

## Burgos, Alexander N

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**Subject:** FW: [External] Revised Rule

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**From:** Schilling, Michelle <[mschilling@ncdoj.gov](mailto:mschilling@ncdoj.gov)>

**Sent:** Wednesday, April 10, 2024 10:25 AM

**To:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>; Rules, Oah <[oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov)>

**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>

**Subject:** Re: [External] Revised Rule

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Thank you, sir.



**MICHELLE SCHILLING**

Deputy Director

Criminal Justice Standards Division

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1700 Tryon Park Drive

Raleigh, NC 27602-0149

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**From:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>

**Sent:** Wednesday, April 10, 2024 10:09 AM

**To:** Rules, Oah <[oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov)>

**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Schilling, Michelle <[mschilling@ncdoj.gov](mailto:mschilling@ncdoj.gov)>

**Subject:** FW: [External] Revised Rule

Good morning.

It is my intention to recommend approval of the attached rule as revised.

Thank you.

**William W. Peaslee**  
**Rules Review Commission Counsel / Legislative Liaison**  
Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh NC, 27609  
(984) 236-1939  
[Bill.Peaslee@oah.nc.gov](mailto:Bill.Peaslee@oah.nc.gov)

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**From:** Schilling, Michelle <[mschilling@ncdoj.gov](mailto:mschilling@ncdoj.gov)>  
**Sent:** Wednesday, April 10, 2024 10:04 AM  
**To:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** Re: [External] Revised Rule

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Good morning,

I have made recommended revision.

Please let me know if there are any questions.

Thank you for your continued support and assistance.

Michelle



**MICHELLE SCHILLING**

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**From:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Sent:** Wednesday, April 10, 2024 9:55 AM  
**To:** Schilling, Michelle <[mschilling@ncdoj.gov](mailto:mschilling@ncdoj.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: [External] Revised Rule

Good morning,

You struck Paragraph (b) and you need that language (or other language) to instruct those maintaining the records about how long they need to maintain the records.

In the FRC I asked who was responsible for maintaining the records. Contextually, Paragraph (b) was acceptable as it implied that the criminal justice agencies were responsible, but I thought the rule could be improved by adding “by the criminal justice agency” after “maintained.” Either way will not engender an objection.

Hope this helps.

**William W. Peaslee**  
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## Burgos, Alexander N

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**Subject:** FW: [External] Revised Rule  
**Attachments:** 12 ncac 09c .0307.docx; Responses to RRC Request for Changes.docx

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**From:** Schilling, Michelle <mschilling@ncdoj.gov>  
**Sent:** Tuesday, April 9, 2024 3:52 PM  
**To:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** Re: [External] Revised Rule

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good afternoon, Mr. Peaslee,

My sincere apology for the previously submitted document. I have made needed corrections. The draft rule is attached for your review.

Michelle



**MICHELLE SCHILLING**

Deputy Director

Criminal Justice Standards Division

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**From:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Sent:** Tuesday, April 9, 2024 2:46 PM  
**To:** Schilling, Michelle <[mschilling@ncdoj.gov](mailto:mschilling@ncdoj.gov)>

**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>

**Subject:** RE: [External] Revised Rule

Good afternoon,

Your submission has not highlighted all of the revisions which have been made in response to the RFC. See 26 NCAC 02C .0405.

Also, page 1, lines 6-7: Strike one of the “ofs”.

There also appear to be both underlines and strikethroughs on Page 2, Lines 19, and 24.

Please correct and resubmit.

Thank you.

**William W. Peaslee**  
**Rules Review Commission Counsel / Legislative Liaison**  
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Raleigh NC, 27609  
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## Responses to RRC Request for Changes

Rule Citation: 12 NCAC 09C .0307

Recommended Change #1: Generally, to the Rule: Consider adding cross references to other agency rules and/or adding the form number in addition to the title. For example, in Paragraph (1)((A), “the officer’s Personal History Statement (F-3), pursuant to 12 NCAC 09C .0201.”

Response: Cross references added.

Recommended Change #2: Generally, to the Rule: In several parts the rule requires “documentation.” If the Commission is seeking particular documents, consider stating them plainly. For example, in Paragraph (a)(1)(F), “ a copy of all certificates or diplomas.”

Response: Documentation clarified.

Recommended Change #3: Page 1, Lines 4-6: This could be much more concisely stated. Consider re-writing it.

Response Language clarified.

Recommended Change #4: Page 1, Line 6: “in five days” from what or when?

Response: Language deleted.

