

TEMPORARY RULE
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: Criminal Justice Education and Training Standards Commission

RULE CITATION: All Rules Filed

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☒ Failure to meet G.S. 150B-21.1(a) criteria
 - ☐ Lack of statutory authority
 - ☒ Unclear or ambiguous
 - ☐ Unnecessary
 - ☐ Failure to comply with the APA

COMMENT:

The Criminal Justice Education and Training Standards Commission (CJETS) filed 18 temporary rules in 12 NCAC 09B and 09G. CJETS stated in each of the Temporary Rulemaking Findings of Need forms that the agency is relying upon G.S. 150B-21.1(a)(1) as its basis to engage in temporary rulemaking.

G.S. 150B-21.1(a)(1) states:

- (a) Adoption. - An agency may adopt a temporary rule when it finds that adherence to the notice and hearing requirements of G.S. 150B-21.2 would be contrary to the public interest and that the immediate adoption of the rule is required by one or more of the following:
 - (1) A serious and unforeseen threat to the public health, safety, or welfare.

The agency's rationale to justify this basis states:

Amanda J Reeder
Commission Counsel

Explain: The Governor of North Carolina issued Executive Order No. 228, authorizing the extension of time to complete Criminal Justice Training Courses as need to ensure the completion of training to certify trainees, officers, and instructors. Also, to coordinate a response and enact protective measures to help prevent the spread of COVID-19 and other variants. The COVID-19 is a respiratory disease that can result in severe illness or death. Once an outbreak of the COVID-19 begins, it isn't easy to contain. North Carolina Community Colleges and agencies facilitate many of the Criminal Justice Training Courses. To preserve the health and well-being of the staff, students, and community, training courses began to close for 2-3 weeks. Training closures exceeding the requirements set forth in the NCAC 12 09B, 09C, and 09G impact the completion of training, certification of criminal justice officers and instructors' carry out their respective professional duties. In addition, Executive Order No. 228 expired on October 27, 2021. Criminal Justice Officers per code are required to complete specific training to maintain their certification. Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law. To prepare for any further potential unforeseen threat to public health or safety CJETS is pursuing rulemaking.

Based upon the explanation offered by the agency, it appears that the agency is relying upon the COVID-19 pandemic and variants as its basis for temporary rulemaking. While staff agrees that the pandemic does present a serious threat to public health, staff does not believe that at this point, it is "unforeseen," given that the pandemic began in the spring of 2020. The agency has not offered any explanation as to why the rulemaking was not needed until now, rather than last year when the pandemic began.

The agency refers to an Executive Order, EO 228, which was issued on August 27, 2021, in its explanation. As noted by the agency, that Executive Order expired October 27, 2021. Staff notes that Executive Orders are not a ground for engaging in temporary rulemaking pursuant to G.S. 150B-21.1.

In addition, in several rules, the agency is proposing what appear to be "clean up" amendments, such as capitalizing initialisms or updating the agency's address. Pursuant to G.S. 150B-21.5(a), the agency can update its address without notice, comment, or review by the RRC by notifying the Codifier. It does not appear that any of these "clean up" amendments meet the temporary rulemaking threshold set forth in G.S. 150B-21.1(a).

Therefore, staff does not believe that the agency has shown that the proposed temporary rules comply with G.S. 150B-21.1(a)(1), as it has not shown that the circumstances giving rise to the rulemaking are "unforeseen" at this time or that the other proposed changes are affected by G.S. 150B-21.1 at all.

Further, for every Rule, the agency is proposing to add language that states, "[T]he Director of the Criminal Justice Standards Division may allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on circumstances related to a lawfully declared State of Emergency."

Staff believes this language is ambiguous. It allows the Director broad discretion to vary the requirements within the Rule whenever the Director decides to do so, and the only limit is that the Director must determine it is necessary based upon a state of emergency. It does not state how the Director will make that determination, only that the Director must decide it is "necessary." Staff also notes that the agency says the Director may waive the rules based upon an emergency but is not required to do so, without stating the circumstances under which the Director can decide to not waive the Rule based upon an emergency. Further, the language gives rise to the question of what is a "lawfully declared" state of emergency. In addition, the Rule does not contain information on how this determination will be shared with the regulated public, nor how long the waiver will last. Therefore, staff believes this language is ambiguous as written.

§ 150B-21.1. Procedure for adopting a temporary rule.

(a) Adoption. - An agency may adopt a temporary rule when it finds that adherence to the notice and hearing requirements of G.S. 150B-21.2 would be contrary to the public interest and that the immediate adoption of the rule is required by one or more of the following:

- (1) A serious and unforeseen threat to the public health, safety, or welfare.
- (2) The effective date of a recent act of the General Assembly or the United States Congress.
- (3) A recent change in federal or State budgetary policy.
- (4) A recent federal regulation.
- (5) A recent court order.
- (6) The need for a rule establishing review criteria as authorized by G.S. 131E-183(b) to complement or be made consistent with the State Medical Facilities Plan approved by the Governor, if the rule addresses a matter included in the State Medical Facilities Plan, and the proposed rule and a notice of public hearing is submitted to the Codifier of Rules prior to the effective date of the Plan.
- (7) The need for the Wildlife Resources Commission to establish any of the following:
 - a. No wake zones.
 - b. Hunting or fishing seasons, including provisions for manner of take or any other conditions required for the implementation of such season.
 - c. Hunting or fishing bag limits.
 - d. Management of public game lands as defined in G.S. 113-129(8a).
- (8) The need for the Secretary of State to implement the certification technology provisions of Article 11A of Chapter 66 of the General Statutes, to adopt uniform Statements of Policy that have been officially adopted by the North American Securities Administrators Association, Inc., for the purpose of promoting uniformity of state securities regulation, and to adopt rules governing the conduct of hearings pursuant to this Chapter.
- (9) The need for the Commissioner of Insurance to implement the provisions of G.S. 58-2-205.
- (10) The need for the State Chief Information Officer to implement the information technology procurement provisions of Article 15 of Chapter 143B of the General Statutes.

- (11) The need for the State Board of Elections to adopt a temporary rule after prior notice or hearing or upon any abbreviated notice or hearing the agency finds practical for one or more of the following:
 - a. In accordance with the provisions of G.S. 163-22.2.
 - b. To implement any provisions of state or federal law for which the State Board of Elections has been authorized to adopt rules.
 - c. The need for the rule to become effective immediately in order to preserve the integrity of upcoming elections and the elections process.
 - (12) Repealed by Session Laws 2015-264, s. 22, effective October 1, 2015.
 - (13), (14) Reserved.
 - (15) Expired pursuant to Session Laws 2002-164, s. 5, effective October 1, 2004.
 - (16) Expired pursuant to Session Laws 2003-184, s. 3, effective July 1, 2005.
 - (17) To maximize receipt of federal funds for the Medicaid or NC Health Choice programs within existing State appropriations, to reduce Medicaid or NC Health Choice expenditures, and to reduce Medicaid and NC Health Choice fraud and abuse.
- (a1) Recodified as subdivision (a)(16) of this section by Session Laws 2004-156, s. 1.
- (a2) A recent act, change, regulation, or order as used in subdivisions (2) through (5) of subsection (a) of this section means an act, change, regulation, or order occurring or made effective no more than 210 days prior to the submission of a temporary rule to the Rules Review Commission. Upon written request of the agency, the Commission may waive the 210-day requirement upon consideration of the degree of public benefit, whether the agency had control over the circumstances that required the requested waiver, notice to and opposition by the public, the need for the waiver, and previous requests for waivers submitted by the agency.
- (a3) Unless otherwise provided by law, the agency shall:
- (1) At least 30 business days prior to adopting a temporary rule, submit the rule and a notice of public hearing to the Codifier of Rules, and the Codifier of Rules shall publish the proposed temporary rule and the notice of public hearing on the Internet to be posted within five business days.
 - (2) At least 30 business days prior to adopting a temporary rule, notify persons on the mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule and of the public hearing.
 - (3) Accept written comments on the proposed temporary rule for at least 15 business days prior to adoption of the temporary rule.
 - (4) Hold at least one public hearing on the proposed temporary rule no less than five days after the rule and notice have been published. If notice of a public hearing

has been published and that public hearing has been cancelled, the agency shall publish notice at least five days prior to the date of any rescheduled hearing.

(a4) An agency must also prepare a written statement of its findings of need for a temporary rule stating why adherence to the notice and hearing requirements in G.S. 150B-21.2 would be contrary to the public interest and why the immediate adoption of the rule is required. If the temporary rule establishes a new fee or increases an existing fee, the agency shall include in the written statement that it has complied with the requirements of G.S. 12-3.1. The statement must be signed by the head of the agency adopting the temporary rule.

(b) Review. - When an agency adopts a temporary rule it must submit the rule and the agency's written statement of its findings of the need for the rule to the Rules Review Commission. Within 15 business days after receiving the proposed temporary rule, the Commission shall review the agency's written statement of findings of need for the rule and the rule to determine whether the statement meets the criteria listed in subsection (a) of this section and the rule meets the standards in G.S. 150B-21.9. The Commission shall direct a member of its staff who is an attorney licensed to practice law in North Carolina to review the statement of findings of need and the rule. The staff member shall make a recommendation to the Commission, which must be approved by the Commission or its designee. The Commission's designee shall be a panel of at least three members of the Commission. In reviewing the statement, the Commission or its designee may consider any information submitted by the agency or another person. If the Commission or its designee finds that the statement meets the criteria listed in subsection (a) of this section and the rule meets the standards in G.S. 150B-21.9, the Commission or its designee must approve the temporary rule and deliver the rule to the Codifier of Rules within two business days of approval. The Codifier of Rules must enter the rule into the North Carolina Administrative Code on the sixth business day following receipt from the Commission or its designee.

(b1) If the Commission or its designee finds that the statement does not meet the criteria listed in subsection (a) of this section or that the rule does not meet the standards in G.S. 150B-21.9, the Commission or its designee must immediately notify the head of the agency. The agency may supplement its statement of need with additional findings or submit a new statement. If the agency provides additional findings or submits a new statement, the Commission or its designee must review the additional findings or new statement within five business days after the agency submits the additional findings or new statement. If the Commission or its designee again finds that the statement does not meet the criteria listed in subsection (a) of this section or that the rule does not meet the standards in G.S. 150B-21.9, the Commission or its designee must immediately notify the head of the agency and return the rule to the agency.

(b2) If an agency decides not to provide additional findings or submit a new statement when notified by the Commission or its designee that the agency's findings of need for a rule do not meet the required criteria or that the rule does not meet the required standards, the agency must notify the Commission or its designee of its decision. The Commission or its designee shall then return the rule to the agency. When the Commission returns a rule to an agency in accordance with this subsection, the agency may file an action for declaratory judgment in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes.

(b3) Notwithstanding any other provision of this subsection, if the agency has not complied with the provisions of G.S. 12-3.1, the Codifier of Rules shall not enter the rule into the Code.

(c) Standing. - A person aggrieved by a temporary rule adopted by an agency may file an action for declaratory judgment in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes. In the action, the court shall determine whether the agency's written statement of findings of need for the rule meets the criteria listed in subsection (a) of this section and whether the rule meets the standards in G.S. 150B-21.9. The court shall not grant an ex parte temporary restraining order.

(c1) Filing a petition for rule making or a request for a declaratory ruling with the agency that adopted the rule is not a prerequisite to filing an action under this subsection. A person who files an action for declaratory judgment under this subsection must serve a copy of the complaint on the agency that adopted the rule being contested, the Codifier of Rules, and the Commission.

(d) Effective Date and Expiration. - A temporary rule becomes effective on the date specified in G.S. 150B-21.3. A temporary rule expires on the earliest of the following dates:

- (1) The date specified in the rule.
- (2) The effective date of the permanent rule adopted to replace the temporary rule, if the Commission approves the permanent rule.
- (3) The date the Commission returns to an agency a permanent rule the agency adopted to replace the temporary rule.
- (4) The effective date of an act of the General Assembly that specifically disapproves a permanent rule adopted to replace the temporary rule.
- (5) 270 days from the date the temporary rule was published in the North Carolina Register, unless the permanent rule adopted to replace the temporary rule has been submitted to the Commission.

(e) Publication. - When the Codifier of Rules enters a temporary rule in the North Carolina Administrative Code, the Codifier must publish the rule in the North Carolina Register. (1973, c. 1331, s. 1; 1981, c. 688, s. 12; 1981 (Reg. Sess., 1982), c. 1232, s. 1; 1983, c. 857; c. 927, ss. 4, 8; 1985, c. 746, s. 1; 1985 (Reg. Sess., 1986), c. 1022, s. 1(1), 1(8); 1987, c. 285, ss. 10-12; 1991, c. 418, s. 1; 1991 (Reg. Sess., 1992), c. 900, s. 149; 1993, c. 553, s. 54; 1995, c. 507, s. 27.8(c); 1996, 2nd Ex. Sess., c. 18, ss. 7.10(c), (d); 1997-403, ss. 1-3; 1998-127, s. 2; 1998-212, s. 26B(h); 1999-434, s. 16; 1999-453, s. 5(a); 2000-69, ss. 3, 5; 2000-148, ss. 4, 5; 2001-126, s. 12; 2001-421, ss. 2.3, 5.3; 2001-424, ss. 27.17(b), (c), 27.22(a), (b); 2001-487, s. 21(g); 2002-97, ss. 2, 3; 2002-164, s. 4.6; 2003-184, s. 3; 2003-229, s. 2; 2003-413, ss. 27, 29; 2004-156, s. 1; 2011-398, s. 4; 2013-360, s. 12H.9(d); 2013-413, s. 39; 2015-241, s. 7A.4(ee); 2015-264, s. 22; 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1; 2020-3, s. 4.25(a).)



