

Burgos, Alexander N

Subject: FW: [External] RE: 14B NCAC 16 .0807

From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Wednesday, December 7, 2022 3:53 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: [External] RE: 14B NCAC 16 .0807

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Thanks for advising.

Either this Board, or its "sister board," Alarm Systems Licensing, always meets on the same day as the RRC so I will not be in attendance at the RRC meeting.

Jeffrey P. Gray

Of Counsel
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434 Fayetteville Street, Suite 2500
P.O. Box 1351
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From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Wednesday, December 7, 2022 2:21 PM
To: Gray, Jeffrey <JGray@bdixon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: [External] RE: 14B NCAC 16 .0807

Thank you for your email.

It is my intention to recommend that the RRC approve the rule as amended.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
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Burgos, Alexander N

Subject: FW: [External] RE: 14B NCAC 16 .0807
Attachments: 14B NCAC 16 .0807 amended as published (Revised).docx

From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Wednesday, December 7, 2022 11:35 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] RE: 14B NCAC 16 .0807

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Bill:

Below are my responses to your questions regarding 14B NCAC 16 .0807:

Pg. 1, Ln. 21 and Pg. 2, Ln. 27, (k): This is a reference to N.C. Gen. Stat. 74C-13(k). The course is not “adopted,” as in an administrative rule. The statute says “established,” and I think the more appropriate word in the rule is “established.” I have made this change, but have also made the identical change in (d) (i.e. Pg. 1, Ln. 21) and (o) (i.e. Pg. 3, Ln. 9.) *See*, attached. Just FYI, these three course – handgun, shotgun & rifle -- are merely the courses for law enforcement officers established by the Criminal Justice Education and Training Standards Commission and the Sheriffs’ Education and Training Standards Commission except this Board requires a 10 point higher score (i.e. 80% as opposed to 70%) and the rifle course has the “all shots on the target” requirement I explain below.

Pg. 1, Ln. 26, (d): Yes, every shot must be on the paper target. It is possible to still obtain an 80% score after missing the target entirely, but for the rifle qualification – and rifle only – all shots must be on the target. (By way of history, then-Deputy DPS Commissioner Greg Baker did not like the idea of guards carrying rifles, but under N.C. Gen. Stat. 74C-13(k) referenced above, he could not stop it. So... he made it harder!)

Pg. 1, Ln. 27, (e): The word was chosen to distinguish the requirement from the requalification requirements. “Initial” training as opposed to requalification training. If you have a suggestion for a more descriptive word to make the distinction I am open to it.

Pg. 2, Ln. 4, (i): The entirety of Section .0800, entitled “Armed Security Firearm Registration Permit,” is devoted to the registration of armed guards.

Pg. 3, Ln. 6, (o): (Same as above), but I have made the requested addition. *See*, attached.

Pg. 3, Ln. 17, (r): *See*, 14B NCAC 16 .0806 and .0807(h). The guard repeats the range qualification (i.e. 80% score, etc.) and the abbreviated classroom instruction.

Jeff

Jeffrey P. Gray

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1 14B NCAC 16 .0807 is amended as published in 37:01 NCR 25 as follows:

2
3 **14B NCAC 16 .0807 TRAINING REQUIREMENTS FOR ARMED SECURITY GUARDS**

4 (a) Applicants for an armed security guard firearm registration permit shall first complete the basic unarmed security
5 guard training course set forth in Rule .0707 of this Chapter.

6 (b) Private investigator licensees applying for an armed security guard firearm registration permit shall first complete
7 a five-hour training course consisting of the courses set forth in Rule .0707(a)(1) and (2) of this Chapter and all
8 additional training requirements set forth in that Rule.

9 (c) Applicants for an armed security guard firearm registration permit shall complete a basic training course for armed
10 security guards which consists of at least 20 hours of classroom instruction including:

- 11 (1) legal limitations on the use of handguns and on the powers and authority of an armed security guard,
12 including familiarity with rules and regulations relating to armed security guards (minimum of four
13 hours);
- 14 (2) handgun safety, including range firing procedures (minimum of one hour);
- 15 (3) handgun operation and maintenance (minimum of three hours);
- 16 (4) handgun fundamentals (minimum of eight hours); and
- 17 (5) night firing (minimum of four hours).