Recommended Change #5: Page 1, Line 18: Written by whom?

Response: Language clarified.

Recommended Change #6: Line 19: Which form? By what rule was the form approved by the Commission? If the Commission is going to require the use of a form, the substantive requirements of the form must be adopted.

Response: Language clarified.

Recommended Change #7: Page 1, Line 26: What firearms qualification? Cite a rule.

Response: Language clarified.

Recommended Change #8: Page 1, Line 28:-30: It appears to me that G.S. 15A-151 is the only statute which needs to be cited.

Response: Recommended language inserted.

Recommended Change #9: Page 2, Line 1: Which form? By what rule was the form approved by the Commission? If the Commission is going to require the use of a form, the substantive requirements of the form must be adopted.

Response: Rule citation added for oath requirements and content.

Recommended Change #10: Line 8: What firearms qualification? Cite a rule.

Response: Language clarified.

Recommended Change #11: Page 2, Lines 10-12: It appears to me that G.S. 15A-151 is the only statute which needs to be cited.

Response: Recommended language inserted.

Recommended Change #12: Page 2, Line 13: Maintained by whom?

Response: Language removed and inserted on page 1 at (a).

Recommended Change #13: Page 2, Line 16: Add G.S. 15A -151

Response: Recommended language inserted.

1 12 NCAC 09C .0307 is amended as published in 38:12 NCR 815-816

2  
3 12 NCAC 09C .0307 AGENCY RETENTION OF RECORDS OF CERTIFICATION

4 (a) Pursuant to the North Carolina Department of Natural and Cultural Retention and Disposition Schedule established  
5 as specified in G.S. 121 and G.S. 132, each ~~Each~~ criminal justice agency shall maintain the following employment,  
6 education, retention, and training records ~~place~~ information with respect to employment, education, retention, and  
7 training of its criminal justice officers in the criminal justice officer's personnel ~~file;~~ file as listed in Subparagraphs  
8 (a)(1) and (a)(2) of this Rule. ~~The files shall be available for examination in five days by representatives of the~~  
9 ~~Commission for verifying compliance with these Rules.~~

10 (1) Criminal Justice Officer with probationary certification:

- 11 (A) the officer's Personal History ~~Statement;~~ Statement (Form F-3), pursuant to 12 NCAC 09C  
12 .0201;
- 13 (B) the officer's Medical History Statement and Medical Examination ~~Report;~~ Report (Form  
14 F-1 and F-2), pursuant to 12 NCAC 09B .0104;
- 15 (C) documentation of the officer's drug screening ~~results;~~ results, pursuant to 12 NCAC 09C  
16 .0310;
- 17 (D) the Commission's Mandated Background Investigation Form as completed by the agency's  
18 ~~investigator;~~ investigator, (Form F-8), pursuant to 12 NCAC 09B .0102;
- 19 (E) a ~~written~~ summary of the officer's Qualifications Appraisal ~~Interview;~~ Interview, (Form F-  
20 4), prepared by the agency's interviewers, pursuant to 12 NCAC 09C .0204. The Form F-  
21 4 identifies the officer candidate interviewed, the position interviewed for, and the  
22 interviewer(s)' comments regarding the applicant's appearance, manner, and bearing,  
23 ability to present ideas, social adaptability, alertness and judgment, and interviewer(s)  
24 recommendation for employment;
- 25 (F) ~~documentation of the officer's degrees obtained;~~ a copy of all certificates or diplomas  
26 obtained, pursuant to 12 NCAC 09B .0106;
- 27 (G) ~~documentation~~ course listing(s) and completion date(s) of all criminal justice training  
28 completed by the officer;
- 29 (H) the results of the officer's fingerprint record ~~check;~~ check, pursuant to 12 NCAC 09B .0103;
- 30 (I) a written summary of the officer's psychological examination ~~results;~~ results, pursuant to  
31 12 NCAC 09B .0101(7);
- 32 (J) for the law enforcement officer, ~~documentation on a commission approved form~~ records  
33 of all in-service training received by the officer, as set forth in 12 NCAC 09E .0103(3) and  
34 .0110(5) that the officer has completed the minimum in-service training as required;
- 35 (K) certified copy of proof of age, citizenship, and educational requirements required in 12  
36 NCAC 09B .0101;



- (L) copy of Report of Appointment/Application for Certification ~~Form F-5A;~~ ~~(Form F-5A),~~ pursuant to 12 NCAC 09C .0205;
- (M) oath of ~~office;~~ office, pursuant to 12 NCAC 09C .0303;
- (N) copy of firearms ~~qualification and~~ qualification (Form F-9A), pursuant to 12 NCAC 09E .0106;
- (O) once separated, a copy of the Affidavit of ~~Separation;~~ ~~[Separation; and]~~ Separation, Form F-5B), pursuant to 12 NCAC 09C .0208; and
- (P) a copy of the electronic response for the AOC-CR-280, Law Enforcement Application for Verification of Expunction under G.S. ~~[15A-145.4, 15A-145.5, 15A-145.6, 15A-145.8A or 15A-146.]~~ 15A-151.