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina Criminal Justice Education Training and Standards Commission

2. Rule citation & name: 12 NCAC 09B .0202 RESPONSIBILITIES OF THE SCHOOL DIRECTOR

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: September 7, 2021
- b. Proposed Temporary Rule published on the OAH website: September 14, 2021
- c. Public Hearing date: October 25, 2021
- d. Comment Period: September 15, 2021-October 5, 2021
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 150B-21.1(a1)
- f. Adoption by agency on: October 28, 2021
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: November 30, 2021
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite:
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: The Governor of North Carolina issued Executive Order No. 228, authorizing the extension of time to complete Criminal Justice Training Courses as need to ensure the completion of training to certify trainees, officers, and instructors. Also, to coordinate a response and enact protective measures to help prevent the spread of COVID-19 and other variants. The COVID-19 is a respiratory disease that can result in severe illness or death. Once an outbreak of the COVID-19 begins, it isn't easy to contain. North Carolina Community Colleges and agencies facilitate many of the Criminal Justice Training Courses. To preserve the health and well-being of the staff, students, and community, training courses began to close for 2-3 weeks. Training closures exceeding the requirements set forth in the NCAC 12 09B, 09C, and 09G impact the completion of training, certification of criminal justice officers and instructors' carry out their respective professional duties. In addition, Executive Order No. 228 expired on October 27, 2021. Criminal Justice Officers per code are required to complete specific training to maintain their certification. Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law. To prepare for any further potential unforeseen threat to public health or safety CJETS is pursuing rulemaking.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Charminique D. Williams

Phone: (919) 779-8206

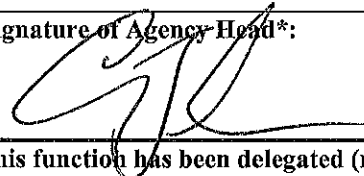
E-Mail: cdwilliams@ncdoj.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Chris Blue

Title: Commission Chair

E-Mail: CBLUE@townofchapelhill.org

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

1 12 NCAC 09B .0202 is amended under temporary procedures as follows:

2
3 **12 NCAC 09B .0202 RESPONSIBILITIES OF THE SCHOOL DIRECTOR**

4 (a) In planning, developing, coordinating, and delivering each Commission-certified criminal justice training course,
5 the School Director shall:

- 6 (1) Formalize and schedule the course curriculum in accordance with the curriculum standards
7 established in this Subchapter;
- 8 (2) Select and schedule instructors who are certified by the Commission;
- 9 (3) Provide each instructor with a current Commission course outline and all necessary additional
10 information concerning the instructor's duties and responsibilities;
- 11 (4) Notify each instructor that he or she shall comply with the Basic Law Enforcement Training Course
12 Management Guide and provide him or her access to the most current version of the Course
13 Management Guide;
- 14 (5) Ensure each instructor utilizes Commission approved lesson plans and instructional materials;
- 15 (6) Arrange for the availability of appropriate audiovisual aids and materials, publications, facilities,
16 and equipment for training in all topic areas;
- 17 (7) Develop, adopt, reproduce, and distribute any supplemental rules and requirements determined by
18 the school to be necessary or appropriate for:
 - 19 (A) effective course delivery;
 - 20 (B) establishing responsibilities and obligations of agencies or departments employing or
21 sponsoring course trainees; and
 - 22 (C) regulating trainee participation and demeanor, ensuring trainee attendance, and
23 maintaining performance records;
- 24 (8) If appropriate, recommend housing and dining facilities for trainees;
- 25 (9) Administer the course delivery in accordance with Commission approved lesson plans and course
26 management guides;
- 27 (10) Maintain direct supervision, direction, and control over the performance of all persons to whom any
28 portion of the planning, development, presentation, or administration of a course has been delegated.
29 The comprehensive final examination shall be administered by the Criminal Justice Education and
30 Training Standards Commission; and
- 31 (11) Report the completion of each presentation of a Commission-certified criminal justice training
32 course to the Commission, utilizing forms required for submission, which are located on the
33 Agency's website: [https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/)
34 [publications/](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/).

35 (b) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-
36 certified Basic Law Enforcement Training Course, the School Director shall:

- (1) Deliver training in accordance with the most current version of the Basic Law Enforcement Training Course Management Guide as published by the North Carolina Justice Academy;
- (2) Schedule course presentation to include 12 hours of instruction each week during consecutive calendar weeks, except that there may be as many as three one-week breaks until course requirements are completed; the Director of the Criminal Justice Standards Division may allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on circumstances related to a lawfully declared State of Emergency.
- (3) Schedule only specialized instructors certified by the Commission to teach those high-liability areas as specified in Rule .0304(a) of this Subchapter as either the lead instructor or as assistant instructors or role players;
- (4) With the exception of the First Responder, Physical Fitness, Explosives and Hazardous Materials, and topical areas outlined in Rule .0304(a) of this Subchapter, schedule one specialized instructor certified by the Commission for every six trainees while engaged in a practical performance exercise;
- (5) Schedule one specialized instructor certified by the Commission for every eight trainees while engaged in a practical performance exercise in the topical area "Subject Control Arrest Techniques";
- (6) Schedule no single individual to instruct more than 35 percent of the total hours of the curriculum during any one delivery of the Basic Law Enforcement Training Course presentation;
- (7) Not less than 30 days before commencing delivery of the Basic Law Enforcement Training Course, submit to the Commission a Pre-Delivery Report of Training Course Presentation pursuant to 12 NCAC 09C .0211. The Pre-Delivery Report (Form F-10A) shall indicate a requested date and location for the administration of the State comprehensive exam, and include the following attachments:
 - (A) a course schedule showing the arrangement of topical presentations and proposed instructional assignments; and
 - (B) a copy of any rules and requirements for the school. A copy of those rules shall also be given to each trainee and to the executive officer of each trainee's employing or sponsoring agency or department at the time the trainee enrolls in the course;
- (8) Monitor, or designate an instructor certified by the Commission to monitor, a presentation of each instructor once during each three year certification period in each topic taught by the instructor and prepare a written evaluation on the instructor's performance and suitability for subsequent instructional assignments. The observations shall be of sufficient duration to ensure that the instructor is using the Instructional System Design model, and that the delivery is objective-based, documented by, and consistent with a Commission-approved lesson plan. For each topic area, the School Director's evaluation shall be based upon the course delivery observations, the instructor's use of the approved lesson plan, and the results of the student evaluations of the instructor. For probationary instructors, the evaluations conducted by another instructor shall be prepared on the

- Criminal Justice Instructor Evaluation (Form F-16) and forwarded to the Commission. Based on this evaluation, the School Director shall recommend approval or denial of requests for General Instructor Certification. For all other instructors, these evaluations shall be prepared on the Criminal Justice Instructor Evaluation (Form F-16), be kept on file by the school for a period of three years, and shall be made available for inspection by a representative of the Commission upon request. In the event the evaluation of an instructor indicates that his or her performance was less than acceptable, the School Director shall forward a copy of the evaluation to the Commission. Any instructor who is evaluating the instructional presentation of another instructor shall hold certification in the same instructional topic area as that for which the instructor is being evaluated;
- (9) Administer or designate a staff person to administer course specific tests during course delivery:
 - (A) to determine and record the level of trainee comprehension and retention of instructional subject matter;
 - (B) to provide a basis for a final determination or recommendation regarding the minimum degree of knowledge and skill of each trainee to function as an inexperienced law enforcement officer; and
 - (C) to determine subject or topic areas of deficiency for the application of Rule .0405(a)(3) of this Subchapter; and
 - (10) Not more than 10 days after the conclusion of a school's offering of Basic Law Enforcement Training, submit to the Commission a Post-Delivery Report of Training Course Presentation (Form F-10B) that shall include:
 - (A) a "Student Course Completion" form for each individual enrolled on the day of orientation;
 - (B) a "Certification and Test Score Release" form;
 - (C) the "Police Officer Physical Ability Test (POPAT) Post-Course" final form; and
 - (D) the orientation class enrollment roster.
- (c) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified "Criminal Justice Instructor Training Course," the School Director shall:
- (1) Schedule course presentation pursuant to Rule .0209 of this Subchapter;
 - (2) Schedule evaluators as follows:
 - (A) each evaluator, as well as the instructors, shall have completed a Commission-certified instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise; and
 - (B) each instructor and evaluator shall document successful participation in a program presented by the North Carolina Justice Academy for purposes of familiarization and supplementation relevant to delivery of the instructor training course and trainee evaluation;

- 1 (3) Not fewer than 30 days before commencing delivery of the course, submit to the Commission a Pre-
2 Delivery Report of Training Course Presentation [Form F-10A(ITC)] with the following
3 attachments:
- 4 (A) a course schedule showing the arrangement of topical presentations and proposed
5 instructional assignments;
- 6 (B) the names and last four digits of the social security numbers of all instructors and
7 evaluators; and
- 8 (C) a copy of any rules and requirements for the school; and
- 9 (4) Not more than 10 days after course completion, submit to the Commission a Post-Delivery Report
10 [Form F-10B(ITC)] containing the following:
- 11 (A) class enrollment roster;
- 12 (B) a course schedule with the designation of instructors and evaluators utilized in delivery;
- 13 (C) scores recorded for each trainee on the 70 minute skill presentation; and
- 14 (D) designation of trainees who completed the course in its entirety and whom the School
15 Director finds to be competent to instruct.
- 16 (d) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-
17 certified RADAR, RADAR and Time-Distance, Time-Distance, or LIDAR speed measurement operator training
18 course or re-certification course, the School Director shall:
- 19 (1) select and schedule speed measurement instrument instructors who are certified by the Commission
20 as instructors for the specific speed measurement instruments in which the trainees are to receive
21 instruction as follows:
- 22 (A) provide to the instructor the Commission form(s) for motor skill examination on each
23 trainee;
- 24 (B) require the instructor to complete the motor skill examination form on each trainee
25 indicating the level of proficiency obtained on each specific instrument; and
- 26 (C) require each instructor to sign each individual form and submit the original to the School
27 Director;
- 28 (2) not fewer than 30 days before the scheduled starting date, submit to the Director of the Standards
29 Division a Pre-Delivery Report of Speed Measuring Instrument Course Presentation [Form F-10A
30 (SMI)] that shall contain a period of course delivery including the proposed starting date, course
31 location, requested date and location for the administration of the State exam, and the number of
32 trainees to be trained on each type of approved speed measurement instrument. The Director of the
33 Standards Division shall review the request and notify the School Director within thirty business
34 days if the request is approved or denied; and
- 35 (3) upon completing delivery of the Commission-certified course, and not more than 10 days after the
36 conclusion of a school's offering of a certified RADAR, RADAR and Time-Distance, Time-
37 Distance, or LIDAR speed measurement operator training course or re-certification course, the

1 School Director shall notify the Commission regarding the progress and achievements of each
2 trainee by submitting a Post-Delivery Report of Training Course Presentation [Form F-10B (SMI)].
3 This report shall include the original motor-skill examination form(s) completed and signed by the
4 certified instructor responsible for administering the motor-skill examination to the respective
5 trainee.

