

## Burgos, Alexander N

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**Subject:** FW: 14B NCAC 05B .0501

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**From:** McDonald, Margaret (CCPS) <margaret.mcdonald@ncdps.gov>  
**Sent:** Tuesday, August 13, 2024 11:36 AM  
**To:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: 14B NCAC 05B .0501

Hello- This email is to acknowledge receipt of your correspondence below, as well as your email regarding 14B NCAC 0201. Thank you for all of your patience and feedback during this review phase. Please let me know if you need anything else from NCDPS in advance of the August meeting.

Sincerely,

**Margaret T. McDonald**  
Deputy General Counsel  
NC Department of Public Safety  
Office of the General Counsel  
Mail Service Center 4201  
Raleigh, NC 27699-4201  
Office: (919) 825-2743  
[margaret.mcdonald@ncdps.gov](mailto:margaret.mcdonald@ncdps.gov)  
[www.ncdps.gov](http://www.ncdps.gov)



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**From:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Sent:** Tuesday, August 13, 2024 11:12 AM  
**To:** Rules, Oah <[oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; McDonald, Margaret (CCPS) <[margaret.mcdonald@ncdps.gov](mailto:margaret.mcdonald@ncdps.gov)>  
**Subject:** FW: 14B NCAC 05B .0501

Good morning,

It is my intention to recommend approval of the attached rule as revised at the August meeting of the RRC.

**William W. Peaslee**

**Rules Review Commission Counsel / Legislative Liaison**

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

[Bill.Peaslee@oah.nc.gov](mailto:Bill.Peaslee@oah.nc.gov)

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## Burgos, Alexander N

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**Subject:** FW: 14B NCAC 05B .0201  
**Attachments:** 14B NCAC 05B .0201 - Applications for Grants- Amendment - Revised August 12 2024.docx

---

**From:** McDonald, Margaret (CCPS) <margaret.mcdonald@ncdps.gov>  
**Sent:** Monday, August 12, 2024 2:08 PM  
**To:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: 14B NCAC 05B .0201

Hello all- Please see the attached proposed revisions to the above-referenced rule with additional explanations/responses below for your consideration.

In line 6, if the Executive Director is establishing a “process” which governs the applicants, the process must be established by rule. “Requirements” or “processes” fall squarely within the definition of a “rule” as defined in G.S. 150B-2. Therefore, the requirements or processes must comport with G.S. 150B-21.9, and the power to adopt them cannot be delegated to the Executive Director of the Commission. At this point in the process, I do not know how you could change the amendment to include language which lays out the process without it being a substantial change pursuant to G.S. 150B-21.2(g) but I will leave that to you.

[NCDPS does not intend to delegate rulemaking authority to the Executive Director of GCC. See the edit deleting the sentence on lines 6-7.](#)

In line 13, the agency is requiring applicants to fill out an on-line application. The on-line application requires the applicant to provide specified information, thus the required information must be stated in a rule. (See G.S. 150B-2(d)) The agency has contents and substantive requirements in paragraph (d) but proposes to delete it. Absent paragraph (d) the rule becomes unclear and ambiguous.

Regarding the pre-review, if you change the word “may” in Paragraph (d) of the current rule , it becomes an option whereas “shall” is an imperative. Thus the suggestion by the agency in the pre-review of changing “shall” to “may” raised the question under what circumstances “may” an applicant provide the information. It also raised the question of what must be provided to be eligible.

[Thank you for this additional feedback. NCDPS will retain the requirements in Paragraph \(d\) that we anticipate will apply to all grants. NCDPS is deleting the criteria that is either 1\) no longer applicable or 2\) not required for all grants:](#)

[Line 17- deleting “signatures”](#)

[Line 20- deleting “project operation and activities; and”](#)

[Line 25- deleting “an explanation of how the project’s results will be monitored and evaluated”](#)

Line 28- deleting “a description of how the objectives of the proposed project are consistent with the outcomes and guidelines set forth in a State or federal grant program.”

Lines 30-32- amending the citations that are being deleted. Since we are now retaining Paragraph (d) we want to maintain the reference to Paragraph (d) in Paragraph (e).

Should the agency decide to leave Paragraph (d), as it currently exists in the Code, please be advised that it is unclear what the agency means by “Section” in line 26. Section refers to a part of the NC Code which does not “request.” Consider either deleting everything after “or.”

Acknowledged- See the edit on line 26 changing “Section” to “Department” (see 14B NCAC 05B .0101 where “Department” is a reference to the Department of Public Safety) as a technical correction.

In line 34, you need to add a citation to G.S. 143B-602 as this statute establishes the Secretary’s authority to adopt rules. I could not find any authority for the GCC or its Executive Director to establish rules.

See the revision to line 34 where we add a citation to the Secretary’s rulemaking authority.