(2) Criminal Justice Officer with general certification:

- (A) the officer's Medical History Statement and Medical Examination Report (Form F-1 and F-2), pursuant to 12 NCAC 09B .0104;
- (B) documentation of the officer's drug screening results, pursuant to 12 NCAC 09C .0310;
- (C) a copy of all certificates or diplomas obtained, pursuant to 12 NCAC 09B .0106;
- (D) course listing(s) and completion date(s) of all criminal justice training completed by the officer;
- (E) the results of the officer's fingerprint record check, pursuant to 12 NCAC 09B .0103;
- (F) for the law enforcement officer, records of all in-service training received by the officer, as set forth in 12 NCAC 09E .0103(3) and .0110(5) that the officer has completed the minimum in-service training as required;
- (G) certified copy of proof of age, citizenship, and educational requirements required in 12 NCAC 09B .0101;
- (H) copy of Report of Appointment/Application for Certification (Form F-5A), pursuant to 12 NCAC 09C .0205;
- (I) oath of office, pursuant to 12 NCAC 09C .0303;
- (J) copy of firearms qualification (Form F-9A), pursuant to 12 NCAC 09E .0106;
- (K) once separated, a copy of the Affidavit of Separation, (Form F-5B), pursuant to 12 NCAC 09C .0208; and
- (L) a copy of the electronic response for the AOC-CR-280, Law Enforcement Application for Verification of Expunction under G.S. 15A-151.
- ~~(A) the officer's Medical History Statement and Medical Examination Report;~~
- ~~(B) documentation of the officer's drug screening results;~~
- ~~(C) documentation of the officer's degrees obtained;~~
- ~~(D) documentation of all criminal justice training completed by the officer;~~
- ~~(E) the results of the officer's fingerprint record check;~~

1 ~~(F) — for the law enforcement officer, documentation on a commission approved form as set~~  
2 ~~forth in 12 NCAC 09E .0103(3) and .0110(5) that the officer has completed the minimum~~  
3 ~~in service training as required;~~

4 ~~(G) — certified copy of proof of age, citizenship, and educational requirements required in 12~~  
5 ~~NCAC 09B .0101;~~

6 ~~(H) — a copy of the Report of Appointment/Application for Certification Form F 5A;~~

7 ~~(I) — oath of office;~~

8 ~~(J) — copy of firearms qualification; and~~

9 ~~(K) — once separated, a copy of the Affidavit of Separation. Separation; and~~

10 ~~(L) — a copy of the electronic response for the AOC CR 280, Law Enforcement Application for~~  
11 ~~Verification of Expunction under G.S. 15A 145.4, 15A 145.5, 15A 145.6, 15A 145.8A or~~  
12 ~~15A 146.~~

13 ~~(b) These records shall be maintained in compliance with the North Carolina Department of Natural and Cultural~~  
14 ~~Retention and Disposition Schedule established pursuant to G.S. 121 and G.S. 132.~~

15  
16 *History Note:* *Authority G.S. 17C-2; 17C-6;*  
17 *Eff. January 1, 1981;*  
18 *Amended Eff. August 1, 1998; January 1, 1995; July 1, 1990; July 1, 1989; June 1, 1986;*  
19 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*  
20 *2019;*  
21 *Amended Eff. August 1, 2019. May 1, 2024*  
22

## **Burgos, Alexander N**

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**From:** Peaslee, William W  
**Sent:** Thursday, March 14, 2024 4:14 PM  
**To:** Schilling, Michelle  
**Cc:** Burgos, Alexander N  
**Subject:** 12 NCAC 09C .0307  
**Attachments:** 2024.04 CJETS Request for Changes 12 NCAC 09C .0307.docx

Good afternoon,

Attached please find the Request for Changes on the above captioned rule which will be considered by the RRC at its April 2024 meeting.

As always if you have any questions please feel free to contact me.

**William W. Peaslee**  
**Rules Review Commission Counsel / Legislative Liaison**  
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