6
7 *History Note: Authority G.S. 17C-6;*
8 *Eff. January 1, 1981;*
9 *Amended Eff. November 1, 1981;*
10 *Readopted w/change Eff. July 1, 1982;*
11 *Amended Eff. January 1, 2015; June 1, 2013; April 1, 2009; November 1, 2007; January 1, 2006;*
12 *May 1, 2004; August 1, 2000; January 1, 1996; November 1, 1993; December 1, 1987; January 1,*
13 *1985;*
14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
15 *2019;*
16 *Amended Eff. July 1, 2021; January 1, 2021; July 1, 2020.*
17
18



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina Criminal Justice Education Training and Standards Commission

2. Rule citation & name: 12 NCAC 09B .0209 CRIMINAL JUSTICE INSTRUCTOR TRAINING

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: September 7, 2021
- b. Proposed Temporary Rule published on the OAH website: September 14, 2021
- c. Public Hearing date: October 25, 2021
- d. Comment Period: September 15, 2021-October 5, 2021
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 150B-21.1(a1)
- f. Adoption by agency on: October 28, 2021
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: November 30, 2021
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite:
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: The Governor of North Carolina issued Executive Order No. 228, authorizing the extension of time to complete Criminal Justice Training Courses as need to ensure the completion of training to certify trainees, officers, and instructors. Also, to coordinate a response and enact protective measures to help prevent the spread of COVID-19 and other variants. The COVID-19 is a respiratory disease that can result in severe illness or death. Once an outbreak of the COVID-19 begins, it isn't easy to contain. North Carolina Community Colleges and agencies facilitate many of the Criminal Justice Training Courses. To preserve the health and well-being of the staff, students, and community, training courses began to close for 2-3 weeks. Training closures exceeding the requirements set forth in the NCAC 12 09B, 09C, and 09G impact the completion of training, certification of criminal justice officers and instructors' carry out their respective professional duties. In addition, Executive Order No. 228 expired on October 27, 2021. Criminal Justice Officers per code are required to complete specific training to maintain their certification. Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law. To prepare for any further potential unforeseen threat to public health or safety CJETS is pursuing rulemaking.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Charminique D. Williams

Phone: (919) 779-8206

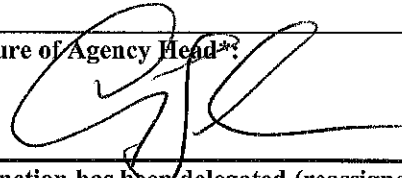
E-Mail: cdwilliams@ncdoj.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Chris Blue

Title: Commission Chair

E-Mail: CBLUE@townofchapelhill.org

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

12 NCAC 09B .0209 is proposed for amendment under temporary procedures as follows:

12 NCAC 09B .0209 CRIMINAL JUSTICE INSTRUCTOR TRAINING

(a) The Instructor Training course required for General Instructor certification shall consist of a minimum of 40 hours of classroom instruction, plus the time required to conduct practical exercises, student presentations, and post testing presented during a period of no more than 15 business days. The Director of the Criminal Justice Standards Division may allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on circumstances related to a lawfully declared State of Emergency.

(b) Each Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the functions of a criminal justice instructor.

(c) Each Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

| | | |
|------|---|---------|
| (1) | Orientation and Pre-Test | 1 Hour |
| (2) | Instructional Systems Design (ISD) | 5 Hours |
| (3) | Law Enforcement Instructor Liabilities and Legal Responsibilities | 2 Hours |
| (4) | Criminal Justice Instructional Leadership | 4 Hours |
| (5) | Lesson Plan Preparation: Professional Resources | 2 Hours |
| (6) | Lesson Plan Development and Formatting | 3 Hours |
| (7) | Adult Learning | 2 Hours |
| (8) | Instructional Styles and Platform Skills | 5 Hours |
| (9) | Classroom Management | 3 Hours |
| (10) | Active Learning: Demonstration and Practical Exercises | 3 Hours |
| (11) | The Evaluation Process of Learning | 4 Hours |
| (12) | Audio Visual Aids | 5 Hours |
| (13) | Course Closing and Post-test | 1 Hour |
| (14) | Completion of tasks associated with practical exercises, student presentations, and post testing; the number of hours required to complete this portion of the curriculum shall be based on the number of enrolled students, available facilities, and number of instructors. | |

(d) The "Instructor Training" manual published by the North Carolina Justice Academy shall be the curriculum for instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Post Office Drawer 149
Raleigh, North Carolina 27602

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

North Carolina Justice Academy

Post Office Drawer 99
Salemberg, North Carolina 28385

History Note: Authority G.S. 17C-6;
Eff. January 1, 1981;
Amended Eff. July 1, 2018; April 1, 2018; January 1, 2018; January 1, 2015; December 1, 2009;
August 1, 2005; November 1, 1998; January 1, 1995; March 1, 1990; July 1, 1989; January 1,
1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,
2019;
Amended Eff. July 1, 2021; January 1, 2021.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

| | |
|---|--|
| 1. Rule-Making Agency: North Carolina Criminal Justice Education Training and Standards Commission | |
| 2. Rule citation & name: 12 NCAC 09B .0210 RADAR INSTRUCTOR TRAINING COURSE | |
| 3. Action: <input type="checkbox"/> Adoption <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Repeal | |
| 4. Was this an Emergency Rule: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Effective date: | |
| 5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: September 7, 2021 b. Proposed Temporary Rule published on the OAH website: September 14, 2021 c. Public Hearing date: October 25, 2021 d. Comment Period: September 15, 2021-October 5, 2021 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 150B-21.1(a1) f. Adoption by agency on: October 28, 2021 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: November 30, 2021 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]: | |
| 6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input checked="" type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other: | |
| Explain: The Governor of North Carolina issued Executive Order No. 228, authorizing the extension of time to complete Criminal Justice Training Courses as need to ensure the completion of training to certify trainees, officers, and instructors. Also, to coordinate a response and enact protective measures to help prevent the spread of COVID-19 and other variants. The COVID-19 is a respiratory disease that can result in severe illness or death. Once an outbreak of the COVID-19 begins, it isn't easy to contain. North Carolina Community Colleges and agencies facilitate many of the Criminal Justice Training Courses. To preserve the health and well-being of the staff, students, and community, training courses began to close for 2-3 weeks. Training closures exceeding the requirements set forth in the NCAC 12 09B, 09C, and 09G impact the completion of training, certification of criminal justice officers and instructors' carry out their respective professional duties. In addition, Executive Order No. 228 expired on October 27, 2021. Criminal Justice Officers per code are required to complete specific training to maintain their certification. Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law. To prepare for any further potential unforeseen threat to public health or safety CJETS is pursuing rulemaking. | |

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Charminique D. Williams

Phone: (919) 779-8206

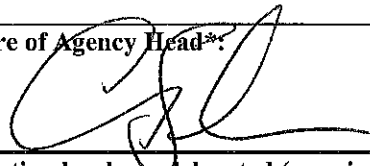
E-Mail: cdwilliams@ncdoj.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Chris Blue

Title: Commission Chair

E-Mail: CBLUE@townofchapelhill.org

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

12 NCAC 09B .0210 is amended under temporary procedures as follows:

12 NCAC 09B .0210 RADAR INSTRUCTOR TRAINING COURSE

(a) The ~~radar instructor training course~~ RADAR Instructor Training Course shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a criminal justice ~~radar~~ RADAR instructor. This course shall be for a period not to exceed six consecutive weeks. The Director of the Criminal Justice Standards Division may allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on circumstances related to a lawfully declared State of Emergency.

(b) The ~~radar instructor training course~~ RADAR Instructor Training Course required for ~~radar~~ RADAR instructor certification shall include the topic areas and minimum number of hours as outlined in the ~~Radar~~ RADAR Instructor Training Course. To qualify for ~~radar~~ RADAR instructor certification, an applicant shall meet the requirements as outlined in the ~~Radar~~ RADAR Instructor Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) Each applicant for radar instructor training shall:

- (1) Present the endorsement of a Commission-recognized school director or agency executive officer or his designee.
- (2) Possess full criminal justice general instructor certification as required in 12 NCAC 09B .0302.
- (3) Possess a current and valid radar operator certification.

(d) The "~~Radar~~ RADAR Instructor Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the radar instructor training course for radar instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
~~114 West Edenton Street~~
~~Old Education Building~~
Post Office Drawer 149
Raleigh, North Carolina 27602

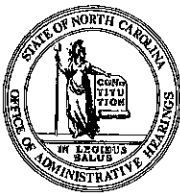
and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385

(e) Commission-certified schools that are certified to offer the "Radar Instructor Training Course" are: The North Carolina Justice Academy.

*History Note: Authority G.S. 17C-6;
 Eff. November 1, 1981;*

1 *Readopted w/change Eff. July 1, 1982;*
2 *Amended Eff. January 1, 2006; April 1, 1999; November 1, 1998; August 1, 1995; July 1, 1989;*
3 *February 1, 1987; August 1, 1984;*
4 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
5 *2019.*



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina Criminal Justice Education Training and Standards Commission

2. Rule citation & name: 12 NCAC 09B .0211 TIME-DISTANCE INSTRUCTOR TRAINING COURSE

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: September 7, 2021
- b. Proposed Temporary Rule published on the OAH website: September 14, 2021
- c. Public Hearing date: October 25, 2021
- d. Comment Period: September 15, 2021-October 5, 2021
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 150B-21.1(a1)
- f. Adoption by agency on: October 28, 2021
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: November 30, 2021
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite:
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: The Governor of North Carolina issued Executive Order No. 228, authorizing the extension of time to complete Criminal Justice Training Courses as need to ensure the completion of training to certify trainees, officers, and instructors. Also, to coordinate a response and enact protective measures to help prevent the spread of COVID-19 and other variants. The COVID-19 is a respiratory disease that can result in severe illness or death. Once an outbreak of the COVID-19 begins, it isn't easy to contain. North Carolina Community Colleges and agencies facilitate many of the Criminal Justice Training Courses. To preserve the health and well-being of the staff, students, and community, training courses began to close for 2-3 weeks. Training closures exceeding the requirements set forth in the NCAC 12 09B, 09C, and 09G impact the completion of training, certification of criminal justice officers and instructors' carry out their respective professional duties. In addition, Executive Order No. 228 expired on October 27, 2021. Criminal Justice Officers per code are required to complete specific training to maintain their certification. Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law. To prepare for any further potential unforeseen threat to public health or safety CJETS is pursuing rulemaking.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Charminique D. Williams

Phone: (919) 779-8206

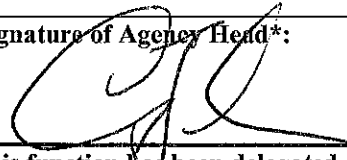
E-Mail: cdwilliams@ncdoj.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Chris Blue

Title: Commission Chair

E-Mail: CBLUE@townofchapelhill.org

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

1 12 NCAC 09B .0211 is proposed for amendment under temporary procedures as follows:

2
3 **12 NCAC 09B .0211 TIME-DISTANCE INSTRUCTOR TRAINING COURSE**

4 (a) The ~~time distance instructor training course~~ Time-Distance Instructor Training Course shall be designed to
5 provide the trainee with the skills and knowledge to proficiently perform the function of a ~~time distance~~ Time-Distance
6 instructor. This course shall be for a period not to exceed eight consecutive weeks. The Director of the Criminal Justice
7 Standards Division may allow additional breaks in a specific course delivery when the Director determines that doing
8 so is necessary based on circumstances related to a lawfully declared State of Emergency.

9 (b) Each applicant for the ~~time distance speed measurement instrument instructor training course~~ Time-Distance
10 Instructor Training Course shall meet the requirements of 12 NCAC 09B .0210(c)(1) and (2) and 12 NCAC 09B .0309.
11 The ~~time distance instructor training course~~ Time-Distance Instructor Training Course required for ~~time distance~~
12 Time-Distance instructor certification shall include the topic areas and minimum number of hours as outlined in the
13 Time-Distance Instructor Training Course. To qualify for ~~time distance~~ Time-Distance instructor certification, an
14 applicant shall meet the requirements as outlined in the Time-Distance Instructor Training Course and meet the
15 requirement of 12 NCAC 09B .0408 and .0409.

16 (c) The "Time-Distance Instructor Training Course" as published by the North Carolina Justice Academy shall be
17 applied as basic curriculum for the ~~criminal justice time distance speed measurement instrument instructor training~~
18 ~~course~~ Time-Distance Instructor Training Course for ~~time distance~~ Time-Distance speed measurement instructors as
19 administered by the Commission. Copies of this publication may be inspected at the office of the agency:

20 Criminal Justice Standards Division
21 North Carolina Department of Justice
22 1700 Tyron Park Drive
23 ~~114 West Edenton Street~~
24 ~~Old Education Building~~
25 Post Office Drawer 149
26 Raleigh, North Carolina 27602

27 and may be obtained at cost from the Academy at the following address:

28 North Carolina Justice Academy
29 Post Office Box 99
30 Salemburg, North Carolina 28385

31 (d) Commission-certified schools that are certified to offer the "Time Distance Instructor Training Course" are: The
32 North Carolina Justice Academy.