1 14B NCAC 05B .0201 is amended as follows:

2  
3 **SECTION .0200 - PROGRAM GRANTS**  
4

5 **14B NCAC 05B .0201 APPLICATIONS FOR GRANTS**

6 (a) ~~The Executive Director of the Commission shall designate requirements for submission of grant applications. The~~  
7 ~~grant application period shall begin on November 1 of each year and end on January 31.~~ Funding priorities, as  
8 determined by the Commission, shall be listed on the Commission's website prior to the opening of an application  
9 period.

10 (b) Grant application submission dates shall be announced on the Commission website, [https://www.ncdps.gov/about-](https://www.ncdps.gov/about-dps/boards-and-commissions/governors-crime-commission/grant-process)  
11 [dps/boards-and-commissions/governors-crime-commission/grant-process](https://www.ncdps.gov/about-dps/boards-and-commissions/governors-crime-commission/grant-process) ~~not less than 90 days~~ before the application  
12 is due.

13 (c) Grant applications shall be electronically submitted to the Commission through the Grants Management System  
14 (GMS) on or before the date announced on the Commission website.

15 (d) To be considered for funding, applicants shall complete the grant application, which shall include the following  
16 information:

- 17 (1) names, mailing addresses, ~~and telephone numbers, and signatures~~ numbers of the applicant;
- 18 (2) project information, including the following:
- 19 (A) a description of the project, its goals and objectives, and outcomes;
- 20 (B) the issues or problems addressed by the ~~project;~~ project; and
- 21 ~~(C) — project operation and activities; and~~
- 22 ~~(D)(C)~~ a sustainability plan;
- 23 (3) a proposed budget;
- 24 (4) a project time ~~line;~~ line; and
- 25 ~~(5) — an explanation of how the project's results will be monitored and evaluated;~~
- 26 ~~(6)(5)~~ any other information required by these Rules or requested by the ~~Section~~ Department in order to  
27 make a decision on the grant ~~proposal; and proposal.~~
- 28 ~~(7) — a description of how the objectives of the proposed project are consistent with the outcomes and~~  
29 ~~guidelines set forth in a State or federal grant program.~~

30 (e) Applicants seeking funding for a two-year project shall submit ~~the information required by Paragraph (d) with the~~  
31 ~~requirements of Part (d)(2)(A), Part (d)(2)(C), and Subparagraph (d)(5) written to address the two year grant period.~~  
32 ~~Applicants shall also submit two one-year budgets.~~

33  
34 *History Note: Authority G.S. 143B-1103; ~~143B-1104~~; G.S. 143B-602*  
35 *Eff. March 1, 2019;*  
36 *Amended Eff. April 1, 2023.*  
37 *Amended Eff. August 1, 2024.*

## Burgos, Alexander N

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**Subject:** FW: 14B NCAC 05B .0501  
**Attachments:** 14B NCAC 05B .0501- Waiver - Adoption- Revised August 12 2024.docx

---

**From:** McDonald, Margaret (CCPS) <margaret.mcdonald@ncdps.gov>  
**Sent:** Monday, August 12, 2024 1:54 PM  
**To:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: 14B NCAC 05B .0501

Good afternoon- I was able to discuss the above rule with my colleague this morning so DPS is ready to submit it's revisions for your review and consideration. Responses to your feedback are also included below in blue font. I am hopeful these revisions will address the concerns you have raised. I look forward to your feedback.

In Line 9, "other" suggests that a "legislatively mandated" grant is also an "off cycle" grant. It continues to be unclear, in the rule, what an "off cycle" grant is.

After further review, NCDPS is revising 14B NCAC 05B .0501(1) to read: "The need to comply with a State or federal regulation or legislative mandate."

A grant would be considered by the Commission to be "off cycle" when there is a state or federal regulation or legislative mandate that issues the grant outside of the normal November 1-January 1 timeframe. Therefore, the term "off cycle" is not necessary if we can revise the language, as set forth above.

So, for example and if it is within the agency's intention, consider: Line 11 "(3) an emergency declared pursuant to the North Carolina Emergency Management Act." Or "Chapter 166A of the North Carolina General Statutes."

Done- See the revised language in line 11.

Line 12: It remains undefined what the agency means by a "fiscal agent."

NCDPS considers itself to be a "fiscal agent" when it is in a contractual relationship with a state or federal agency to provide only administrative support for the processing of a grant. Under this scenario, the Commission would have no decision-making authority to approve or deny an applicant seeking grant funds (so the application/review processes in the rules would not be applicable). See the proposed revision of (4) in lines 12-13.

