REQUEST FOR TECHNICAL CHANGE

AGENCY: CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

RULE CITATION: 12 NCAC 09 – ALL RULES FILED

DEADLINE FOR RECEIPT: FRIDAY, MAY 11, 2012

***NOTE WELL: This request when viewed on computer may extend several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC for review by the RRC at its next meeting. The Commission has not yet met and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*Please verify that all these rules were adopted after 5:00 p.m., Monday, April 2, 2012, to comply with waiting for the end of the comment period at that time.*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

RULE CITATION: 12 NCAC 09B .0106

DEADLINE FOR RECEIPT: FRIDAY, MAY 11, 2012

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*In (c) lines 11 and 12 it would seem to me that a copy of the certificate or whatever other documentation is given for passing the GED test would be sufficient to show that a person has “passed” the GED test. If this is so then you should add “or GED certificate” (or similar language) after “results” in line 11.*

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Commission Counsel

Joseph J. DeLuca, Jr.

REQUEST FOR TECHNICAL CHANGE

AGENCY: CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

RULE CITATION: 12 NCAC 09B .0203

DEADLINE FOR RECEIPT: FRIDAY, MAY 11, 2012

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (d) line 15 please correct the reference to the non-existent rule “.0302(1).”*

*In (e) line 20 please delete the comma following “level,”.*

*In (e)(1) line 21 please move “[f]or the purposes of this rule,” to line 20 before (1) and change the comma to a colon.*

*In (f), (g) and (h) lines 28, 35, and page 2 line 2, respectively, delete “as a prerequisite.” The phrase is repetitious of “unless.”*

*In (i)(4) line 13 delete the first “as” in “as defined as.”*

*In (i)(5) line 16 please add “date” after “last conviction” to verify that it is the conviction and not the offense date that is determinative.*

*In (j) line 31 delete “other” in “other similar laws.” In the next line, line 32, change “include” to “are.”*

*In that same line 32 please verify that it is a charge of “driving while license permanently revoked or permanently suspended” and not simply “driving while license revoked” that requires reporting.*

*Again in (j) line 32, G.S. 20-139 has been repealed; please correct.*

*Finally in (j), page 3 line 5, please add “finally” before “disposed of in court.” If it is not actually the final disposition, including appeals, then add “trial” before “court” or otherwise clarify when a case is “disposed of.”*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

RULE CITATION: 12 NCAC 09B .0305

DEADLINE FOR RECEIPT: FRIDAY, MAY 11, 2012

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (b) do you think (4) is necessary? It seems to me this is simply a negative way of stating the rule that is set out in (3). Unless you can demonstrate that (b)(3) is somehow incomplete or likely to be misinterpreted, then you should delete (b)(4).*

*While not directly related to the above issue, it might help to insert “general” before “certification expiration” in (b)(3) line 21.*

*It seems to me that the requirement in (c)(3)(B), page 2 lines 18 – 20, to “teach at least 12 hours in each of the topics for which Specialized Instructor Certification was granted” is the same requirement as in (c)(1) page 1 lines 32 and 33: “instructed at least 12 hours in each of the topics for which Specialized Instructor Certification was granted.”*

*in (f) line 3 I would change “only be used” to “be used only.”*

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Commission Counsel

Joseph J. DeLuca, Jr.

REQUEST FOR TECHNICAL CHANGE

AGENCY: CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

RULE CITATION: 12 NCAC 09D .0102

DEADLINE FOR RECEIPT: FRIDAY, MAY 11, 2012

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (a)(6) lines 20 and 21 it seems to me that the reference to 12 NCAC 09D .0102(a)(1) would be better referred to as “Sub-Paragraph (1) of this Paragraph.”*

*Further in line 21 it seems to me that “non sworn” should be “non-sworn.” (I’m following the ‘rule’ that compound adjectives are usually hyphenated. But perhaps even more than that I don’t believe that “non” is an adjective – or noun – that typically stands alone. It is normally joined to another word as part of that word or with a hyphen.)*

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Commission Counsel

Joseph J. DeLuca, Jr.

REQUEST FOR TECHNICAL CHANGE

AGENCY: CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

RULE CITATION: 12 NCAC 09D .0202

DEADLINE FOR RECEIPT: FRIDAY, MAY 11, 2012

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (d) line 13 please correct the references to non-existent rules 09D .0202 (a)(1) and (2).*

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Commission Counsel

Joseph J. DeLuca, Jr.

REQUEST FOR TECHNICAL CHANGE

AGENCY: CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

RULE CITATION: 12 NCAC 09E .0105

DEADLINE FOR RECEIPT: FRIDAY, MAY 11, 2012

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*I am recommending that rule 09E .0102 be repealed based on lack of necessity. If that is done I would recommend rewriting the first sentence in (a) of this rule to incorporate the more precise requirement of the other rule as follows:*

(a) The following topical areas and specifications are established as minimum topics, specifications and hours to be included in each law enforcement officers’ annual in-service training courses:

*At the end of (a)(1) line 6 add the number of hours, “(4)”, required after “Firearms.”*

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Commission Counsel

Joseph J. DeLuca, Jr.

REQUEST FOR TECHNICAL CHANGE

AGENCY: CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

RULE CITATION: 12 NCAC 09G .0206

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*For items (3) and (4) please find and insert a web site URL for these references.*

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Commission Counsel

Joseph J. DeLuca, Jr.

REQUEST FOR TECHNICAL CHANGE

AGENCY: CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

RULE CITATION: 12 NCAC 09G .0311

DEADLINE FOR RECEIPT: FRIDAY, MAY 11, 2012

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (b) do you think (4) is necessary? It seems to me this is simply a negative way of stating the rule that is set out in (3). Unless you can demonstrate that (b)(3) is somehow incomplete or likely to be misinterpreted, then you should delete (b)(4).*

*While not directly related to the above issue, it might help to insert “general” before “certification expiration” in (b)(3) line 20.*

*In (d), page 2 line 13, please verify that it is only eight hours and not 12 hours of teaching in specialized topics that is required.*

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Commission Counsel

Joseph J. DeLuca, Jr.

REQUEST FOR TECHNICAL CHANGE

AGENCY: CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

RULE CITATION: 12 NCAC 09G .0602

DEADLINE FOR RECEIPT: FRIDAY, MAY 11, 2012

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*I would assume that persons subject to the exemption in (a)(4), “serving in positions not subject to certification” and yet still “eligible to participate in the professional certificate program” would also be subject to the requirement in (a)(1) that they not be “subject to suspension or revocation proceedings or under investigation ....” If that is so I believe you should delete in line 5 the language “except as provided for in 12 NCAC 09G .0602(a)(4)” so as to reduce the possibility of someone subject to the exemption arguing that (a)(1) does not apply. I also do not believe it is necessary for those words in (a) to be there in order for (a)(4) to apply.*

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Commission Counsel

Joseph J. DeLuca, Jr.