33
34 *History Note: Authority G.S. 17C-6;*
35 *Eff. November 1, 1981;*
36 *Readopted w/change Eff. July 1, 1982;*

1 *Amended Eff. November 1, 2007; April 1, 1999; November 1, 1998; November 1, 1993; July 1,*
2 *1989; February 1, 1987; August 1, 1984;*
3 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
4 *2019.*
5
6
7
8



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

| | |
|---|--|
| 1. Rule-Making Agency: North Carolina Criminal Justice Education Training and Standards Commission | |
| 2. Rule citation & name: 12 NCAC 09B .0212 CERTIFICATION TRAINING FOR RADAR OPERATORS | |
| 3. Action: <input type="checkbox"/> Adoption <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Repeal | |
| 4. Was this an Emergency Rule: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Effective date: | |
| 5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: September 7, 2021 b. Proposed Temporary Rule published on the OAH website: September 14, 2021 c. Public Hearing date: October 25, 2021 d. Comment Period: September 15, 2021-October 5, 2021 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 150B-21.1(a1) f. Adoption by agency on: October 28, 2021 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]: | |
| 6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input checked="" type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other: | |
| Explain: The Governor of North Carolina issued Executive Order No. 228, authorizing the extension of time to complete Criminal Justice Training Courses as need to ensure the completion of training to certify trainees, officers, and instructors. Also, to coordinate a response and enact protective measures to help prevent the spread of COVID-19 and other variants. The COVID-19 is a respiratory disease that can result in severe illness or death. Once an outbreak of the COVID-19 begins, it isn't easy to contain. North Carolina Community Colleges and agencies facilitate many of the Criminal Justice Training Courses. To preserve the health and well-being of the staff, students, and community, training courses began to close for 2-3 weeks. Training closures exceeding the requirements set forth in the NCAC 12 09B, 09C, and 09G impact the completion of training, certification of criminal justice officers and instructors' carry out their respective professional duties. In addition, Executive Order No. 228 expired on October 27, 2021. Criminal Justice Officers per code are required to complete specific training to maintain their certification. Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law. To prepare for any further potential unforeseen threat to public health or safety CJETS is pursuing rulemaking. | |

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Charminique D. Williams

Phone: (919) 779-8206

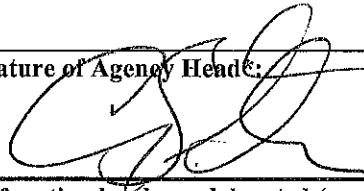
E-Mail: cdwilliams@ncdoj.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Chris Blue

Title: Commission Chair

E-Mail: CBLUE@townofchapelhill.org

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

12 NCAC 09B .0212 is proposed for amendment under temporary procedures as follows:

12 NCAC 09B .0212 CERTIFICATION TRAINING FOR RADAR OPERATORS

(a) The ~~radar operator training course~~ RADAR Operator Training Course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a law enforcement radar operator. This course shall be for a period not to exceed four consecutive weeks. The Director of the Criminal Justice Standards Division may allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on circumstances related to a lawfully declared State of Emergency.

(b) Only employed or appointed personnel of a law enforcement agency shall be enrolled in the ~~radar operator training course~~ RADAR Operator Training Course. Such a trainee shall not be certified as a ~~radar~~ RADAR operator until the basic law enforcement training course has been successfully completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs and federal law enforcement personnel, including but not limited to armed forces personnel, shall be allowed to participate in the RADAR Operator Training Course ~~radar operator training courses~~ on a space available basis at the discretion of the school director without having enrolled in or having successfully completed the basic law enforcement training course and without being currently certified in a probationary status or hold general law enforcement certification. The ~~radar~~ RADAR operator training course required for ~~radar~~ RADAR operator certification shall include but not be limited to the topic areas and minimum number of hours as outlined in the ~~Radar~~ RADAR Operator Training Course. To qualify for ~~radar~~ RADAR operator certification, an applicant shall meet the minimum requirements as outlined in the ~~Radar~~ RADAR Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) The "~~Radar~~ RADAR Operator Training Course" as published by the North Carolina Justice Academy is to be applied as basic curriculum for the ~~radar operator training course~~ RADAR Operator Training Course for radar operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
~~114 West Edenton Street~~
~~Old Education Building~~
Post Office Drawer 149
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6;
Eff. November 1, 1981;*

1 *Readopted w/change Eff. July 1, 1982;*

2 *Temporary Amendment Eff. February 24, 1984 for a period of 120 days to expire on June 22, 1984;*

3 *Amended Eff. April 1, 1999; November 1, 1998; August 1, 1995; February 1, 1991; July 1, 1989;*

4 *August 1, 1984;*

5 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
6 *2019.*



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

| |
|---|
| 1. Rule-Making Agency: North Carolina Criminal Justice Education Training and Standards Commission |
| 2. Rule citation & name: 12 NCAC 09B .0213 CERTIFICATION TRAINING FOR RADAR /TIME-DISTANCE OPERATORS |
| 3. Action: <input type="checkbox"/> Adoption <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Repeal |
| 4. Was this an Emergency Rule: <input type="checkbox"/> Yes Effective date: <input checked="" type="checkbox"/> No |
| 5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: September 7, 2021 b. Proposed Temporary Rule published on the OAH website: September 14, 2021 c. Public Hearing date: October 25, 2021 d. Comment Period: September 15, 2021-October 5, 2021 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 150B-21.1(a1) f. Adoption by agency on: October 28, 2021 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: November 30, 2021 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]: |
| 6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <div style="margin-left: 20px;"> <input checked="" type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other: </div> |
| Explain: The Governor of North Carolina issued Executive Order No. 228, authorizing the extension of time to complete Criminal Justice Training Courses as need to ensure the completion of training to certify trainees, officers, and instructors. Also, to coordinate a response and enact protective measures to help prevent the spread of COVID-19 and other variants. The COVID-19 is a respiratory disease that can result in severe illness or death. Once an outbreak of the COVID-19 begins, it isn't easy to contain. North Carolina Community Colleges and agencies facilitate many of the Criminal Justice Training Courses. To preserve the health and well-being of the staff, students, and community, training courses began to close for 2-3 weeks. Training closures exceeding the requirements set forth in the NCAC 12 09B, 09C, and 09G impact the completion of training, certification of criminal justice officers and instructors' carry out their respective professional duties. In addition, Executive Order No. 228 expired on October 27, 2021. Criminal Justice Officers per code are required to complete specific training to maintain their certification. Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law. To prepare for any further potential unforeseen threat to public health or safety CJETS is pursuing rulemaking. |

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Charminique D. Williams

Phone: (919) 779-8206

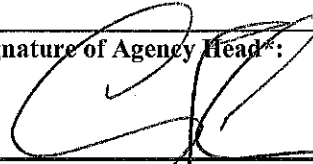
E-Mail: cdwilliams@ncdoj.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Chris Blue

Title: Commission Chair

E-Mail: CBLUE@townofchapelhill.org

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

12 NCAC 09B .0213 is proposed for amendment under temporary procedures as follows:

12 NCAC 09B .0213 CERTIFICATION TRAINING FOR RADAR/TIME-DISTANCE OPERATORS

(a) The ~~radar/time distance operator training course~~ RADAR/Time-Distance Operator Training Course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a ~~radar/time distance~~ RADAR/Time-Distance operator. This course shall be for a period not to exceed four consecutive weeks. The Director of the Criminal Justice Standards Division may allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on circumstances related to a lawfully declared State of Emergency.

(b) Only employed or appointed personnel of a law enforcement agency may be enrolled in the ~~radar and time distance speed measurement instrument operator training course~~. RADAR/Time-Distance Operator Training Course. Such a trainee shall not be certified as a radar and time-distance speed measurement instrument operator until the basic law enforcement training course has been successfully completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs, and federal law enforcement personnel, including but not limited to armed forces personnel, shall be allowed to participate in ~~radar and time distance speed measurement instrument operator training courses~~ RADAR/Time-Distance Operator Training Course on a space available basis at the discretion of the school director without having enrolled in or having successfully completed the basic law enforcement training course and without being currently certified in a probationary status or holding general law enforcement certification. The ~~radar/time distance operator training course~~ RADAR/Time-Distance Operator Training Course required for ~~radar/time distance~~ RADAR/Time-Distance operator certification shall include but not be limited to the topic areas and minimum number of hours as outlined in the ~~Radar/Time Distance~~ RADAR/Time-Distance Operator Training Course. To qualify for ~~radar/time distance~~ RADAR/Time-Distance operator certification, an applicant shall meet the minimum requirements as outlined in the ~~Radar/Time Distance~~ RADAR/Time-Distance Operator Training Course and meet the requirements of 12 NCAC 9B .0408 and .0409.

(c) The ~~"Radar/Time Distance"~~ "RADAR/Time-Distance Operator Training Course" as published by the North Carolina Justice Academy is to be applied as basic curriculum for the ~~radar/time distance operator training course~~ for ~~radar/time distance~~ RADAR/Time-Distance instrument operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tyron Park Drive
~~114 West Edenton Street~~
~~Old Education Building~~
Post Office Drawer 149
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy

Post Office Box 99
Salemberg, North Carolina 28385

History Note: Authority G.S. 17C-6;
Eff. November 1, 1981;
Readopted w/change Eff. July 1, 1982;
Amended Eff. April 1, 1999; November 1, 1998; August 1, 1995; February 1, 1991; July 1, 1989;
August 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,
2019.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

| | |
|--|--|
| 1. Rule-Making Agency: North Carolina Criminal Justice Education Training and Standards Commission | |
| 2. Rule citation & name: 12 NCAC 09B .0214 CERTIFICATION TRAINING FOR TIME-DISTANCE OPERATORS | |
| 3. Action: <input type="checkbox"/> Adoption <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Repeal | |
| 4. Was this an Emergency Rule: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Effective date: | |
| 5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: September 7, 2021 b. Proposed Temporary Rule published on the OAH website: September 14, 2021 c. Public Hearing date: October 25, 2021 d. Comment Period: September 15, 2021-October 5, 2021 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 150B-21.1(a1) f. Adoption by agency on: September 3, 2021 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: November 30, 2021 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]: | |
| 6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input checked="" type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other: | |
| <p>Explain: The Governor of North Carolina issued Executive Order No. 228, authorizing the extension of time to complete Criminal Justice Training Courses as need to ensure the completion of training to certify trainees, officers, and instructors. Also, to coordinate a response and enact protective measures to help prevent the spread of COVID-19 and other variants. The COVID-19 is a respiratory disease that can result in severe illness or death. Once an outbreak of the COVID-19 begins, it isn't easy to contain. North Carolina Community Colleges and agencies facilitate many of the Criminal Justice Training Courses. To preserve the health and well-being of the staff, students, and community, training courses began to close for 2-3 weeks. Training closures exceeding the requirements set forth in the NCAC 12 09B, 09C, and 09G impact the completion of training, certification of criminal justice officers and instructors' carry out their respective professional duties. In addition, Executive Order No. 228 expired on October 27, 2021. Criminal Justice Officers per code are required to complete specific training to maintain their certification. Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law. To prepare for any further potential unforeseen threat to public health or safety CJETS is pursuing rulemaking.</p> | |

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Charminique D. Williams

Phone: (919) 779-8206

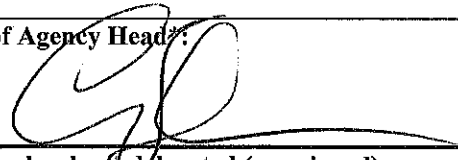
E-Mail: cdwilliams@ncdoj.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Chris Blue

Title: Commission Chair

E-Mail: CBLUE@townofchapelhill.org

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

1 12 NCAC 09B .0214 is proposed for amendment under temporary procedures as follows:

2
3 **12 NCAC 09B .0214 CERTIFICATION TRAINING FOR TIME-DISTANCE OPERATORS**

4 (a) The ~~time distance operator training course~~ Time-Distance Operator Training Course for law enforcement officers
5 shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a
6 ~~time distance~~ Time-Distance operator. This course shall not exceed four consecutive weeks. The Director of the
7 Criminal Justice Standards Division may allow additional breaks in a specific course delivery when the Director
8 determines that doing so is necessary based on circumstances related to a lawfully declared State of Emergency.