Thank you,

**Margaret T. McDonald**  
Deputy General Counsel  
NC Department of Public Safety  
Office of the General Counsel  
Mail Service Center 4201  
Raleigh, NC 27699-4201

Office: (919) 825-2743

[margaret.mcdonald@ncdps.gov](mailto:margaret.mcdonald@ncdps.gov)

[www.ncdps.gov](http://www.ncdps.gov)



North Carolina Department of  
PUBLIC SAFETY

1 14B NCAC 05B .0501 is adopted as follows:

2  
3 **SUBCHAPTER 05B**

4 **SECTION .0500 – EXCEPTIONS**

5  
6 **14B NCAC 05B .0501 WAIVER**

7 The Secretary may waive any rule in this Subchapter that is not statutorily required. Factors the Secretary shall use in  
8 determining whether to waive a rule are:

- 9 (1) the need to comply with a State or federal regulation or legislative mandate;  
10 (2) the nonrecurring use of expiring funds;  
11 (3) an emergency declared pursuant to the North Carolina Emergency Management Act; or  
12 (4) when, pursuant to a contract with a state or federal agency, the Commission is limited to providing  
13 only administrative support for the processing of a grant.

14  
15 History Note: Authority G.S. 143B-602(5); 143B-602(8)(b)  
16 Eff. August 1, 2024.  
17  
18  
19

## Burgos, Alexander N

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**From:** McDonald, Margaret (CCPS)  
**Sent:** Wednesday, August 7, 2024 3:43 PM  
**To:** Peaslee, William W  
**Cc:** Burgos, Alexander N  
**Subject:** RE: 14B NCAC 05B .0501

Thank you!

---

**From:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Sent:** Wednesday, August 7, 2024 3:42 PM  
**To:** McDonald, Margaret (CCPS) <[margaret.mcdonald@ncdps.gov](mailto:margaret.mcdonald@ncdps.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: 14B NCAC 05B .0501

That's fine. Be safe.

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

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**From:** McDonald, Margaret (CCPS) <[margaret.mcdonald@ncdps.gov](mailto:margaret.mcdonald@ncdps.gov)>  
**Sent:** Wednesday, August 7, 2024 3:40 PM  
**To:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: 14B NCAC 05B .0501

It is difficult to anticipate at this time. Would it be ok for me to circle back with you on Monday to confirm a new due date for 14B NCAC .0501? I will have a better idea of my coworker's upcoming availability after the storm passes.

---

**From:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Sent:** Wednesday, August 7, 2024 3:35 PM  
**To:** McDonald, Margaret (CCPS) <[margaret.mcdonald@ncdps.gov](mailto:margaret.mcdonald@ncdps.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: 14B NCAC 05B .0501

How much time do you need?

**William W. Peaslee**

## Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh NC, 27609  
(984) 236-1939  
[Bill.Peaslee@oah.nc.gov](mailto:Bill.Peaslee@oah.nc.gov)

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**From:** McDonald, Margaret (CCPS) <[margaret.mcdonald@ncdps.gov](mailto:margaret.mcdonald@ncdps.gov)>  
**Sent:** Wednesday, August 7, 2024 3:34 PM  
**To:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: 14B NCAC 05B .0501

Good afternoon- Thank you for your email below, as well as your understanding about the upcoming weather event. I am currently working on revisions to both rules. I anticipate meeting the deadline for 14B NCAC .0201. However, the revisions for 14B NCAC .0501 require additional input from DPS staff who are busy with Debbie. Any additional time you can allow for our revisions to that rule would be much appreciated.

Sincerely,

**Margaret T. McDonald**  
Deputy General Counsel  
NC Department of Public Safety  
Office of the General Counsel  
Mail Service Center 4201  
Raleigh, NC 27699-4201  
Office: (919) 825-2743  
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North Carolina Department of  
PUBLIC SAFETY

---

**From:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Sent:** Wednesday, August 7, 2024 11:24 AM  
**To:** McDonald, Margaret (CCPS) <[margaret.mcdonald@ncdps.gov](mailto:margaret.mcdonald@ncdps.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: 14B NCAC 05B .0501

Good morning,

If you need extra time, as I imagine you are busy with Debbie, please let me know.

Conversely, if you have made the decision not to make any additional revisions, please don't request additional time.

Thank you and stay safe out there.

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

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**From:** McDonald, Margaret (CCPS) <[margaret.mcdonald@ncdps.gov](mailto:margaret.mcdonald@ncdps.gov)>  
**Sent:** Monday, August 5, 2024 2:32 PM  
**To:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: 14B NCAC 05B .0501

Good afternoon- This email is to acknowledge receipt of your feedback, below. I will review the information and respond as promptly as possible, but no later than the 8/12 deadline.

Thank you,

**Margaret T. McDonald**  
Deputy General Counsel  
NC Department of Public Safety  
Office of the General Counsel  
Mail Service Center 4201  
Raleigh, NC 27699-4201  
Office: (919) 825-2743  
[margaret.mcdonald@ncdps.gov](mailto:margaret.mcdonald@ncdps.gov)  
[www.ncdps.gov](http://www.ncdps.gov)



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**From:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Sent:** Monday, August 5, 2024 2:28 PM  
**To:** McDonald, Margaret (CCPS) <[margaret.mcdonald@ncdps.gov](mailto:margaret.mcdonald@ncdps.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: 14B NCAC 05B .0501

Good afternoon,

Generally, when a question is posed in a request for changes, the answer to the question should be reflected in a change to the rule. As you did not change the above captioned rule, the ambiguities within the proposed adoption remain.

