



**NORTH CAROLINA DEPARTMENT OF JUSTICE
CRIMINAL JUSTICE STANDARDS DIVISION**

ROY COOPER
ATTORNEY GENERAL

PO DRAWER 149
RALEIGH
27602-0149
PHONE: (919) 716-6470 • FAX: (919) 716-6752

WAYNE WOODARD
DIRECTOR

TO: Interested Parties
FROM: Wayne Woodard, Director
DATE: August 8, 2008
SUBJECT: Public Rule-Making Hearing for the Proposed Rules Governing the Retired Law Enforcement Officers Firearms Qualification Certification Program

The North Carolina Criminal Justice Education and Training Standards Commission will hold a public rule-making hearing for the proposed rules, *as published on August 1, 2008 in the North Carolina Register, Volume 23, Issue 03, pp. 193-196*, governing this program on:

**Thursday, August 28, 2008 at 1:00 pm
in Room 229 of the
Department of Correction Office of Staff Development and Training
2211 Schieffelin Road in Apex.**

All interested parties are welcome to attend the meeting.

The North Carolina Criminal Justice Education and Training Standards Commission was tasked by the Legislature with the development and implementation of a statewide program to "establish standards and guidelines for the annual firearms certification of qualified retired law enforcement officers." As a result, the Commission is requesting the adoption of a new Sub-Chapter of the North Carolina Administrative Code, Title 12, Chapter 9.

Sub-Chapter 09H, Qualified Retired Law Enforcement Officers, Section .0100, Firearms Qualification Certification Program, outlines the requirements that qualified retired law enforcement officers must meet in order to carry concealed handguns (*See Attachment 1*).

In accordance with G.S. 150B-21.2, the Criminal Justice Standards Division will accept comments on the proposed rules for a period of sixty (60) days from the date of publication in the N.C. Register. **The deadline for receipt of comments is September 30, 2008.**

If you wish to submit comments, please follow the instructions below:

The objection, reasons for the objection, and the clearly identified portion of the rule(s) to which the objection pertains, must be submitted in writing to:

Ms. Teresa Marrella
Department of Justice
Criminal Justice Standards Division
114 West Edenton Street
Raleigh, NC 27602

Comments may also be submitted by fax (919) 716-6752 or email at tmarrella@ncdoj.gov.

12 NCAC 09H

SUBCHAPTER 9H - QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS

SECTION .0100 - FIREARMS QUALIFICATION CERTIFICATION PROGRAM

SUBCHAPTER 9H - QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS

SECTION .0100 - FIREARMS QUALIFICATION CERTIFICATION PROGRAM

12 NCAC 09H .0101 is proposed for adoption as follows:

1 **12 NCAC 09H .0101 PURPOSE**

2 The Commission hereby establishes rules to allow for the firearms qualification certification of qualified retired law
3 enforcement officers, as defined in G.S. 14-415.10, who are authorized by federal law, Section 926C of Title 18 of
4 the United States Code, to lawfully carry handguns concealed. These rules establish the method by which a qualified
5 retired officer shall be tested to determine whether the officer meets the standards established by the State for
6 training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed
7 firearm. These rules do not apply to qualified retired law enforcement officers who complete the required training
8 and firearms qualification with the agency from which they retired.

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10 *History Note:* Authority G.S. 17C-6; 14-415.10;14-415.25; 14-415.26
11 Eff. December 1, 2008;

12 NCAC 09H .0102 is proposed for adoption as follows:

1 **12 NCAC 09H .0102 MINIMUM TRAINING SPECIFICATIONS**

2 (a) Each qualified retired law enforcement officer must qualify with each handgun he/she will carry in accordance
3 with the standards outlined in 12 NCAC 09E .0105(1) and 12 NCAC 9E .0106 (a)(c)(e)(f) and (g).

4 (b) In addition to the standards set out in Rules 9E .0105 and .0106, each qualified retired law enforcement officer
5 shall also receive a minimum of two (2) hours of instruction on the North Carolina laws of self defense and the use
6 of force by private citizens, detention of persons by private persons, and assistance to law enforcement officers by
7 private persons.

8 (c) Qualified retired law enforcement officers shall qualify with each handgun that will be carried concealed at least
9 once every 12 months. For the purpose of this rule, handgun shall include semi-automatic pistols or revolvers.

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11 *History Note:* Authority G.S. 17C-6; 14-415.10;14-415.25; 14-415.26
12 Eff. December 1, 2008;

12 NCAC 09H .0103 is proposed for adoption as follows:

1 **12 NCAC 09H .0103 INSTRUCTORS**

2 (a) Only instructors who hold current Specialized Instructor Certification in Firearms issued by the Criminal Justice
3 Education and Training Standards Commission as outlined in Rules 09B .0302 and 09B .0304 may conduct the
4 firearms qualification training as specified in Rule 9H .0102.

5 (b) Each instructor specified in 9H .0103(a) will record and retain the firearms qualification scores for each qualified
6 retired law enforcement officer trained by the instructor for a period of five years. These scores will not be
7 transmitted to the Criminal Justice Standards Division unless requested but must be available for inspection by
8 Criminal Justice Standards Division representatives at reasonable times. If the instructor is conducting training on
9 behalf of a North Carolina training institution, the institution shall maintain the records in lieu of the instructor in
10 order to comply with this rule.