9 (b) Only employed or appointed personnel of a law enforcement agency may be enrolled in the ~~time distance speed~~
10 ~~measurement operator training course~~ Time-Distance Operator Training Course. Such a trainee shall not be certified
11 as a time-distance speed measurement operator until the basic law enforcement training course has been successfully
12 completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs, and
13 federal law enforcement personnel, including but not limited to armed forces personnel, shall be allowed to participate
14 in ~~time distance speed measurement operator training courses~~ the Time-Distance Operator Training Course on a space
15 available basis at the discretion of the school director without having enrolled in or having successfully completed the
16 basic law enforcement training course and without being currently certified in a probationary status or holding general
17 law enforcement certification. The ~~time distance operator training course~~ Time-Distance Operator Training Course
18 required for ~~time distance~~ Time-Distance operator certification shall include but not be limited to the topic areas and
19 minimum number of hours as outlined in the Time-Distance Operator Training Course. To qualify for ~~time distance~~
20 Time-Distance operator certification, an applicant shall meet the minimum requirements as outlined in the Time-
21 Distance Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

22 (c) The "Time-Distance Operator Training Course" as published by the North Carolina Justice Academy is to be
23 applied as basic curriculum for the ~~time distance operator training course~~ Time-Distance Operator Training Course
24 for ~~time distance~~ Time-Distance operators as administered by the Commission. Copies of this publication may be
25 inspected at the office of the agency:

26 Criminal Justice Standards Division
27 North Carolina Department of Justice
28 1700 Tryon Park Drive
29 ~~114 West Edenton Street~~
30 ~~Old Education Building~~
31 Post Office Drawer 149
32 Raleigh, North Carolina 27602

33 and may be obtained at cost from the Academy at the following address:

34 North Carolina Justice Academy
35 Post Office Box 99
36 Salemburg, North Carolina 28385
37

1 *History Note:* *Authority G.S. 17C-6;*
2 *Eff. November 1, 1981;*
3 *Readopted w/change Eff. July 1, 1982;*
4 *Amended Eff. April 1, 1999; November 1, 1998; August 1, 1995; February 1, 1991; July 1, 1989;*
5 *August 1, 1984;*
6 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
7 *2019.*
8
9



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina Criminal Justice Education Training and Standards Commission

2. Rule citation & name: 12 NCAC 09B .0226 SPECIALIZED FIREARMS INSTRUCTOR TRAINING

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: September 7, 2021
- b. Proposed Temporary Rule published on the OAH website: September 14, 2021
- c. Public Hearing date: October 25, 2021
- d. Comment Period: September 15, 2021-October 5, 2021
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 150B-21.1(a1)
- f. Adoption by agency on: October 28, 2021
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: November 30, 2021
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite:
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: The Governor of North Carolina issued Executive Order No. 228, authorizing the extension of time to complete Criminal Justice Training Courses as need to ensure the completion of training to certify trainees, officers, and instructors. Also, to coordinate a response and enact protective measures to help prevent the spread of COVID-19 and other variants. The COVID-19 is a respiratory disease that can result in severe illness or death. Once an outbreak of the COVID-19 begins, it isn't easy to contain. North Carolina Community Colleges and agencies facilitate many of the Criminal Justice Training Courses. To preserve the health and well-being of the staff, students, and community, training courses began to close for 2-3 weeks. Training closures exceeding the requirements set forth in the NCAC 12 09B, 09C, and 09G impact the completion of training, certification of criminal justice officers and instructors' carry out their respective professional duties. In addition, Executive Order No. 228 expired on October 27, 2021. Criminal Justice Officers per code are required to complete specific training to maintain their certification. Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law. To prepare for any further potential unforeseen threat to public health or safety CJETS is pursuing rulemaking.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Charminique D. Williams

Phone: (919) 779-8206

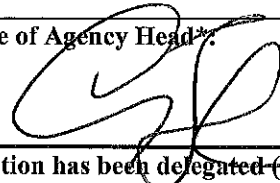
E-Mail: cdwilliams@ncdoj.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Chris Blue

Title: Commission Chair

E-Mail: CBLUE@townofchapelhill.org

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

12 NCAC 09B .0226 is proposed for amendment under temporary procedures as follows:

12 NCAC 09B .0226 SPECIALIZED FIREARMS INSTRUCTOR TRAINING

(a) The instructor training course for Specialized Firearms Instructor Training Certification shall consist of a minimum of 50 hours of classroom and range instruction plus time required to complete the tasks associated with Range Operations presented during a continuous period of not more than two weeks. The Director of the Criminal Justice Standards Division may allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on circumstances related to a lawfully declared State of Emergency.

(b) Each Specialized Firearms Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice firearms instructor in a Basic Law Enforcement Training (BLET) Course or a law enforcement officer in-service firearms training program.

(c) Each applicant for specialized firearms instructor training shall:

- (1) have completed the criminal justice instructor training course;
- (2) present a written endorsement by either
 - (A) a certified school director indicating the student may be utilized to instruct firearms in the Basic Law Enforcement Training Course; or
 - (B) a department head, certified school director, or in-service training coordinator, indicating the student may be utilized to instruct firearms in a law enforcement officer in-service firearms training program; and
- (3) Once within 365 days prior to enrollment each prospective student shall demonstrate proficiency during a qualification administered by the North Carolina Justice Academy. To successfully complete this qualification each prospective student shall achieve a minimum score of 92 percent 2 out of 3 times on both the BLET Day and Night Courses of Fire while using a 'Sam Browne' type belt and security holster and agency-issued duty or ballistic-equivalent ammunition,

(d) Each Specialized Firearms Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

- | | | |
|------|--|---------|
| (1) | Orientation/Pretest | 2 Hours |
| (2) | Range Operations | 2 Hours |
| (3) | Civil Liability | 4 Hours |
| (4) | Night Firing | 2 Hours |
| (5) | Combat Shooting Classroom and Range | 8 Hours |
| (6) | Mental Conditioning | 1 Hours |
| (7) | Shotgun Operation and Firing | 4 Hours |
| (8) | Service Handgun - Operation and Use | 8 Hours |
| (9) | Rifle - Operation and Maintenance | 4 Hours |
| (10) | Service Handgun - Maintenance and Cleaning | 2 Hours |
| (11) | Range Medical Emergencies | 2 Hours |

- (12) In-Service Firearms Requirements 2 Hours
- (13) BLET Lesson Plan Review 1 Hour
- (14) Range Drills as defined in the Specialized Firearms Instructor Training Manual and the Specialized Firearms Instructor Training Course Management Guide 8 Hours
- (15) Completion of tasks associated with Range Operations. Completion of tasks associated with Instructor Practicums hours determined by number of students and instructors:
- (A) Conduct a BLET Day Course of Fire
- (B) Conduct a BLET Night Course of Fire
- (C) Conduct a Long Gun Course of Fire
- (D) Develop a Combat Course of Fire

(e) The "Specialized Firearms Instructor Training Manual" published by the North Carolina Justice Academy shall be the curriculum for the Specialized Firearms Instructor Training course. Copies of this publication may be inspected at the:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Post Office Drawer 149
Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385

(f) The Commission-certified school that is certified to offer the "Specialized Firearms Instructor Training" course is the North Carolina Justice Academy.

History Note: Authority G.S. 17C-6;
Eff. May 1, 1986;
Amended Eff. January 1, 2015; February 1, 2013; August 1, 2006; August 1, 2000; November 1, 1998; August 1, 1995; February 1, 1991; March 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;
Amended Eff. January 1, 2021.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina Criminal Justice Education Training and Standards Commission

2. Rule citation & name: 12 NCAC 09B .0232 SPECIALIZED SUBJECT CONTROL ARREST TECHNIQUES
INSTRUCTOR TRAINING

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: September 7, 2021
- b. Proposed Temporary Rule published on the OAH website: September 14, 2021
- c. Public Hearing date: October 25, 2021
- d. Comment Period: September 15, 2021-October 5, 2021
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 150B-21.1(a1)
- f. Adoption by agency on: October 28, 2021
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: November 30, 2021
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite:
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: The Governor of North Carolina issued Executive Order No. 228, authorizing the extension of time to complete Criminal Justice Training Courses as need to ensure the completion of training to certify trainees, officers, and instructors. Also, to coordinate a response and enact protective measures to help prevent the spread of COVID-19 and other variants. The COVID-19 is a respiratory disease that can result in severe illness or death. Once an outbreak of the COVID-19 begins, it isn't easy to contain. North Carolina Community Colleges and agencies facilitate many of the Criminal Justice Training Courses. To preserve the health and well-being of the staff, students, and community, training courses began to close for 2-3 weeks. Training closures exceeding the requirements set forth in the NCAC 12 09B, 09C, and 09G impact the completion of training, certification of criminal justice officers and instructors' carry out their respective professional duties. In addition, Executive Order No. 228 expired on October 27, 2021. Criminal Justice Officers per code are required to complete specific training to maintain their certification. Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law. To prepare for any further potential unforeseen threat to public health or safety CJETS is pursuing rulemaking.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Charminique D. Williams

Phone: (919) 779-8206

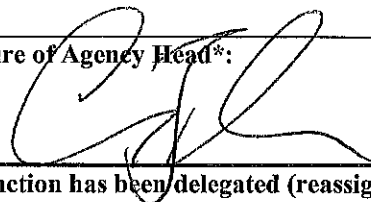
E-Mail: cdwilliams@ncdoj.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Chris Blue

Title: Commission Chair

E-Mail: CBLUE@townofchapelhill.org

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

12 NCAC 09B .0232 is proposed for amendment under temporary procedures as follows:

12 NCAC 09B .0232 SPECIALIZED SUBJECT CONTROL ARREST TECHNIQUES INSTRUCTOR TRAINING

(a) The instructor training course required for Specialized Subject Control Arrest Techniques Instructor Certification shall consist of a minimum of 29 hours of classroom instruction plus time required to complete the tasks associated with Subject Control Arrest Techniques Instructional Methods and Demonstration presented during a continuous period of not more than two weeks. The Director of the Criminal Justice Standards Division may allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on circumstances related to a lawfully declared State of Emergency.

(b) Each Specialized Subject Control Arrest Techniques Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice Specialized Subject Control Arrest Techniques Instructor in a Basic Law Enforcement Training Course or a Law Enforcement Officers' Annual In-Service Training Program.

(c) Each applicant for Specialized Subject Control Arrest Techniques Instructor Training shall:

- (1) have completed the Criminal Justice Instructor Training course;
- (2) present a letter from a licensed physician stating the applicant's physical fitness to participate in the course;
- (3) present a written endorsement by either
 - (A) a certified School Director indicating the student is qualified to instruct subject control arrest techniques in Basic Law Enforcement Training Courses; or
 - (B) a Department Head, certified School Director, or In-Service Training Coordinator indicating the student may be utilized to instruct subject control arrest techniques for the Law Enforcement Officers' Annual In-Service Training program; and
- (4) Within 365 days prior to enrollment in the Subject Control Arrest Techniques Instructor Training course the prospective student shall complete the following assessments administered by the North Carolina Justice Academy:
 - (A) a qualification requiring the individual to demonstrate 100 percent proficiency on the Basic Law Enforcement Training Subject Control Arrest Techniques; and
 - (B) achieve at least the 60th percentile on a physical fitness assessment.

(d) Each Specialized Subject Control Arrest Techniques Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

- | | | |
|-----|--|---------|
| (1) | Orientation | 1 Hour |
| (2) | Response to Injury | 4 Hours |
| (3) | Combat Conditioning | 4 Hours |
| (4) | Safety Guidelines/Rules | 2 Hours |
| (5) | Fundamentals of Professional Liability | 4 Hours |



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina Criminal Justice Education Training and Standards Commission

2. Rule citation & name: 12 NCAC 09B .0233 SPECIALIZED PHYSICAL FITNESS INSTRUCTOR TRAINING

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date: October 28, 2021

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: September 7, 2021
- b. Proposed Temporary Rule published on the OAH website: September 14, 2021
- c. Public Hearing date: October 25, 2021
- d. Comment Period: September 15, 2021-October 5, 2021
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 150B-21.1(a1)
- f. Adoption by agency on: October 28, 2021
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: November 30, 2021
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite:
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: The Governor of North Carolina issued Executive Order No. 228, authorizing the extension of time to complete Criminal Justice Training Courses as need to ensure the completion of training to certify trainees, officers, and instructors. Also, to coordinate a response and enact protective measures to help prevent the spread of COVID-19 and other variants. The COVID-19 is a respiratory disease that can result in severe illness or death. Once an outbreak of the COVID-19 begins, it isn't easy to contain. North Carolina Community Colleges and agencies facilitate many of the Criminal Justice Training Courses. To preserve the health and well-being of the staff, students, and community, training courses began to close for 2-3 weeks. Training closures exceeding the requirements set forth in the NCAC 12 09B, 09C, and 09G impact the completion of training, certification of criminal justice officers and instructors' carry out their respective professional duties. In addition, Executive Order No. 228 expired on October 27, 2021. Criminal Justice Officers per code are required to complete specific training to maintain their certification. Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law. To prepare for any further potential unforeseen threat to public health or safety CJETS is pursuing rulemaking.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Charminique D. Williams

Phone: (919) 779-8206

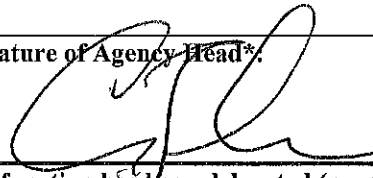
E-Mail: cdwilliams@ncdoj.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Chris Blue

Title: Commission Chair

E-Mail: CBLUE@townofchapelhill.org

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

12 NCAC 09B .0233 is proposed for amendment under temporary procedures as follows:

12 NCAC 09B .0233 SPECIALIZED PHYSICAL FITNESS INSTRUCTOR TRAINING

(a) The instructor training course required for Specialized Physical Fitness Instructor Certification shall consist of a minimum of 47 hours of classroom and field instruction, plus the tasks associated with Physical Fitness Assessments, Exercise Programs, and Instructional Methods, presented during a continuous period of not more than two weeks. The Director of the Criminal Justice Standards Division may allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on circumstances related to a lawfully declared State of Emergency.

(b) Each Specialized Physical Fitness Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice physical fitness instructor in a Basic Law Enforcement Training Course or a Law Enforcement Officers' Annual In-Service Training Program.

(c) Each applicant for specialized physical fitness training shall:

(1) qualify through one of the following three options:

(A) have completed the criminal justice general instructor training course;

(B) hold a current and valid North Carolina Teacher's Certificate, hold a baccalaureate degree in physical education, and be teaching in physical education topics; or

(C) be presently instructing physical education topics in a community college, college, or university and possess a baccalaureate degree in physical education;

(2) present a written endorsement by either:

(A) a certified School Director indicating the student may be utilized to instruct physical fitness in Basic Law Enforcement Training Courses; or

(B) a certified School Director, or In-Service Training Coordinator indicating the student may be utilized to instruct physical fitness for the Law Enforcement Officers' In-Service Training Program;

(3) present a letter from a physician stating fitness to participate in the course; and

(4) Within 365 days prior to enrollment complete a qualification administered by the North Carolina Justice Academy requiring the individual to:

(A) complete Scenario #1 of the Police Officer Physical Abilities Test (POPAT) in no more than six minutes;

(B) complete Scenario #2 of the POPAT in no more than three minutes; and

(C) complete a physical fitness assessment achieve at a minimum percentile score of 60.