In Line 9, “other” suggests that a “legislatively mandated” grant is also an “off cycle” grant. It continues to be unclear, in the rule, what an “off cycle” grant is.

So, for example and if it is within the agency’s intention, consider: Line 11 “(3) an emergency declared pursuant to the North Carolina Emergency Management Act.” Or “Chapter 166A of the North Carolina General Statutes.”

Line 12: It remains undefined what the agency means by a “fiscal agent.”

Please provide any revisions no later than 8/12.

Thank you.

**William W. Peaslee**  
**Rules Review Commission Counsel / Legislative Liaison**  
Office of Administrative Hearings  
1711 New Hope Church Road  
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(984) 236-1939  
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**From:** McDonald, Margaret (CCPS) <[margaret.mcdonald@ncdps.gov](mailto:margaret.mcdonald@ncdps.gov)>  
**Sent:** Wednesday, July 31, 2024 11:50 AM  
**To:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: 14B NCAC 05B .0201 and .0501

Good Morning- Please see the attached documents, which include the following:

1. Revised Form 0400 Documents
2. Responses to the RRC Counsel’s Request for Changes
3. Revised 14B NCAC 05B .0201 for additional review and consideration



I appreciate your assistance with this matter. If it is easier, I can be available at your convenience to discuss our responses.

Sincerely,

**Margaret T. McDonald**  
Deputy General Counsel  
NC Department of Public Safety  
Office of the General Counsel  
Mail Service Center 4201  
Raleigh, NC 27699-4201  
Office: (919) 825-2743  
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[www.ncdps.gov](http://www.ncdps.gov)



North Carolina Department of  
**PUBLIC SAFETY**

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**From:** McDonald, Margaret (CCPS)  
**Sent:** Friday, July 26, 2024 12:52 PM  
**To:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: 14B NCAC 05B .0201 and .0501

Good afternoon- This email is to acknowledge receipt of your two emails related to the above-referenced rules. I will review the feedback and provide responses as promptly as possible.

Many thanks for your assistance.

**Margaret T. McDonald**  
Deputy General Counsel  
NC Department of Public Safety  
Office of the General Counsel  
Mail Service Center 4201  
Raleigh, NC 27699-4201  
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North Carolina Department of  
PUBLIC SAFETY

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**From:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Sent:** Tuesday, July 23, 2024 1:52 PM  
**To:** McDonald, Margaret (CCPS) <[margaret.mcdonald@ncdps.gov](mailto:margaret.mcdonald@ncdps.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** 14B NCAC 05B .0201 and .0501

Good afternoon,

Attached please find the request for changes on the above captioned rules which will be considered by the Rules Review Commission at its August meeting.

If you have any questions, please feel free to contact me.

Thank you.

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

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## **Burgos, Alexander N**

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**Subject:** FW: 14B NCAC 05B .0501

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**Sent:** Wednesday, August 7, 2024 11:24 AM  
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**Subject:** RE: 14B NCAC 05B .0501

Good morning,

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Thank you and stay safe out there.

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

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**Subject:** FW: 14B NCAC 05B .0501

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**From:** McDonald, Margaret (CCPS) <margaret.mcdonald@ncdps.gov>  
**Sent:** Monday, August 5, 2024 2:32 PM  
**To:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: 14B NCAC 05B .0501

Good afternoon- This email is to acknowledge receipt of your feedback, below. I will review the information and respond as promptly as possible, but no later than the 8/12 deadline.

Thank you,

**Margaret T. McDonald**  
Deputy General Counsel  
NC Department of Public Safety  
Office of the General Counsel  
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[margaret.mcdonald@ncdps.gov](mailto:margaret.mcdonald@ncdps.gov)  
[www.ncdps.gov](http://www.ncdps.gov)



North Carolina Department of  
PUBLIC SAFETY

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**From:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Sent:** Monday, August 5, 2024 2:28 PM  
**To:** McDonald, Margaret (CCPS) <[margaret.mcdonald@ncdps.gov](mailto:margaret.mcdonald@ncdps.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: 14B NCAC 05B .0501

Good afternoon,

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Line 12: It remains undefined what the agency means by a “fiscal agent.”

Please provide any revisions no later than 8/12.

Thank you.

**William W. Peaslee**  
**Rules Review Commission Counsel / Legislative Liaison**  
Office of Administrative Hearings  
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(984) 236-1939  
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## **Burgos, Alexander N**

---

**Subject:** FW: 14B NCAC 05B .0201

---

**From:** McDonald, Margaret (CCPS) <margaret.mcdonald@ncdps.gov>

**Sent:** Monday, August 5, 2024 2:09 PM

**To:** Peaslee, William W <bill.peaslee@oah.nc.gov>

**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>

**Subject:** RE: 14B NCAC 05B .0201

Certainly. Thank you.

