

Burgos, Alexander N

Subject: FW: [External] RE: 12 NCAC 10B .1302

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Monday, December 12, 2022 9:45 AM
To: Jones, Sirena C <scjones@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Bowman, Melissa M <mbowman@ncdoj.gov>
Subject: RE: [External] RE: 12 NCAC 10B .1302

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

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From: Jones, Sirena <Scjones@ncdoj.gov>
Sent: Monday, December 12, 2022 9:43 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Bowman, Melissa M <mbowman@ncdoj.gov>
Subject: RE: [External] RE: 12 NCAC 10B .1302

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Good morning.
I am requesting to withdraw the rule.
Thanks

Sirena

Burgos, Alexander N

Subject: FW: [External] RE: 12 NCAC 10B .1302

Alexander.burgos@oah.nc.gov

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Monday, December 12, 2022 8:36 AM
To: Jones, Sirena C <scjones@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Bowman, Melissa M <mbowman@ncdoj.gov>
Subject: RE: [External] RE: 12 NCAC 10B .1302

Thank you for your email.

It is unclear to me whether you are requesting a 70-day extension or withdrawing the rule. A 70-day extension maintains the status quo until the February meeting. A withdrawal would mean the commission would start the rule-making process over.

Please advise.

Thank you.

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Burgos, Alexander N

Subject: FW: [External] RE: 12 NCAC 10B .1302

From: Jones, Sirena <Scjones@ncdoj.gov>
Sent: Thursday, December 8, 2022 11:32 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: 12 NCAC 10B .1302

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It was not an official response. It was solely for discussion concerning the first issue.
I did not include the changes to the rule for that reason.
Thanks

Burgos, Alexander N

Subject: FW: [External] RE: 12 NCAC 10B .1302

From: Jones, Sirena <Scjones@ncdoj.gov>
Sent: Thursday, December 8, 2022 11:32 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: 12 NCAC 10B .1302

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I did not include the changes to the rule for that reason.
Thanks

Burgos, Alexander N

From: Peaslee, William W
Sent: Thursday, December 8, 2022 11:18 AM
To: Jones, Sirena C
Cc: Burgos, Alexander N
Subject: RE: [External] RE: 12 NCAC 10B .1302

Good morning.

Thank you for our brief telephone conversation yesterday afternoon. This email is to memorialize our conversation.

We discussed the status of the above captioned rule and the SETS Commission's option to request an extension or withdraw the rule. I also reiterated my thoughts on whether the rule as amended post-publication was a substantial change pursuant to G.S. 150B-21.2. If you feel there is anything of substance that was discussed that I have missed, please let me know.

While we did not discuss the "draft" response to the request for changes sent on Dec. 6 ("the Dec. 6th response"), I would discourage you from sending "drafts" in the future primarily because it is not an official response and may be incomplete but also because it could be seen as a way of making a statement without making a statement. If the Dec. 6 document is the official response, please let me know and it will be treated accordingly.

While the Dec. 6th response is merely a draft, pursuant to the OAH's policy and in the interests of transparency, the draft will be posted on OAH's website.

Despite the Dec. 6th response not being an official reply, the response to my inquiry regarding Lines 32-37 deserves some reply.

I have not "[persisted] in a novel objection." The Request for Changes and the questions contained therein are merely requests and inquiries. I do not have the power or authority to object to a rule. My job is simply to make recommendations to the Rules Review Commission (RRC). To date, the RRC has not objected to this Rule. Accordingly, neither I nor the RCC has a position which "should be reconsidered."

Arguments concerning the need for or popular support of a rule, or long-standing practice of the Commission, are unresponsive to questions of the authority to adopt the rule. Either the Commission has authority, or it does not. Either the adoption of the Rule is in compliance with the Administrative Procedures Act, or it is not. When and if the Commission submits its official response, the Commission may find an argument citing statutes more compelling.

I certainly hope that we will not see mayhem in the streets if a rule regarding the particulars of telecommunicator training fails to meet the standards of G.S. 150B-21.9. However, the burden to propound a rule meeting those standards falls squarely upon the Commission.

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From: Jones, Sirena <Scjones@ncdoj.gov>
Sent: Wednesday, December 7, 2022 4:41 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Subject: RE: [External] RE: 12 NCAC 10B .1302

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Thanks!

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Wednesday, December 07, 2022 4:20 PM
To: Jones, Sirena <Scjones@ncdoj.gov>
Subject: RE: [External] RE: 12 NCAC 10B .1302

I'm available

William W. Peaslee
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From: Jones, Sirena <Scjones@ncdoj.gov>
Sent: Wednesday, December 7, 2022 4:19 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Subject: RE: [External] RE: 12 NCAC 10B .1302

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I appreciate your reviewing the information. I do have a few questions if you have a moment. I can give you a call in the next few minutes.

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Wednesday, December 07, 2022 3:27 PM
To: Jones, Sirena <Scjones@ncdoj.gov>
Subject: RE: [External] RE: 12 NCAC 10B .1302

Thank you for your email.

As I understand it, the published version of Rule .1302 deleted Paragraph C. That was the total change to the Rule. After publication, the Commission reverse course and left Paragraph C in the Rule.

Then, the Commission changed the composition of the instructional hours required. The number of hours and makeup of those hours was not amended at all by the proposed Rule.

While I cannot predict whether the RRC would deem this a substantial change, my opinion will be that the RRC object as adopted Rule produces an effect that could not reasonably been expected based upon the proposed text of the Rule.

Do we still need to talk?

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From: Jones, Sirena <Scjones@ncdoj.gov>
Sent: Tuesday, December 6, 2022 5:19 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Subject: [External] RE: 12 NCAC 10B .1302

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Good evening.

I attached the draft of my responses to 10B .1302. The first matter is the most urgent since it affects whether this rule has to be filed again. Would you have time to discuss this in the morning?

Thanks

Sirena

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Wednesday, November 23, 2022 4:44 PM
To: Jones, Sirena <Scjones@ncdoj.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 12 NCAC 10B .1302

Good afternoon,

I'm the attorney who reviewed the Rules submitted by the North Carolina Sheriffs' Education and Training Standards Commission 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.

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Burgos, Alexander N

From: Peaslee, William W
Sent: Wednesday, November 23, 2022 4:44 PM
To: Jones, Sirena C
Cc: Burgos, Alexander N
Subject: 12 NCAC 10B .1302
Attachments: 12.2022 SETSC 12 NCAC 10B .1302.docx

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