18 Subparagraph (c)(2), "operation" under Subparagraph (c)(3), and Subparagraph (c)(4) of this Rule shall be completed
19 prior to the applicant's participation in range firing.

20 (d) Applicants for an armed security guard firearm registration permit shall attain a score of at least 80 percent
21 accuracy on a firearms range qualification course ~~adopted~~ **established** by the Board and the Secretary of Public Safety,
22 a copy of which is on file in the Director's office, once in three consecutive attempts. Should a student fail to attain a
23 score of 80 percent accuracy, the student may be given a second opportunity to qualify once in three consecutive
24 attempts on the course of fire the student did not pass. Failure to qualify after the second series of attempts shall require
25 the student to repeat the entire basic training course for armed security guards. All attempts must take place within 20
26 days of the completion of the initial 20 hour course. For rifle qualification all shots shall be located on the target.

27 (e) All initial armed security guard training required by this Chapter shall be administered by a certified trainer and
28 shall be completed no more than 90 days prior to the date of issuance of the armed security guard firearm registration
29 permit.

30 (f) All applicants for an armed security guard firearm registration permit shall obtain training under the provisions of
31 this Section using their duty weapon and their duty ammunition or ballistic equivalent ammunition, to include lead-
32 free ammunition that meets the same point of aim, point of impact, and felt recoil of the duty ammunition, for all
33 weapons.

34 (g) No more than six new or renewal armed security guard applicants per one instructor shall be placed on the firing
35 line at any one time during firearms range training for armed security guards.

36 (h) Applicants for re-certification of an armed security guard firearm registration permit shall complete a basic
37 recertification training course for armed security guards that consists of at least four hours of classroom instruction

1 and is a review of the requirements set forth in Subparagraphs (c)(1) through (c)(5) of this Rule. The recertification
2 course is valid for 180 days after completion of the course. Applicants for recertification of an armed security guard
3 firearm registration permit shall also complete the requirements of Paragraph (d) of this Rule.

4 (i) An armed guard registered with one company may be registered with a second company. The registration shall be
5 considered "dual." The registration with the second company shall expire at the same time that the registration expires
6 with the first company. An updated application shall be required to be submitted by the applicant, along with the
7 digital photograph, updated criminal records checks, and a forty dollar (\$40.00) registration fee. If the guard will be
8 carrying a firearm of the same make, model, and caliber, then no additional firearms training shall be required. The
9 licensee shall submit a letter stating the guard will be carrying the same make and model firearm. If the guard will be
10 carrying a firearm of a different make and model, the licensee shall submit a letter to the Board advising of the make,
11 model, and caliber of the firearm the guard will be carrying and the guard shall be required to qualify at the firing
12 range on both the day and night qualification course. The qualification score is valid for 180 days after completion of
13 the course.

14 (j) To be authorized to carry a standard 12 gauge shotgun in the performance of his or her duties as an armed security
15 guard, an applicant shall complete, in addition to the requirements of Paragraphs (a), (c), and (d) of this Rule, six hours
16 of classroom training that shall include the following:

- 17 (1) legal limitations on the use of shotgun (minimum of one hour);
- 18 (2) shotgun safety, including range firing procedures (minimum of one hour);
- 19 (3) shotgun operation and maintenance (minimum of one hour);
- 20 (4) shotgun fundamentals (minimum of two hours); and
- 21 (5) night firing (minimum of one hour).

22 Subparagraph (j)(2), "operation" under Subparagraph (j)(3), and Subparagraph (j)(4) of this Rule shall be completed
23 prior to the applicant's participation in range firing.

24 (k) An applicant may take the additional shotgun training at a time after the initial training in this Rule. If the shotgun
25 training is completed at a later time, the shotgun certification shall run concurrent with the armed registration permit.
26 In addition to the requirements set forth in Paragraph (j) of this Rule, applicants shall attain a score of at least 80
27 percent accuracy on a shotgun range qualification course ~~adopted~~ **established** by the Board and the Secretary of Public
28 Safety, a copy of which is on file in the Director's office.

29 (l) Applicants for shotgun recertification shall complete one hour of classroom training covering the topics set forth
30 in Paragraph (j) of this Rule and shall also complete the requirements of Paragraph (d) of this Rule.