(d) Each Specialized Physical Fitness Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

- | | | |
|-----|--|----------|
| (1) | Orientation | 1 Hour |
| (2) | Physical Fitness Sessions | 6 Hours |
| (3) | Physical Fitness Assessments, Exercise Programs, and Instructional Methods | 14 Hours |

- | | | | |
|----|------|--|---------|
| 1 | (4) | Injury Care and Prevention | 4 Hours |
| 2 | (5) | Nutrition | 7 Hours |
| 3 | (6) | Civil Liability | 3 Hours |
| 4 | (7) | CVD Risk Factors | 3 Hours |
| 5 | (8) | Developing In-Service Wellness Programs and Validating Fitness Standards | 4 Hours |
| 6 | (9) | Lesson Plan Review | 2 Hours |
| 7 | (10) | Exercise Leadership | 3 Hours |
| 8 | (11) | Completion of tasks associated with Physical Fitness Assessments, Exercise Programs, and | |
| 9 | | Instructional Methods. The number of hours required to complete this portion of the curriculum | |
| 10 | | shall be determined by number of students, number of instructors, and available facilities. | |

(e) The "Physical Fitness Instructor Training Manual" as published by the North Carolina Justice Academy shall be the curriculum for specialized physical fitness instructor training courses. Copies of this publication may be inspected at the:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Post Office Drawer 149
Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385

(f) The Commission-certified school that is certified to offer the "Specialized Physical Fitness Instructor Training" course is the North Carolina Justice Academy.

History Note: Authority G.S. 17C-6;
Eff. July 1, 1989;
Amended Eff. February 1, 2016; January 1, 2015; February 1, 2013; December 1, 2009; August 1, 2006; August 1, 2002; August 1, 2000; November 1, 1998; March 1, 1990; August 1, 1985.
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;
Amended Eff. January 1, 2021.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina Criminal Justice Education Training and Standards Commission

2. Rule citation & name: 12 NCAC 09B .0237 LIDAR INSTRUCTOR TRAINING COURSE

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: September 7, 2021
- b. Proposed Temporary Rule published on the OAH website: September 14, 2021
- c. Public Hearing date: October 25, 2021
- d. Comment Period: September 15, 2021-October 5, 2021
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 150B-21.1(a1)
- f. Adoption by agency on: October 28, 2021
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: November 30, 2021
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite:
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: The Governor of North Carolina issued Executive Order No. 228, authorizing the extension of time to complete Criminal Justice Training Courses as need to ensure the completion of training to certify trainees, officers, and instructors. Also, to coordinate a response and enact protective measures to help prevent the spread of COVID-19 and other variants. The COVID-19 is a respiratory disease that can result in severe illness or death. Once an outbreak of the COVID-19 begins, it isn't easy to contain. North Carolina Community Colleges and agencies facilitate many of the Criminal Justice Training Courses. To preserve the health and well-being of the staff, students, and community, training courses began to close for 2-3 weeks. Training closures exceeding the requirements set forth in the NCAC 12 09B, 09C, and 09G impact the completion of training, certification of criminal justice officers and instructors' carry out their respective professional duties. In addition, Executive Order No. 228 expired on October 27, 2021. Criminal Justice Officers per code are required to complete specific training to maintain their certification. Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law. To prepare for any further potential unforeseen threat to public health or safety CJETS is pursuing rulemaking.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Charminique D. Williams

Phone: (919) 779-8206

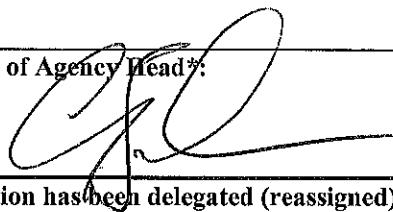
E-Mail: cdwilliams@ncdoj.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Chris Blue

Title: Commission Chair

E-Mail: CBLUE@townofchapelhill.org

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

12 NCAC 09B .0237 is proposed for amendment under temporary procedures as follows:

12 NCAC 09B .0237 LIDAR INSTRUCTOR TRAINING COURSE

(a) The ~~Lidar~~ LIDAR Instructor Training Course shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a ~~lidar~~ LIDAR instructor. This course shall be for a period not to exceed six consecutive weeks. The Director of the Criminal Justice Standards Division may allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on circumstances related to a lawfully declared State of Emergency.

(b) The ~~Lidar~~ LIDAR Instructor Training Course required for ~~lidar~~ LIDAR instructor certification shall include the topic areas and number of hours as outlined in the ~~Lidar~~ LIDAR Instructor Training Course. To qualify for ~~lidar~~ LIDAR instructor certification, an applicant shall meet the requirements as outlined in The ~~Lidar~~ LIDAR Instructor Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) Each applicant for ~~lidar~~ LIDAR instructor training shall:

- (1) Present the endorsement of a Commission-recognized school director or agency executive officer or his designee.
- (2) Possess full criminal justice General Instructor Certification as required in 12 NCAC 09B .0302.
- (3) Possess a current and valid ~~lidar~~ LIDAR operator certification.

(d) The ~~"Lidar"~~ "LIDAR" Instructor Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the ~~lidar instructor training course~~ LIDAR Instructor Training Course for ~~lidar~~ LIDAR instructors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
~~114 West Edenton Street~~
~~Old Education Building~~
Post Office Drawer 149
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385

(e) Commission-certified schools that are certified to offer the ~~Lidar~~ LIDAR Instructor Training Course are: The North Carolina Justice Academy.

*History Note: Authority G.S. 17C-6;
Eff. May 1, 2004;
Amended Eff. November 1, 2007;*

1 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
2 *2019.*
3
4



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

| |
|---|
| 1. Rule-Making Agency: North Carolina Criminal Justice Education Training and Standards Commission |
| 2. Rule citation & name: 12 NCAC 09B .0238 CERTIFICATION TRAINING FOR LIDAR OPERATORS |
| 3. Action: <input type="checkbox"/> Adoption <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Repeal |
| 4. Was this an Emergency Rule: <input type="checkbox"/> Yes Effective date: <input checked="" type="checkbox"/> No |
| 5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: September 7, 2021 b. Proposed Temporary Rule published on the OAH website: September 14, 2021 c. Public Hearing date: October 25, 2021 d. Comment Period: September 15, 2021-October 5, 2021 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 150B-21.1(a1) f. Adoption by agency on: October 28, 2021 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: November 30, 2021 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]: |
| 6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input checked="" type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other: |
| Explain: The Governor of North Carolina issued Executive Order No. 228, authorizing the extension of time to complete Criminal Justice Training Courses as need to ensure the completion of training to certify trainees, officers, and instructors. Also, to coordinate a response and enact protective measures to help prevent the spread of COVID-19 and other variants. The COVID-19 is a respiratory disease that can result in severe illness or death. Once an outbreak of the COVID-19 begins, it isn't easy to contain. North Carolina Community Colleges and agencies facilitate many of the Criminal Justice Training Courses. To preserve the health and well-being of the staff, students, and community, training courses began to close for 2-3 weeks. Training closures exceeding the requirements set forth in the NCAC 12 09B, 09C, and 09G impact the completion of training, certification of criminal justice officers and instructors' carry out their respective professional duties. In addition, Executive Order No. 228 expired on October 27, 2021. Criminal Justice Officers per code are required to complete specific training to maintain their certification, Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law. To prepare for any further potential unforeseen threat to public health or safety CJETS is pursuing rulemaking. |

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Charminique D. Williams

Phone: (919) 779-8206

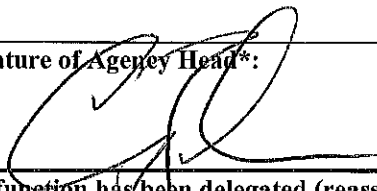
E-Mail: cdwilliams@ncdoj.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Chris Blue

Title: Commission Chair

E-Mail: CBLUE@townofchapelhill.org

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

1 12 NCAC 09B .0238 is proposed for amendment under temporary procedures as follows:

2
3 **12 NCAC 09B .0238 CERTIFICATION TRAINING FOR LIDAR OPERATORS**

4 (a) The ~~Lidar~~ LIDAR Operator Training Course for law enforcement officers shall be designed to provide the trainee
5 with the skills and knowledge to proficiently perform the function of a law enforcement ~~lidar~~ LIDAR operator. This
6 course shall be for a period not to exceed four consecutive weeks. The Director of the Criminal Justice Standards
7 Division may allow additional breaks in a specific course delivery when the Director determines that doing so is
8 necessary based on circumstances related to a lawfully declared State of Emergency.

9 (b) Only employed or appointed personnel of a law enforcement agency shall be enrolled in the ~~Lidar~~ LIDAR Operator
10 Training Course. Such a trainee shall not be certified as a ~~lidar~~ LIDAR operator until the Basic Law Enforcement
11 Training Course has been successfully completed and probationary or general law enforcement certification has been
12 granted. Sheriffs, deputy sheriffs and federal law enforcement personnel, including armed forces personnel, shall be
13 allowed to participate in ~~lidar operator training courses~~ the LIDAR Operator Training Course on a space available
14 basis at the discretion of the school director without having enrolled in or having successfully completed the Basic
15 Law Enforcement Training Course and without being currently certified in a probationary status or holding general
16 law enforcement certification. The ~~Lidar~~ LIDAR Operator Training Course required for ~~lidar~~ LIDAR operator
17 certification shall include the topic areas and number of hours as outlined in the ~~Lidar~~ LIDAR Operator Training
18 Course. To qualify for ~~lidar~~ LIDAR operator certification, an applicant shall meet the requirements as outlined in the
19 ~~Lidar~~ LIDAR Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

20 (c) The "~~Lidar~~ LIDAR Operator Training Course" as published by the North Carolina Justice Academy shall be
21 applied as basic curriculum for the ~~Lidar~~ LIDAR Operator Training Course for ~~lidar~~ LIDAR operators as administered
22 by the Commission. Copies of this publication may be inspected at the office of the agency:

23 Criminal Justice Standards Division
24 North Carolina Department of Justice
25 1700 Tyron Park Drive
26 ~~114 West Edenton Street~~
27 ~~Old Education Building~~
28 Post Office Drawer 149
29 Raleigh, North Carolina 27602

30 and may be obtained at cost from the Academy at the following address:

31 North Carolina Justice Academy
32 Post Office Box 99
33 Salemburg, North Carolina 28385

34
35 *History Note: Authority G.S. 17C-6;*
36 *Eff. May 1, 2004;*
37 *Amended Eff. November 1, 2007;*

1 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
2 *2019.*
3
4



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina Criminal Justice Education Training and Standards Commission

2. Rule citation & name: 12 NCAC 09B .0242 CERTIFICATION TRAINING FOR RADAR/LIDAR OPERATORS

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☐ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: September 7, 2021
- b. Proposed Temporary Rule published on the OAH website: September 14, 2021
- c. Public Hearing date: October 25, 2021
- d. Comment Period: September 15, 2021-October 5, 2021
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 150B-21.1(a1)
- f. Adoption by agency on: October 28, 2021
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: November 30, 2021
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite:
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: The Governor of North Carolina issued Executive Order No. 228, authorizing the extension of time to complete Criminal Justice Training Courses as need to ensure the completion of training to certify trainees, officers, and instructors. Also, to coordinate a response and enact protective measures to help prevent the spread of COVID-19 and other variants. The COVID-19 is a respiratory disease that can result in severe illness or death. Once an outbreak of the COVID-19 begins, it isn't easy to contain. North Carolina Community Colleges and agencies facilitate many of the Criminal Justice Training Courses. To preserve the health and well-being of the staff, students, and community, training courses began to close for 2-3 weeks. Training closures exceeding the requirements set forth in the NCAC 12 09B, 09C, and 09G impact the completion of training, certification of criminal justice officers and instructors' carry out their respective professional duties. In addition, Executive Order No. 228 expired on October 27, 2021. Criminal Justice Officers per code are required to complete specific training to maintain their certification. Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law. To prepare for any further potential unforeseen threat to public health or safety CJETS is pursuing rulemaking.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Charminique D. Williams

Phone: (919) 779-8206

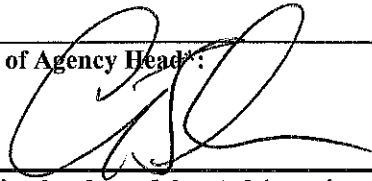
E-Mail: cdwilliams@ncdoj.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Chris Blue

Title: Commission Chair

E-Mail: CBLUE@townofchapelhill.org

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

12 NCAC 09B .0242 is proposed for amendment under temporary procedures as follows:

12 NCAC 09B .0242 CERTIFICATION TRAINING FOR RADAR/LIDAR OPERATORS

(a) The ~~radar/lidar operator training course~~ RADAR/LIDAR Operator Training Course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a ~~radar~~ RADAR and ~~lidar~~ LIDAR operator. This course shall be for a period not to exceed four consecutive weeks. The Director of the Criminal Justice Standards Division may allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on circumstances related to a lawfully declared State of Emergency.