## **Burgos, Alexander N**

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**Subject:** FW: 14B NCAC 05B .0201

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**From:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Sent:** Monday, August 5, 2024 1:12 PM  
**To:** McDonald, Margaret (CCPS) <margaret.mcdonald@ncdps.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: 14B NCAC 05B .0201

Please send any revisions no later than 8/12. Thank you.

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

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Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

## Burgos, Alexander N

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**Subject:** FW: 14B NCAC 05B .0201

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**From:** McDonald, Margaret (CCPS) <margaret.mcdonald@ncdps.gov>  
**Sent:** Monday, August 5, 2024 1:06 PM  
**To:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: 14B NCAC 05B .0201

Good afternoon- Thank you for your email, below. I will review this information and get back to you as promptly as possible.

**Margaret T. McDonald**  
Deputy General Counsel  
NC Department of Public Safety  
Office of the General Counsel  
Mail Service Center 4201  
Raleigh, NC 27699-4201  
Office: (919) 825-2743  
[margaret.mcdonald@ncdps.gov](mailto:margaret.mcdonald@ncdps.gov)  
[www.ncdps.gov](http://www.ncdps.gov)



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**From:** Peaslee, William W <[bill.peaslee@oah.nc.gov](mailto:bill.peaslee@oah.nc.gov)>  
**Sent:** Monday, August 5, 2024 12:28 PM  
**To:** McDonald, Margaret (CCPS) <[margaret.mcdonald@ncdps.gov](mailto:margaret.mcdonald@ncdps.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: 14B NCAC 05B .0201

Good morning,

Your response does not address the concerns I raised in the request for changes.

In line 6, if the Executive Director is establishing a “process” which governs the applicants, the process must be established by rule. “Requirements” or “processes” fall squarely within the definition of a “rule” as defined in G.S. 150B-2. Therefore, the requirements or processes must comport with G.S. 150B-21.9, and the power to adopt them cannot be delegated to the Executive Director of the Commission. At this point in the process, I do not know



how you could change the amendment to include language which lays out the process without it being a substantial change pursuant to G.S. 150B-21.2(g) but I will leave that to you.

In line 13, the agency is requiring applicants to fill out an on-line application. The on-line application requires the applicant to provide specified information, thus the required information must be stated in a rule. (See G.S. 150B-2(d)) The agency has contents and substantive requirements in paragraph (d) but proposes to delete it. Absent paragraph (d) the rule becomes unclear and ambiguous.

Regarding the pre-review, if you change the word “may” in Paragraph (d) of the current rule , it becomes an option whereas “shall” is an imperative. Thus the suggestion by the agency in the pre-review of changing “shall” to “may” raised the question under what circumstances “may” an applicant provide the information. It also raised the question of what must be provided to be eligible.

Should the agency decide to leave Paragraph (d), as it currently exists in the Code, please be advised that it is unclear what the agency means by “Section” in line 26. Section refers to a part of the NC Code which does not “request.” Consider either deleting everything after “or.”

In line 34, you need to add a citation to G.S. 143B-602 as this statute establishes the Secretary’s authority to adopt rules. I could not find any authority for the GCC or its Executive Director to establish rules.

I am available for a telephone conversation or meeting if this email is unclear. Just let me know.

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

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## Burgos, Alexander N

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**Subject:** FW: 14B NCAC 05B .0201 and .0501  
**Attachments:** Revised Form 0400- 14B NCAC 05B .0201.pdf; Revised Form 0400- 14B NCAC 05B .0501 - Waiver.pdf; 08.2024 DPS 14B NCAC 05B- DPS Responses to RRC Feedback - July 31 2024.docx; 14B NCAC 05B .0201 - Applications for Grants- Amendment - July 31 2024.docx

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**From:** McDonald, Margaret (CCPS) <margaret.mcdonald@ncdps.gov>  
**Sent:** Wednesday, July 31, 2024 11:50 AM  
**To:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: 14B NCAC 05B .0201 and .0501

Good Morning- Please see the attached documents, which include the following:

1. Revised Form 0400 Documents
2. Responses to the RRC Counsel's Request for Changes
3. Revised 14B NCAC 05B .0201 for additional review and consideration

I appreciate your assistance with this matter. If it is easier, I can be available at your convenience to discuss our responses.

Sincerely,

**Margaret T. McDonald**  
Deputy General Counsel  
NC Department of Public Safety  
Office of the General Counsel  
Mail Service Center 4201  
Raleigh, NC 27699-4201  
Office: (919) 825-2743  
[margaret.mcdonald@ncdps.gov](mailto:margaret.mcdonald@ncdps.gov)  
[www.ncdps.gov](http://www.ncdps.gov)



REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 05B .0201

**DEADLINE FOR RECEIPT: August 6, 2024**

**PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Line 6: Explain the agency's authority to delegate its ability to adopt rules to the Commission Executive Director. "Requirements" are rules and should be adopted in accordance with the Administrative Procedures Act.*

DPS does not intend to delegate authority to create rules to the GCC Executive Director (ED). The rules are promulgated pursuant to the authority of the Secretary of the Department of Public Safety (DPS). DPS proposes the edit on line 6 to remove the term "requirements" from the sentence. See the revised draft of this rule for review and further discussion, as needed.

