d. Proper investigation of drug diversion cases.

- e. Appropriate use of the controlled substances reporting system to investigate drug diversion cases.
 - f. Requests of prescriptions and records related to prescriptions pursuant to G.S. 90-107.1, including best practices for working with pharmacies in a manner that minimizes disruption of customer service and pharmacy operations.
 - g. Data privacy and security provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and other pertinent federal and State laws governing privacy and security of confidential data and records.
 - h. Proper handling of confidential data and records from any source.
 - i. Criminal and civil penalties under federal and State law for improperly accessing, handling, or disclosing confidential prescription data or other confidential data or records.
- (20) Certify and recertify at least once every three years, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, persons as qualified to be employed at entry level and retained as diversion investigators and diversion supervisors, as defined in G.S. 90-113.74(i).
- (21) Search the National Decertification Index (NDI) maintained by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) using the name of every applicant for certification or applicant for lateral transfer, and any other personal identifying information necessary to complete the search, and shall utilize any record of conviction of a criminal offense received as a result of the search during the application and lateral transfer process to determine if the applicant has any record that would disqualify the applicant for certification.

(b) The Commission shall have the following powers, which shall be advisory in nature and for which the Commission is not authorized to undertake any enforcement actions:

- (1) Identify types of criminal justice positions, other than entry level positions, for which advanced or specialized training and education are appropriate, and establish minimum standards for the certification of persons as being qualified for those positions on the basis of specified education, training, and experience; provided, that compliance with these minimum standards shall be discretionary on the part of criminal justice agencies with respect to their criminal justice officers;
- (2) Certify, pursuant to the standards that it has established for the purpose, criminal justice officers for those criminal justice agencies that

elect to comply with the minimum education, training, and experience standards established by the Commission for positions for which advanced or specialized training, education, and experience are appropriate;

- (3) Consult and cooperate with counties, municipalities, agencies of this State, other governmental agencies, and with universities, colleges, junior colleges, and other institutions concerning the development of criminal justice training schools and programs or courses of instruction;
- (4) Study and make reports and recommendations concerning criminal justice education and training in North Carolina;
- (5) Conduct and stimulate research by public and private agencies which shall be designed to improve education and training in the administration of criminal justice;
- (6) Study, obtain data, statistics, and information and make reports concerning the recruitment, selection, education, retention, and training of persons serving criminal justice agencies in this State; to make recommendations for improvement in methods of recruitment, selection, education, retention, and training of persons serving criminal justice agencies;
- (7) Make recommendations concerning any matters within its purview pursuant to this Article;
- (8) Appoint such advisory committees as it may deem necessary;
- (9) Do such things as may be necessary and incidental to the administration of its authority pursuant to this Article;
- (10) Formulate basic plans for and promote the development and improvement of a comprehensive system of education and training for the officers and employees of criminal justice agencies consistent with its rules and regulations;
- (11) Maintain liaison among local, State and federal agencies with respect to criminal justice education and training;
- (12) Promote the planning and development of a systematic career development program for criminal justice professionals.

(c) All decisions and rules and regulations heretofore made by the North Carolina Criminal Justice Training and Standards Council and the North Carolina Criminal Justice Education and Training System Council shall remain in full force and effect unless and until repealed or suspended by action of the North Carolina Criminal Justice Education and Training Standards Commission established herein. The present Councils are terminated on December 31, 1979, and their power, duties and responsibilities vest in the North Carolina Criminal Justice Education and Training Standards Commission effective January 1, 1980.

(d) The standards established by the Commission pursuant to G.S. 17C-6(a)(11) and 17C-6(a)(12) and by the Commission and the Secretary of Public Safety pursuant to G.S. 17C-6(a)(13) shall not be less stringent than standards established by the U.S. Department of Transportation, National Highway Traffic Safety Administration, National Bureau of Standards, or the Federal Communications Commission. (1971, c. 963, s. 6; 1975, c. 372, s. 2; 1979, c. 763, s. 1; 1979, 2nd Sess., c. 1184, ss. 1, 2; 1989, c. 757, s. 4; 1994, Ex. Sess., c. 18, s. 2; 1995, c. 509, s. 14.1; 2000-140, s. 38.1(b); 2002-159, s. 29; 2003-280, s. 3; 2004-186, ss. 2.1, 2.3, 2.5; 2005-27, ss. 1, 2; 2007-427, s. 2; 2009-546, s. 2; 2011-145, s. 19.1(g); 2016-94, s. 18.2; 2017-57, s. 16D.4(bb); 2017-191, s. 2; 2018-5, ss. 17.1(a), 35.25(d); 2018-44, s. 14(a); 2018-142, s. 23(b); 2021-136, s. 1(a); 2021-137, s. 2(a); 2021-138, ss. 7(a), 11(a), 15(a).)