(b) Only employed or appointed personnel of a law enforcement agency may be enrolled in the ~~radar/lidar speed measurement instrument operator training course~~ RADAR/LIDAR Operator Training Course. Such a trainee shall not be certified as a ~~radar~~ RADAR and ~~lidar~~ LIDAR speed measurement instrument operator until the basic law enforcement training course has been successfully completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs, and federal law enforcement personnel, including armed forces personnel, shall be allowed to participate in a ~~radar/lidar speed measurement instrument operator training course~~ RADAR/LIDAR Operator Training Course on a space available basis at the discretion of the school director without having enrolled in or having successfully completed the basic law enforcement training course and without being currently certified in a probationary status or holding general law enforcement certification. The ~~radar/lidar operator training course~~ RADAR/LIDAR Operator Training Course required for ~~radar~~ RADAR and ~~lidar~~ LIDAR operator certification shall include the topic areas and number of hours as outlined in the Radar/Lidar Operator Training Course. To qualify for ~~radar~~ RADAR and ~~lidar~~ LIDAR operator certification, an applicant shall meet the requirements as outlined in the ~~Radar/Lidar~~ RADAR/LIDAR Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) The ~~"Radar/Lidar~~ "RADAR/LIDAR Operator Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the ~~radar/lidar operator training course~~ RADAR/LIDAR Operator Training Course for ~~radar~~ RADAR and ~~lidar~~ LIDAR instrument operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

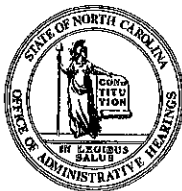
Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
~~114 West Edenton Street~~
~~Old Education Building~~
Post Office Drawer 149
Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99

Salemburg, North Carolina 28385

History Note: Authority G.S. 17C-6;
Eff. November 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,
2019.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina Criminal Justice Education Training and Standards Commission

2. Rule citation & name: 12 NCAC 09B .0244 CERTIFICATION TRAINING FOR RADAR/TIME-DISTANCE LIDAR OPERATORS

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☐ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: September 7, 2021
- b. Proposed Temporary Rule published on the OAH website: September 14, 2021
- c. Public Hearing date: October 25, 2021
- d. Comment Period: September 15, 2021-October 5, 2021
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 150B-21.1(a1)
- f. Adoption by agency on: October 28, 2021
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: November 30, 2021
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite:
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: The Governor of North Carolina issued Executive Order No. 228, authorizing the extension of time to complete Criminal Justice Training Courses as need to ensure the completion of training to certify trainees, officers, and instructors. Also, to coordinate a response and enact protective measures to help prevent the spread of COVID-19 and other variants. The COVID-19 is a respiratory disease that can result in severe illness or death. Once an outbreak of the COVID-19 begins, it isn't easy to contain. North Carolina Community Colleges and agencies facilitate many of the Criminal Justice Training Courses. To preserve the health and well-being of the staff, students, and community, training courses began to close for 2-3 weeks. Training closures exceeding the requirements set forth in the NCAC 12 09B, 09C, and 09G impact the completion of training, certification of criminal justice officers and instructors' carry out their respective professional duties. In addition, Executive Order No. 228 expired on October 27, 2021. Criminal Justice Officers per code are required to complete specific training to maintain their certification. Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law. To prepare for any further potential unforeseen threat to public health or safety CJETS is pursuing rulemaking.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Charminique D. Williams

Phone: (919) 779-8206

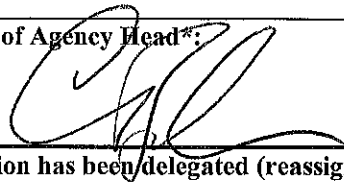
E-Mail: edwilliams@ncdoj.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Chris Blue

Title: Commission Chair

E-Mail: CBLUE@townofchapelhill.org

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

12 NCAC 09B .0244 is proposed for amendment under temporary procedures as follows:

12 NCAC 09B .0244 CERTIFICATION TRAINING FOR RADAR/TIME-DISTANCE/LIDAR OPERATORS

(a) The ~~radar/time distance/lidar operator training course~~ RADAR/Time-Distance/LIDAR Operator Training Course for law enforcement officers shall be designed to provide the trainee with the skills and knowledge to proficiently perform the function of a ~~radar, time distance,~~ RADAR, Time-Distance, and ~~lidar~~ LIDAR operator. This course shall be for a period not to exceed four consecutive weeks. The Director of the Criminal Justice Standards Division may allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on circumstances related to a lawfully declared State of Emergency.

(b) Only employed or appointed personnel of a law enforcement agency may be enrolled in the ~~radar/time distance/lidar speed measurement instrument operator training course.~~ RADAR/Time-Distance/LIDAR Operator Training Course. Such a trainee shall not be certified as a ~~radar, time distance,~~ RADAR, Time-Distance, and ~~lidar~~ LIDAR speed measurement instrument operator until the basic law enforcement training course has been successfully completed and probationary or general law enforcement certification has been granted. Sheriffs, deputy sheriffs, and federal law enforcement personnel, including armed forces personnel, shall be allowed to participate in ~~radar, time distance, and lidar speed measurement instrument operator training courses~~ RADAR/Time-Distance/LIDAR Operator Course the on a space available basis at the discretion of the school director without having enrolled in or having successfully completed the basic law enforcement training course and without being currently certified in a probationary status or holding general law enforcement certification. ~~The radar/time distance/lidar operator training course~~ RADAR/Time-Distance/LIDAR Operator Training Course required for ~~radar, time distance,~~ RADAR, Time-Distance, and ~~lidar~~ LIDAR operator certification shall include the topic areas and number of hours as outlined in The ~~Radar/Time Distance/Lidar~~ RADAR/Time-Distance/LIDAR Operator Training Course. To qualify for ~~radar, time distance,~~ RADAR, Time-Distance, and ~~lidar~~ LIDAR operator certification, an applicant shall meet the requirements as outlined in The ~~Radar/Time Distance/Lidar~~ RADAR/Time-Distance/LIDAR Operator Training Course and meet the requirements of 12 NCAC 09B .0408 and .0409.

(c) The ~~"Radar/Time Distance/Lidar~~ "RADAR/Time-Distance/LIDAR Operator Training Course" as published by the North Carolina Justice Academy shall be applied as basic curriculum for the ~~radar/time distance/lidar operator training course~~ RADAR/Time-Distance/LIDAR Operator Training Course for ~~radar, time distance,~~ RADAR, Time-Distance, and ~~lidar~~ LIDAR instrument operators as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
~~114 West Edenton Street~~
Old Education Building
Post Office Drawer 149

1 Raleigh, North Carolina 27602

2 and may be obtained at cost from the Academy at the following address:

3 North Carolina Justice Academy

4 Post Office Box 99

5 Salemburg, North Carolina 28385

6
7 *History Note: Authority G.S. 17C-6;*

8 *Eff. November 1, 2007;*

9 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
10 *2019.*



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

| | |
|---|--|
| 1. Rule-Making Agency: North Carolina Criminal Justice Education Training and Standards Commission | |
| 2. Rule citation & name: 12 NCAC 09B .0417 SPECIALIZED EXPLOSIVES AND HAZARDOUS MATERIAL INSTRUCTOR TRAINING | |
| 3. Action: <input type="checkbox"/> Adoption <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Repeal | |
| 4. Was this an Emergency Rule: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Effective date: | |
| 5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: September 7, 2021 b. Proposed Temporary Rule published on the OAH website: September 14, 2021 c. Public Hearing date: October 25, 2021 d. Comment Period: September 15, 2021-October 5, 2021 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 150B-21.1(a1) f. Adoption by agency on: October 28, 2021 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: November 30, 2021 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]: | |
| 6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input checked="" type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other: | |
| Explain: The Governor of North Carolina issued Executive Order No. 228, authorizing the extension of time to complete Criminal Justice Training Courses as need to ensure the completion of training to certify trainees, officers, and instructors. Also, to coordinate a response and enact protective measures to help prevent the spread of COVID-19 and other variants. The COVID-19 is a respiratory disease that can result in severe illness or death. Once an outbreak of the COVID-19 begins, it isn't easy to contain. North Carolina Community Colleges and agencies facilitate many of the Criminal Justice Training Courses. To preserve the health and well-being of the staff, students, and community, training courses began to close for 2-3 weeks. Training closures exceeding the requirements set forth in the NCAC 12 09B, 09C, and 09G impact the completion of training, certification of criminal justice officers and instructors' carry out their respective professional duties. In addition, Executive Order No. 228 expired on October 27, 2021. Criminal Justice Officers per code are required to complete specific training to maintain their certification. Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law. To prepare for any further potential unforeseen threat to public health or safety CJETS is pursuing rulemaking. | |

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Charminique D. Williams

Phone: (919) 779-8206

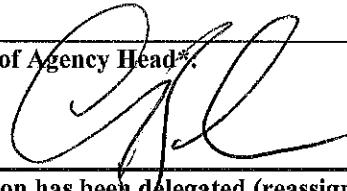
E-Mail: cdwilliams@ncdoj.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Chris Blue

Title: Commission Chair

E-Mail: CBLUE@townofchapelhill.org

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

12 NCAC 09B .0417 is proposed for amendment under temporary procedures as follows:

12 NCAC 09B .0417 SPECIALIZED EXPLOSIVES AND HAZARDOUS MATERIALS INSTRUCTOR TRAINING

(a) The instructor training course required for Specialized Explosives and Hazardous Materials Instructor Certification shall consist of a minimum of 59 hours of classroom instruction plus time required to complete Instructor Practicums presented during a continuous period of not more than two weeks. The Director of the Criminal Justice Standards Division may allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on circumstances related to a lawfully declared State of Emergency.

(b) Each Specialized Explosives and Hazardous Materials Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice explosives and hazardous materials instructor in a Basic Law Enforcement Training Course or a Law Enforcement Officers' Annual In-Service Training Program.

(c) Each applicant for Specialized Explosives and Hazardous Materials Instructor Training shall:

(1) have completed either:

(A) the criminal justice instructor training course; or

(B) the Fire Service Instructor Methodology Course or the equivalent utilizing the Instructional Systems Design model, an international model with application in education, military training, and private enterprise;

(2) present a written endorsement by either:

(A) a certified school director indicating the student will be utilized to instruct explosives and hazardous materials in Basic Law Enforcement Training Courses; or

(B) a department head, certified school director, or in-service training coordinator, indicating the student will be utilized to instruct explosives and hazardous materials training in the Law Enforcement Officer's Annual In-Service Training Program; and

(3) present a completed OSHA Respirator Medical Evaluation Questionnaire, accompanied by a statement from a licensed medical professional stating the applicant is physically fit to participate in the course.

(d) Each Specialized Explosives and Hazardous Materials Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

- | | | |
|-----|--|-----------|
| (1) | Orientation | 2 Hours |
| (2) | Introduction to Hazardous Materials | 1 Hour |
| (3) | Hazardous Materials Identification | 2.5 Hours |
| (4) | Awareness Level Actions at Hazardous Materials Incidents | 1.5 Hours |
| (5) | Chemical Properties and Hazardous Materials Behavior | 3 Hours |
| (6) | Incident Management | 3 Hours |
| (7) | Strategic Goals and Tactical Objectives | 3.5 Hours |

| | | | |
|----|------|---|-----------|
| 1 | (8) | Terrorist and Other Criminal Activity | 5 Hours |
| 2 | (9) | Personal Protective Equipment | 5 Hours |
| 3 | (10) | Decontamination | 5 Hours |
| 4 | (11) | Product Control | 4 Hours |
| 5 | (12) | Air Monitoring and Sampling | 1.5 Hours |
| 6 | (13) | Victim Rescue and Recovery | 4 Hours |
| 7 | (14) | Evidence Preservation and Sampling | 3 Hours |
| 8 | (15) | Illicit Laboratories | 2 Hours |
| 9 | (16) | Introduction to Explosive Devices | 1 Hour |
| 10 | (17) | Improvised Explosive Device Anatomy | 2 Hours |
| 11 | (18) | Packaged Improvised Explosive Devices | 1 Hour |
| 12 | (19) | Suicide/Homicide Improvised Explosive Devices | 1 Hour |
| 13 | (20) | Vehicle Borne Improvised Explosive Devices | 1 Hour |
| 14 | (21) | Radio Controlled Improvised Explosive Devices with Live Demonstration | 5 Hours |
| 15 | (22) | Improvised Explosive Device Threat Response | 1 Hour |
| 16 | (23) | Explosives and Hazardous Materials Emergencies and BLET Lesson Plan | |
| 17 | | Review | 1 Hour |
| 18 | (24) | Completion of tasks associated with Instructor Practicums. The number of required hours to | |
| 19 | | complete this portion of the curriculum shall be based on the number of students and instructors. | |

(e) The basic curriculum for delivery of the Specialized Explosives and Hazardous Materials Instructor Training course shall be the Specialized Explosives and Hazardous Materials Instructor Training Manual," as published by the North Carolina Justice Academy. Copies of these publications may be inspected at the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Raleigh, North Carolina 27610

and may be obtained at no cost to the student from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385

(f) The North Carolina Justice Academy is certified to offer the Specialized Explosives and Hazardous Materials Instructor Training course.