*Lines 10-12: As written, the agency could announce the grant submission deadlines one day before the deadline. Was that the agency's intention?*

DPS intends to remove limitations on its ability to administer grants in a timely manner consistent with the specific requirements of each individual state or federal grant.

As context, the federal grant awards cycle has historically followed a November through January timeframe. However, with changes in the types of grant funding and extenuating circumstances such as the COVID-19 pandemic and natural disasters, the federal government has been more frequently opening grant funding opportunities outside of that traditional schedule. In these circumstances, GCC is required to hold grant funds for extended periods of time until back in the rule-bound grant cycle. This can cause significant delays in awarding time-sensitive grant funds to applicants. By removing this grant application period timeframe, GCC will be able to award "off cycle" grants in a timely manner

For the same reasons discussed above, this rule removes the requirement that grant application submission dates are announced on the GCC website no less than 90 days before an application is due. This is because the federal grant funding cycle has continued to evolve and, in some cases, GCC receives notice of a grant opportunity in a shorter time frame than the current 90-day requirement. By removing this limitation, GCC will have the flexibility to offer grants that have shorter turnaround times, ensuring stakeholders do not miss out on potential funding opportunities

William W. Peaslee  
Commission Counsel

Date submitted to agency: July 23, 2024

due to this rule restriction. Thus, announcement of the grant submission deadline will depend on the requirements of each individual state for federal grant.

*Lines 13-14: It appears that the “application” is an on-line form. By what rule are the substantive requirements adopted? See G.S. 150B-2(8a)d. It appears you are getting rid of those in Lines 17-29.*

The criteria for applications or eligibility for each grant differ depending on the requirements of the specific grant.

For the above reason, during Pre-Review, DPS submitted a proposed edit that would change the word “shall” to “may” in line 15. The feedback received in response to this proposed edit is included below:

“Line 15: If line 17-29 are optional by the employment of the word “may”, Paragraph (d) is unnecessary. In essence, there are not requirements.”

Based on this feedback, DPS deleted Paragraph (d) as unnecessary.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 05B .0501

**DEADLINE FOR RECEIPT: August 6, 2024**

**PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Line 9: Define “off cycle grant.”*

Historically, the federal grant awards cycle followed a November through January timeframe. However, with changes in the types of grant funding and extenuating circumstances such as the COVID-19 pandemic, mass violence, and natural disasters, the federal government has been more frequently opening grant funding opportunities outside of that traditional schedule. In these circumstances, GCC is required to hold grant funds for extended periods of time until back in the rule-bound grant cycle. This can cause significant delays in awarding time-sensitive grant funds to applicants. By removing this grant application period timeframe, GCC will be able to award “off cycle” grants, or grants that become available outside of the current November through January timeframe, in a timely manner. This change would also allow faster notice of denials, which provides applicants additional time to explore other funding sources, such as local government or state government grants.

*Line 11: Declared by whom? Pursuant to what?*

This is a reference to State of Emergencies declared by the President of the United States, the Governor of North Carolina, or local government officials.

*Line 12: Define “fiscal agent.”*

GCC may serve as the “fiscal agent” on certain grants by contractual agreement with the governmental agency issuing the grant. For example, GCC currently serves as a “fiscal agent” pursuant to an agreement between DPS/GCC and the US Attorney’s Office. DPS/GCC may be considered a “fiscal agent” in future agreements with other governmental agencies.

As a fiscal agent, GCC provides the back-end support of processing the grant. However, GCC does not have decision-making authority on how the grantees are chosen. In these cases, certain GCC rules are not applicable.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee  
Commission Counsel  
Date submitted to agency: July 23, 2024

1 14B NCAC 05B .0201 is amended as follows:

2  
3 **SECTION .0200 - PROGRAM GRANTS**  
4

5 **14B NCAC 05B .0201 APPLICATIONS FOR GRANTS**

6 (a) The Executive Director of the Commission shall designate ~~requirements~~ the process for submission of grant  
7 applications. ~~The grant application period shall begin on November 1 of each year and end on January 31.~~ Funding  
8 priorities, as determined by the Commission, shall be listed on the Commission's website prior to the opening of an  
9 application period.

10 (b) Grant application submission dates shall be announced on the Commission website, [https://www.ncdps.gov/about-](https://www.ncdps.gov/about-dps/boards-and-commissions/governors-crime-commission/grant-process)  
11 [dps/boards-and-commissions/governors-crime-commission/grant-process](https://www.ncdps.gov/about-dps/boards-and-commissions/governors-crime-commission/grant-process) ~~not less than 90 days~~ before the application  
12 is due.

13 (c) Grant applications shall be electronically submitted to the Commission through the Grants Management System  
14 (GMS) on or before the date announced on the Commission website.