31 (m) To be authorized to carry a rifle in the performance of his or her duties as an armed security guard, an applicant
32 shall complete, in addition to the requirements of Paragraphs (a), (c), and (d) of this Rule, 16 hours of classroom
33 training which shall include the following:

- 34 (1) legal limitations on the use of rifles (minimum of one hour);
- 35 (2) rifle safety, including range firing procedures (minimum of one hour);
- 36 (3) rifle operation and maintenance (minimum of two hours);
- 37 (4) rifle fundamentals (minimum of ten hours); and

1 (5) night firing (minimum two hours).

2 Subparagraph (m)(2), "operation" under Subparagraph (m)(3), and Subparagraph (m)(4) of this Rule shall be
3 completed prior to the applicant's participation in range firing.

4 (n) The applicant shall pass a skills course that tests each basic rifle skill and the test of each skill shall be completed
5 within three attempts.

6 (o) An applicant may take the additional rifle training at a time after the initial training in **Subsection (c)** of this Rule.
7 If the rifle training is completed at a later time, the rifle certification shall run concurrent with the armed registration
8 permit. In addition to the requirements set forth in Paragraphs (m) and (n) of this Rule, applicants shall attain a score
9 of at least 80 percent accuracy on a rifle range qualification course ~~adopted~~ **established** by the Board and the Secretary
10 of Public Safety, a copy of which is on file in the Director's office.

11 (p) Applicants for rifle recertification shall complete an additional one hour of classroom training covering the topics
12 set forth in Paragraph (m) of this Rule and shall also complete the requirements of Paragraph (d) of this Rule.

13 (q) Upon written request, an applicant for an armed security guard firearm registration permit who possesses a current
14 firearms trainer certificate shall be given a firearms registration permit that will run concurrent with the trainer
15 certificate upon completion of an annual qualification with the applicant's duty firearms as set forth in Paragraph (d)
16 of this Rule.

17 (r) An armed security guard is required to qualify annually both for day and night firing with his or her duty handgun,
18 shotgun, and rifle, if applicable. If the security guard fails to qualify on any course of fire, the security guard shall not
19 carry the firearm until such time as he or she meets the qualification requirements. Upon failure to qualify, the firearm
20 instructor shall notify the security guard that he or she is no longer authorized to carry the firearm and the firearm
21 instructor shall notify the employer and the Private Protective Services Board staff on the next business day.

22 (s) A firearm training certificate of an armed security guard remains valid even if the guard leaves the employment
23 of one company for the employment of another. The range qualifications shall remain valid if the guard will be carrying
24 a firearm of the same make, model, and caliber and no additional firearms training shall be required. The licensee shall
25 submit a letter stating the guard will be carrying the same make and model firearm. If the guard will be carrying a
26 firearm of a different make and model, the licensee shall submit a letter to the Board advising of the make, model, and
27 caliber of the firearm the guard will be carrying and the guard shall be required to qualify at the firing range on both
28 the day and night qualification course. The qualification score is valid for 180 days after completion of the course.
29 However, nothing herein shall extend the period of time the qualification is valid.

30
31 *History Note: Authority G.S. 74C-5; 74C-9; 74C-13;*

32 *Eff. June 1, 1984;*

33 *Amended Eff. November 1, 1991; February 1, 1990; July 1, 1987;*

34 *Temporary Amendment Eff. January 14, 2002;*

35 *Amended Eff. October 1, 2013; October 1, 2010; June 1, 2009; February 1, 2006; August 1, 2002;*

36 *Transferred and Recodified from 12 NCAC 07D .0807 Eff. July 1, 2015;*

37 *Amended Eff. January 1, 2018; February 1, 2016; October 1, 2015;*

- 1 *Readopted Eff. November 1, 2019;*
- 2 *Amended Eff. January 1, 2023; February 1, 2022.*

Burgos, Alexander N

From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Monday, November 28, 2022 9:52 AM
To: Peaslee, William W
Cc: Burgos, Alexander N
Subject: [External] RE: 14B NCAC 16 .0807

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Bill:

RECEIVED.

I will have my responses to you well before the deadline.

Jeff

Jeffrey P. Gray

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Sent: Wednesday, November 23, 2022 3:17 PM
To: Gray, Jeffrey <JGray@bdixon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 14B NCAC 16 .0807

Good afternoon,

I'm the attorney who reviewed the Rules submitted by the North Carolina Private Protective Services Board for the December 2022 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, December 15, 2022, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get evites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on December 9, 2022.

In the meantime, please let me know if you have any questions or concerns.

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

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