History Note: Authority G.S. 17C-6; 17C-10;

Eff. June 1, 2013;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;

1 *Amended Eff. January 1, 2021.*
2
3



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina Criminal Justice Education Training and Standards Commission

2. Rule citation & name: 12 NCAC 09G .0414 INSTRUCTOR TRAINING

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

a. Proposed Temporary Rule submitted to OAH: September 7, 2021

b. Proposed Temporary Rule published on the OAH website: September 14, 2021

c. Public Hearing date: October 25, 2021

d. Comment Period: September 15, 2021-October 5, 2021

e. Notice pursuant to G.S. 150B-21.1(a3)(2): 150B-21.1(a1)

f. Adoption by agency on: October 28, 2021

g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: November 30, 2021

h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.

Cite:

Effective date:

- ☐ A recent change in federal or state budgetary policy.

Effective date of change:

- ☐ A recent federal regulation.

Cite:

Effective date:

- ☐ A recent court order.

Cite order:

- ☐ State Medical Facilities Plan.

- ☐ Other:

Explain: The Governor of North Carolina issued Executive Order No. 228, authorizing the extension of time to complete Criminal Justice Training Courses as need to ensure the completion of training to certify trainees, officers, and instructors. Also, to coordinate a response and enact protective measures to help prevent the spread of COVID-19 and other variants. The COVID-19 is a respiratory disease that can result in severe illness or death. Once an outbreak of the COVID-19 begins, it isn't easy to contain. North Carolina Community Colleges and agencies facilitate many of the Criminal Justice Training Courses. To preserve the health and well-being of the staff, students, and community, training courses began to close for 2-3 weeks. Training closures exceeding the requirements set forth in the NCAC 12 09B, 09C, and 09G impact the completion of training, certification of criminal justice officers and instructors' carry out their respective professional duties. In addition, Executive Order No. 228 expired on October 27, 2021. Criminal Justice Officers per code are required to complete specific training to maintain their certification. Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law. To prepare for any further potential unforeseen threat to public health or safety CJETS is pursuing rulemaking.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Charminique D. Williams

Phone: (919) 779-8206

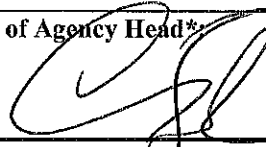
E-Mail: cdwilliams@ncdoj.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Chris Blue

Title: Commission Chair

E-Mail: CBLUE@townofchapelhill.org

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

12 NCAC 09G .0414 is proposed for amendment under temporary procedures as follows:

12 NCAC 09G .0414 INSTRUCTOR TRAINING

(a) The Instructor Training course required for General Instructor certification shall consist of at least the minimum number of hours of instruction as defined in 12 NCAC 09B .0209 to be completed within 15 business days. The Director of the Criminal Justice Standards Division may allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on circumstances related to a lawfully declared State of Emergency.

(b) Each Instructor Training course shall be designed to provide the trainee with the skills and knowledge to perform the functions of a criminal justice instructor.

(c) The "Instructor Training Manual" published by the North Carolina Justice Academy shall be applied as the curriculum for instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Post Office Drawer 149
Raleigh, North Carolina 27602

and may be purchased at the cost of printing and postage from the North Carolina Justice Academy at the following address:

North Carolina Justice Academy
Post Office Drawer 99
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6;
Temporary Adoption Eff. January 1, 2001;
Eff. August 1, 2002;
Amended Eff. July 1, 2018; April 1, 2018; January 1, 2018; January 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;
Amended Eff. July 1, 2021; January 1, 2021.*



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina Criminal Justice Education Training and Standards Commission

2. Rule citation & name: 12 NCAC 09G .0415 CORRECTIONS SPECIALIZED INSTRUCTOR TRAINING-FIREARMS

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: September 7, 2021
- b. Proposed Temporary Rule published on the OAH website: September 14, 2021
- c. Public Hearing date: October 25, 2021
- d. Comment Period: September 15, 2021-October 5, 2021
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 150B-21.1(a1)
- f. Adoption by agency on: October 28, 2021
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: November 30, 2021
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite:
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: The Governor of North Carolina issued Executive Order No. 228, authorizing the extension of time to complete Criminal Justice Training Courses as need to ensure the completion of training to certify trainees, officers, and instructors. Also, to coordinate a response and enact protective measures to help prevent the spread of COVID-19 and other variants. The COVID-19 is a respiratory disease that can result in severe illness or death. Once an outbreak of the COVID-19 begins, it isn't easy to contain. North Carolina Community Colleges and agencies facilitate many of the Criminal Justice Training Courses. To preserve the health and well-being of the staff, students, and community, training courses began to close for 2-3 weeks. Training closures exceeding the requirements set forth in the NCAC 12 09B, 09C, and 09G impact the completion of training, certification of criminal justice officers and instructors' carry out their respective professional duties. In addition, Executive Order No. 228 expired on October 27, 2021. Criminal Justice Officers per code are required to complete specific training to maintain their certification. Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law. To prepare for any further potential unforeseen threat to public health or safety CJETS is pursuing rulemaking.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Charminique D. Williams

Phone: (919) 779-8206

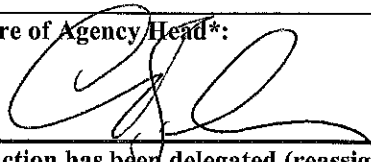
E-Mail: cdwilliams@ncdoj.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Chris Blue

Title: Commission Chair

E-Mail: CBLUE@townofchapelhill.org

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

1 12 NCAC 09G .0415 is proposed for amendment under temporary procedures as follows:

2
3 **12 NCAC 09G .0415 CORRECTIONS SPECIALIZED INSTRUCTOR TRAINING – FIREARMS**

4 (a) The instructor training course requirement for Corrections Specialized Instructor Training – Firearms certification
5 shall consist of at least 80 hours of instruction presented during a period of not more than two consecutive weeks. The
6 Director of the Criminal Justice Standards Division may allow additional breaks in a specific course delivery when
7 the Director determines that doing so is necessary based on circumstances related to a lawfully declared State of
8 Emergency.

9 (b) Each Corrections Specialized Instructor Training – Firearms course shall be designed to provide the trainee with
10 the skills and knowledge to perform the function of a corrections firearms instructor in the "Basic Training –
11 Correctional Officer" course, "Basic Training - Probation/Parole Officer" course, and in-service training courses for
12 correctional officers and probation/parole officers.

13 (c) Each Corrections Specialized Firearms Instructor Training course shall include the following topical areas:

- 14 (1) Course Overview;
- 15 (2) Legal Considerations for Firearm Instructors;
- 16 (3) Department of Public Safety, Division of Adult Correction Firearms Training Courses;
- 17 (4) Firearms Safety;
- 18 (5) Range Operations;
- 19 (6) Medical Emergencies on the Range;
- 20 (7) Handgun – Operation, Use and Maintenance:
 - 21 (A) Handgun Training – Classroom and Range;
 - 22 (B) Handgun Low/Limited Light Fire; and
 - 23 (C) Handgun Care and Maintenance;
- 24 (8) Advanced Handgun Training – Classroom and Range;
- 25 (9) Shotgun Operation, Use and Maintenance:
 - 26 (A) Shotgun Training – Classroom and Range;
 - 27 (B) Shotgun Low/Limited Light Fire – Range; and
 - 28 (C) Shotgun Care and Maintenance;
- 29 (10) Special Techniques, Training Aids, and Methods:
- 30 (11) Situational Use of Firearms:
 - 31 (A) The Shooting Decision;
 - 32 (B) Situational Use of Firearms;
 - 33 (C) Situational Exercises – Day; and
 - 34 (D) Situational Exercises – Low/Limited Light; and
- 35 (12) Administrative Matters, Testing, and Evaluation.

1 (d) The Commission certified school that is certified to offer the "Corrections Specialized Instructor
2 Training - Firearms" course is the Office of Staff Development and Training of the North Carolina Department of
3 Public Safety.

4
5 *History Note: Authority G.S. 17C-6;*

6 *Temporary Adoption Eff. January 1, 2001;*

7 *Eff. August 1, 2002;*

8 *Amended Eff. May 1, 2014; April 1, 2008; February 1, 2006; August 1, 2004;*

9 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
10 *2019.*



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina Criminal Justice Education Training and Standards Commission

2. Rule citation & name: 12 NCAC 09G .0416 CORRECTIONS SPECIALIZED INSTRUCTOR TRAINING-CONTROL, RESTRAINTS, AND DEFENSIVE TECHNIQUES

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: September 7, 2021
- b. Proposed Temporary Rule published on the OAH website: September 14, 2021
- c. Public Hearing date: October 25, 2021
- d. Comment Period: September 15, 2021-October 5, 2021
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 150B-21.1(a1)
- f. Adoption by agency on: October 28, 2021
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: November 30, 2021
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite:
Effective date:
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: The Governor of North Carolina issued Executive Order No. 228, authorizing the extension of time to complete Criminal Justice Training Courses as need to ensure the completion of training to certify trainees, officers, and instructors. Also, to coordinate a response and enact protective measures to help prevent the spread of COVID-19 and other variants. The COVID-19 is a respiratory disease that can result in severe illness or death. Once an outbreak of the COVID-19 begins, it isn't easy to contain. North Carolina Community Colleges and agencies facilitate many of the Criminal Justice Training Courses. To preserve the health and well-being of the staff, students, and community, training courses began to close for 2-3 weeks. Training closures exceeding the requirements set forth in the NCAC 12 09B, 09C, and 09G impact the completion of training, certification of criminal justice officers and instructors' carry out their respective professional duties. In addition, Executive Order No. 228 expired on October 27, 2021. Criminal Justice Officers per code are required to complete specific training to maintain their certification. Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law. To prepare for any further potential unforeseen threat to public health or safety CJETS is pursuing rulemaking.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Failure to comply with the requirements results in delayed or loss of officers' certification to serve their communities and enforce the law.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Charminique D. Williams

Phone: (919) 779-8206

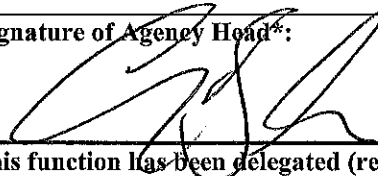
E-Mail: cdwilliams@ncdoj.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Chris Blue

Title: Commission Chair

E-Mail: CBLUE@townofchapelhill.org

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

1 12 NCAC 09G .0416 is proposed for amendment under temporary procedures as follows:

2
3 **12 NCAC 09G .0416 CORRECTIONS SPECIALIZED INSTRUCTOR TRAINING - CONTROLS,**
4 **RESTRAINTS, AND DEFENSIVE TECHNIQUES**

5 (a) The instructor training course requirement for corrections specialized controls, restraints, and defensive techniques
6 (CRDT) instructor certification shall consist of at least 80 hours of instruction presented during a period of not more
7 than two consecutive weeks. The Director of the Criminal Justice Standards Division may allow additional breaks in
8 a specific course delivery when the Director determines that doing so is necessary based on circumstances related to
9 a lawfully declared State of Emergency.

10 (b) Each corrections specialized controls, restraints, and defensive techniques instructor training course shall be
11 designed to provide the trainee with the skills and knowledge to perform the function of a corrections controls,
12 restraints, and defensive techniques instructor in the "Basic Training - Correctional Officer" course, "Basic
13 Training - Probation/Parole Officer" course, and in-service training courses for correctional officers and
14 probation/parole officers.

15 (c) Each corrections specialized controls, restraints, and defensive techniques instructor training course shall include
16 the following topical areas:

- 17 (1) Introduction to Controls, Restraints, and Defensive Techniques;
- 18 (2) Physical Fitness/Warm-up and Stretching;
- 19 (3) Response to Injury;
- 20 (4) Basic Controls and Techniques;
- 21 (5) Advanced Controls and Techniques;
- 22 (6) Restraint Applications; and
- 23 (7) CRDT Program Student Evaluations and Testing.

24 (d) The Commission-certified school that is certified to offer the "Corrections Specialized Instructor
25 Training/Controls, Restraints, and Defensive Techniques" course is the Office of Staff Development and Training of
26 the North Carolina Department of Public Safety.

27
28 *History Note: Authority G.S. 17C-6;*

29 *Temporary Adoption Eff. January 1, 2001;*

30 *Eff. August 1, 2002;*

31 *Amended Eff. May 1, 2014; November 1, 2005; August 1, 2004;*

32 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25,*
33 *2019.*