15 ~~(d) To be considered for funding, applicants shall complete the grant application, which shall include the following~~  
16 ~~information:~~

17 ~~(1) names, mailing addresses, telephone numbers, and signatures of the applicant;~~

18 ~~(2) project information, including the following:~~

19 ~~(A) a description of the project, its goals and objectives, and outcomes;~~

20 ~~(B) the issues or problems addressed by the project;~~

21 ~~(C) project operation and activities; and~~

22 ~~(D) a sustainability plan;~~

23 ~~(3) a proposed budget;~~

24 ~~(4) a project time line;~~

25 ~~(5) an explanation of how the project's results will be monitored and evaluated;~~

26 ~~(6) any other information required by these Rules or requested by the Section in order to make a decision~~  
27 ~~on the grant proposal; and~~

28 ~~(7) a description of how the objectives of the proposed project are consistent with the outcomes and~~  
29 ~~guidelines set forth in a State or federal grant program.~~

30 ~~(e)(d)~~ Applicants seeking funding for a two-year project shall submit the information required by Paragraph (d) with  
31 the requirements of Part (d)(2)(A), Part (d)(2)(C), and Subparagraph (d)(5) written to address the two year grant  
32 period. Applicants shall also submit two one-year budgets.

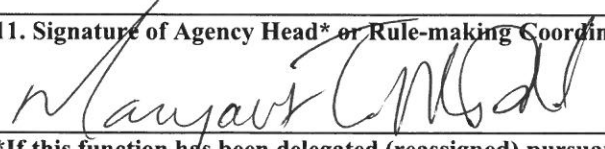
33  
34 *History Note: Authority G.S. 143B-1103; ~~143B-1104;~~*

35 *Eff. March 1, 2019;*

36 *Amended Eff. April 1, 2023.*

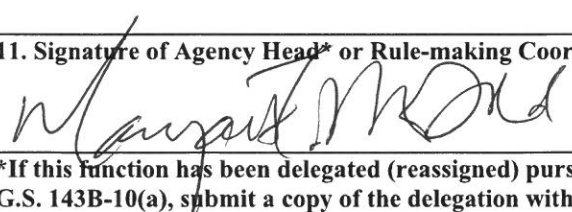
37 *Amended Eff. August 1, 2024.*

## SUBMISSION FOR PERMANENT RULE

<b>1. Rule-Making Agency:</b> NC Department of Public Safety	
<b>2. Rule citation &amp; name (name not required for repeal):</b> 14B NCAC 05B .0201 - APPLICATIONS FOR GRANTS	
<b>3. Action:</b> <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READoption <input type="checkbox"/> REPEAL THROUGH READoption	
<b>4. Rule exempt from RRC review?</b> <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	<b>5. Rule automatically subject to legislative review?</b> <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
<b>6. Notice for Proposed Rule:</b> <input checked="" type="checkbox"/> <b>Notice Required</b> Notice of Text published on: April 15, 2024 Link to Agency notice: <a href="https://www.ncdps.gov/about-dps/administrative-rules">https://www.ncdps.gov/about-dps/administrative-rules</a> Hearing on: May 3, 2024 at 10am Adoption by Agency on: July 18, 2024 <input type="checkbox"/> <b>Notice not required under G.S.:</b> Adoption by Agency on:	
<b>7. Rule establishes or increases a fee? (See G.S. 12-3.1)</b> <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	<b>8. Fiscal impact. Check all that apply.</b> <input type="checkbox"/> This Rule was part of a combined analysis. <input checked="" type="checkbox"/> State funds affected <input checked="" type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input checked="" type="checkbox"/> Approved by OSBM <input type="checkbox"/> No fiscal note required
<b>9. REASON FOR ACTION</b> <b>9A. What prompted this action? Check all that apply:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input checked="" type="checkbox"/> Agency  <input type="checkbox"/> Court order / cite:  <input type="checkbox"/> Federal statute / cite:  <input type="checkbox"/> Federal regulation / cite:         </div> <div style="width: 45%;"> <input type="checkbox"/> Legislation enacted by the General Assembly            Cite Session Law:  <input type="checkbox"/> Petition for rule-making  <input type="checkbox"/> Other:         </div> </div> <b>9B. Explain:</b> The amendments to 14B NCAC .0201 will remove the grant application period, application deadline, and application requirements to more closely align with federal grant application cycles, which occur at different times throughout the year and include varying application eligibility requirements and deadlines.	
<b>10. Rulemaking Coordinator:</b> Margaret McDonald Margaret McDonald <b>Phone:</b> 919-825-2743 <b>E-Mail:</b> <a href="mailto:margaret.mcdonald@ncdps.gov">margaret.mcdonald@ncdps.gov</a> <b>Additional agency contact, if any:</b>  <b>Phone:</b> <b>E-Mail:</b>	<b>11. Signature of Agency Head* or Rule-making Coordinator:</b>  <hr/> <b>*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.</b>  <b>Typed Name:</b> Margaret McDonald <b>Title:</b> Deputy General Counsel/Rulemaking Coordinator
<b>RRC AND OAH USE ONLY</b>	
<b>Action taken:</b> <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	