1 **12 NCAC 09F .0104 is amended as published in 37:19 NCR 1927-1940**

2
3 **12 NCAC 09F .0104 INSTRUCTOR QUALIFICATIONS**

4 (a) To be approved to deliver ~~the "Concealed Carry Handgun Training"~~ a concealed carry handgun training course,
5 pursuant to N.C.G.S. 14-415.(a)(4), ~~course,~~ instructors shall:

6 (1) hold one of the following certifications:

7 (a) ~~Specific~~ "Specialized Instructor Certification-Firearms" issued by the Criminal Justice
8 Education and Training Standards Commission ~~(Commission),~~ as outlined in 12 NCAC
9 09B .0304(f);

10 ~~(b) Private Protective Services Firearms Trainer Certification; or~~

11 (e) ~~(b)~~ "Firearms Instructor Certification" in Personal Protection, Basic Pistol, or Police Firearms
12 issued by the National Rifle Association; or

13 ~~(c)~~ "Firearms Instructor Certification – Concealed Carry and Home Defense" issued by the
14 United States Concealed Carry Association;

15 (2) hold a certificate issued by the North Carolina Justice Academy showing completion of the course
16 "Laws Governing Concealed Handgun and Use of Deadly Force"; and

17 (3) be eligible to receive or possess a firearm under Federal and North Carolina State Law.

18 (b) If the instructor fails to file with the Commission a concealed carry handgun course outline and proof of firearm's
19 instructor certification as specified in Paragraph (a)(1) of this Rule for two consecutive years, he or she must repeat
20 the course "Laws Governing Concealed Handgun and Use of Deadly Force" conducted by the North Carolina Justice
21 Academy, provide to the Commission proof of a current firearms instructor certification as specified in Paragraph
22 (a)(1) of this Rule, and maintain eligibility to possess a firearm as specified in Paragraph (a) of this Rule prior to
23 instructing a concealed carry handgun course.

24 (c) The instructor shall notify the Criminal Justice Standards Division of all court orders, domestic violence orders of
25 protection, and criminal offenses for which the instructor is ~~charged~~ charged, which would prohibit the instructor from
26 being eligible to receive or possess a firearm under Federal and North Carolina State Law. The notifications required
27 under this Paragraph must be in writing, must specify the nature of the offense, the court in which the case is being
28 handled, the date of arrest, court order, and domestic violence order of protection or criminal charge. The notification
29 required under this Paragraph must be received by the Criminal Justice Standards Division within 10 days of the date
30 of the court order, domestic violence order of protection, arrest, or criminal charge.

31
32 *History Note:* Authority G.S. 14-415.12;
33 Temporary Adoption Eff. November 1, 1995;
34 Eff. May 1, 1996;
35 Amended Eff. November 1, 2015; September 1, 2005; May 1, 2004;
36 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,
37 2019;
38 Amended Eff. March 1, 2024.
39

1 12 NCAC 09F .0105 is amended, with changes, as published in 37:19 NCR 1927-1940

2
3 12 NCAC 09F .0105 INSTRUCTOR RESPONSIBILITIES

4 To be approved to deliver a concealed carry handgun trainig course, pursuant to N.C.G.S. 14-415.12(a)(4), in
5 delivering the "Concealed Carry Handgun Training" (CCH) course the instructor shall:

- 6 (1) have a valid Concealed Carry Handgun instructor certification issued by the Criminal Justice
7 ~~Standards Division; Education and Training Standards Commission (Commission);~~
- 8 (2) file a copy of the proposed firearms course description, outline, and proof of instructor certification
9 along with a written request to conduct the "~~Concealed Carry Handgun Training~~" CCH course for
10 approval by the Commission prior to delivery of any instruction required by G.S. 14-415.12;
- 11 (3) file a copy of all modifications;
- 12 (4) shall purchase from, and be issued by, ~~and be issued by~~ Commission staff a quantity of certificates
13 as requested by the instructor for course participants that shall bear the instructor's name, the
14 instructor's assigned number, be sequentially numbered, and bear the raised seal of the Commission;
- 15 (5) if a Concealed Carry Handgun Instructor relinquishes his or her certification and wants to transfer
16 his or her assigned participants' certificates to another Concealed Carry Handgun instructor, a
17 written request shall be submitted to the Criminal Justice Standards Division (Division) Director for
18 approval. The written request shall include the following:
 - 19 (a) instructor name and identification number;
 - 20 (b) name of business;
 - 21 (c) business phone number and email address;
 - 22 (d) recipient instructor name and identification number;
 - 23 (e) recipient business name;
 - 24 (f) recipient business phone number, email address; and
 - 25 (g) list of the assigned certificate numbers for participants to be transferred;
- 26 (6) affix the student's name to one certificate and issue that certificate to the student who successfully
27 completes the "~~Concealed Carry Handgun Training~~" CCH course;
- 28 (7) conduct the training consistent with the guidelines established in Rule .0102 of this Section;
- 29 (8) administer a written examination, that includes at a minimum questions provided by the
30 Commission, which the student shall pass with a minimum score with a minimum passing score of
31 70 percent on the questions provided by the Commission; and
- 32 (9) administer a proficiency examination that demonstrates the student is competent in the firing and
33 safe handling of a handgun. Such examination shall include, at a minimum, the following:
 - 34 (a) The student fires 30 rounds of ammunition at a bulls-eye or silhouette target from three,
35 five, and seven yard distances;
 - 36 (b) At each yard distance the student shall fire a minimum ten rounds; and
 - 37 (c) 21 of the 30 rounds fired by the student hit the target.

1 (d) For safety purposes, steel or metal targets will not be used at distances less than 10 yards
2 from the target.

3 ~~[(10) — Not fewer than 30 days before commencing delivery of the course, submit to the Commission a Pre-~~
4 ~~Delivery Report of Training Course Presentation [Form F 10A (CCH)] with the following~~
5 ~~information:~~

6 - ~~(a) — Instructor(s) name(s)~~

7 ~~(b) — Type of course (NCJA model, NRA, or USCCA as approved by the Commission)~~

8 ~~(c) — Date and location of course~~

9 ~~(d) — Hours of course (minimum of 8 hours)~~

10 ~~(e) — Anticipated number of students~~

11 ~~(11) — Not more than 10 days after course completion, submit to the Commission a Post-Delivery Report~~
12 ~~[Form F 10B(CCH)] containing the following information:~~

13 - ~~(a) — Instructor(s) name(s), if changes were made~~

14 - ~~(b) — Actual number of attendees~~

15 ~~(12) — Maintain a roster of all students completing each CCH course in compliance with the North Carolina~~
16 ~~Department of Natural and Cultural Resources Retention and Disposition Schedule established~~
17 ~~pursuant to G.S. 121-4 and G.S. 132-8.1. This roster must include, at a minimum, each student's~~
18 ~~legal name and contact information. The instructor must be able to produce the student list for~~
19 ~~inspection by Division staff for audit purposes.]~~

20 ~~[(43) (10)]~~ Provide each student ~~[for their permanent personal use with]~~ a current copy of the “Concealed
21 Carry Handgun Training” manual (Red ~~[book] Book) manual as~~ published by the North Carolina
22 Justice ~~[Academy:]~~ ~~[Academy, or an alternative training manual that includes all of the content of~~
23 ~~the most current copy of the “Concealed Carry Handgun Training” manual (Red Book) published~~
24 ~~by the North Carolina Justice Academy. The contents of the “Concealed Carry Handgun Training”~~
25 ~~manual (Red Book) published by the North Carolina Justice Academy must be included in the~~
26 ~~curriculum for the CCH course. The contents of this manual must be included in the curriculum for~~
27 ~~the CCH course.]~~ Copies of this publication may be inspected at the agency:

28 Criminal Justice Standards Division

29 North Carolina Department of Justice

30 1700 Tryon Park Drive

31 Post Office Drawer 149

32 Raleigh, North Carolina 27602

33
34 and may be purchased at the cost of printing and postage from the Academy at the following
35 address:

36 North Carolina Justice Academy

37 Post Office Drawer 99

Salemburg, NC 28385

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*History Note: Authority G.S. 14-415.12; 14-415.13;
Temporary Adoption Eff. November 1, 1995;
Eff. May 1, 1996;
Amended Eff. April 1, 2018; May 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,
2019;
Amended Eff. January 1, 2025; January 1, 2020; August 1, 2019.*