# SUBMISSION FOR PERMANENT RULE

<b>1. Rule-Making Agency:</b> NC Department of Public Safety	
<b>2. Rule citation &amp; name (name not required for repeal):</b> 14B NCAC 05B .0501- WAIVER	
<b>3. Action:</b> <input checked="" type="checkbox"/> <b>ADOPTION</b> <input type="checkbox"/> <b>AMENDMENT</b> <input type="checkbox"/> <b>REPEAL</b> <input type="checkbox"/> <b>READoption</b> <input type="checkbox"/> <b>REPEAL THROUGH READoption</b>	
<b>4. Rule exempt from RRC review?</b> <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	<b>5. Rule automatically subject to legislative review?</b> <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No
<b>6. Notice for Proposed Rule:</b> <input checked="" type="checkbox"/> <b>Notice Required</b> <b>Notice of Text published on:</b> April 15, 2024 <b>Link to Agency notice:</b> <a href="https://www.ncdps.gov/about-dps/administrative-rules">https://www.ncdps.gov/about-dps/administrative-rules</a> <b>Hearing on:</b> May 3, 2024 at 10am <b>Adoption by Agency on:</b> July 18, 2024 <input type="checkbox"/> <b>Notice not required under G.S.:</b> <b>Adoption by Agency on:</b>	
<b>7. Rule establishes or increases a fee? (See G.S. 12-3.1)</b> <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	<b>8. Fiscal impact. Check all that apply.</b> <input type="checkbox"/> This Rule was part of a combined analysis. <input checked="" type="checkbox"/> State funds affected <input checked="" type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input checked="" type="checkbox"/> Approved by OSBM <input type="checkbox"/> No fiscal note required
<b>9. REASON FOR ACTION</b> <b>9A. What prompted this action? Check all that apply:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input checked="" type="checkbox"/> Agency  <input type="checkbox"/> Court order / cite:  <input type="checkbox"/> Federal statute / cite:  <input type="checkbox"/> Federal regulation / cite:         </div> <div style="width: 45%;"> <input type="checkbox"/> Legislation enacted by the General Assembly            Cite Session Law:  <input type="checkbox"/> Petition for rule-making  <input type="checkbox"/> Other:         </div> </div> <b>9B. Explain:</b> The adoption of 14B NCAC 05B .0501 will authorize the DPS Secretary to waive any rule in Subchapter 05B that is not statutorily required based on specific factors. The primary benefit of this rule is to increase flexibility to award grants in a timelier manner when the specific factors listed as 14B NCAC 05B .0501(1)-(4) exist.	
<b>10. Rulemaking Coordinator:</b> Margaret McDonald Margaret McDonald <b>Phone:</b> 919-825-2743 <b>E-Mail:</b> <a href="mailto:margaret.mcdonald@ncdps.gov">margaret.mcdonald@ncdps.gov</a> <b>Additional agency contact, if any:</b>  <b>Phone:</b> <b>E-Mail:</b>	<b>11. Signature of Agency Head* or Rule-making Coordinator:</b>  <hr/> <b>*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.</b>  <b>Typed Name:</b> Margaret McDonald <b>Title:</b> Deputy General Counsel/Rulemaking Coordinator
<b>RRC AND OAH USE ONLY</b>	
<b>Action taken:</b> <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

## Burgos, Alexander N

---

**From:** McDonald, Margaret (CCPS)  
**Sent:** Friday, July 26, 2024 12:52 PM  
**To:** Peaslee, William W  
**Cc:** Burgos, Alexander N  
**Subject:** RE: 14B NCAC 05B .0201 and .0501

Good afternoon- This email is to acknowledge receipt of your two emails related to the above-referenced rules. I will review the feedback and provide responses as promptly as possible.

Many thanks for your assistance.

**Margaret T. McDonald**  
Deputy General Counsel  
NC Department of Public Safety  
Office of the General Counsel  
Mail Service Center 4201  
Raleigh, NC 27699-4201  
Office: (919) 825-2743  
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[www.ncdps.gov](http://www.ncdps.gov)



North Carolina Department of  
**PUBLIC SAFETY**

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**From:** Peaslee, William W <bill.peaslee@oah.nc.gov>  
**Sent:** Tuesday, July 23, 2024 1:52 PM  
**To:** McDonald, Margaret (CCPS) <margaret.mcdonald@ncdps.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** 14B NCAC 05B .0201 and .0501

Good afternoon,

Attached please find the request for changes on the above captioned rules which will be considered by the Rules Review Commission at its August meeting.

If you have any questions, please feel free to contact me.

Thank you.

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

Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh NC, 27609  
(984) 236-1939  
[Bill.Peaslee@oah.nc.gov](mailto:Bill.Peaslee@oah.nc.gov)

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