11 (c) Upon successful qualification, the instructor shall sign and date the Retired Law Enforcement Officers Firearms
12 Qualification Certification Application Form (F-9R) attesting to the successful qualification.

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14 *History Note:* Authority G.S. 17C-6; 14-415.10; 14-415.25; 14-415.26
15 Eff. December 1, 2008;

12 NCAC 09H .0104 is proposed for adoption as follows:

1 **12 NCAC 09H.0104 SANCTIONS**

2 (a) The Commission shall summarily deny or revoke the applicant for firearms qualification certification or the
3 qualified retired law enforcement officer’s firearms qualification certification when the Commission finds the
4 applicant or retired officer has willfully and intentionally falsified any application or documentation required for
5 qualification certification. Any applicant or qualified retired law enforcement officer summarily denied or revoked
6 may request an administrative hearing with the Commission subsequent to the summary denial or revocation in
7 accordance with G.S. Chapter 150B, Article 3A.

8 (b) The Commission may deny or suspend the applicant or retired law enforcement officer’s firearms qualification
9 certification when the Commission finds the applicant or retired officer:

10 (1) has failed to successfully complete the required training or qualification specified in Rule 9H .0102; or

11 (2) is ineligible to receive and possess firearms under federal or state law.

12 (c) Before taking action, the Standards Division shall investigate the alleged violation of Rule 9H .0104(b) and
13 present a report of its findings to the Probable Cause Committee of the Commission.

14 (d) The Probable Cause Committee shall convene prior to the next regular meeting of the Commission, and shall
15 make a determination as to whether or not probable cause exists that the Commission’s rules have been violated.

16 (e) The Probable Cause Committee may:

17 (1) direct the Standards Division to conduct a further investigation of the alleged violation;

18 (2) direct the Standards Division to conduct an administrative hearing in the matter, pursuant to 12 NCAC
19 9A .0107 and 26 NCAC 3; or

20 (3) determine the appropriate sanctions against the violator pursuant to paragraphs (f) & (g) below.

21 (f) Denials or revocations in accordance with Rule 9H .0104(a) will be permanent. The retired officer will be
22 ineligible to ever receive firearms qualification certification from the Commission.

23 (g) Denials or suspensions in accordance with Rule 9H .0104(b) will be:

24 (1) until the applicant or retired officer has successfully completed the required training or qualification
25 specified in Rule 9H .0102; or

26 (2) until the applicant or retired officer is eligible to receive and possess firearms under federal or state law.

27 (h) Any applicant or qualified retired law enforcement officer who receives firearms qualification certification under
28 these rules who becomes ineligible under any of the standards enumerated in Rule 9H .0104 has an affirmative duty
29 to notify the Criminal Justice Commission of such disqualification within five (5) calendar days of the occurrence of
30 the event.

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32 History Note: Authority G.S. 17C-6; 14-415.10;14-415.25; 14-415.26

33 Eff. December 1, 2008;

12 NCAC 09H .0105 is proposed for adoption as follows:

1 **12 NCAC 09H .0105 FILING AND FEES**

2 Each applicant for firearms qualification certification under the Qualified Retired Law Enforcement Officers
3 Firearms Qualification Certification Program shall submit the following to the Commission:

4 (a) An original Commission-approved application form containing the applicant’s notarized signature which attests
5 that the applicant meets the definition of qualified retired law enforcement officer set forth in G.S. 14-415.10 and is
6 eligible to possess firearms under federal and state law. The application form must also include the signature of a
7 current Commission certified Specialized Firearms Instructor attesting that the applicant has met the training and
8 qualification standards as specified in Rule 09H .0102 and lists the handguns with which the qualified retired officer
9 qualified;

10 (b) A copy of the qualified retired officer’s photographic identification indicating retirement status issued by the law
11 enforcement agency from which the applicant retired; and

12 (c) A fee of fifty dollars (\$50.00) for the initial one-year qualification and a fee of twenty-five dollars (\$25.00) for
13 the annual renewal thereafter. Applications and fees shall be submitted to:

14 Criminal Justice Standards Division
15 North Carolina Department of Justice
16 Post Office Drawer 149
17 Raleigh, NC 27602

18 All fees shall be paid by certified check or money order made payable to the North Carolina Department of Justice.

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History Note: Authority G.S. 17C-6; 14-415.10;14-415.25; 14-415.26
Eff. December 1, 2008;

12 NCAC 09B .0301 is proposed for amendment as follows:

1 **12 NCAC 09B .0301 CERTIFICATION OF INSTRUCTORS**

2 (a) Any person participating in a commission-accredited criminal justice training course or program as an instructor,
3 teacher, professor, lecturer, or other participant making presentations to the class shall first be certified by the
4 Commission as an instructor.

5 (b) The Commission shall certify instructors under the following categories: General Instructor Certification,
6 Specialized Instructor Certification or Professional Lecturer Certification as outlined in Rules .0302, .0304 and
7 .0306 of this Section. Such instructor certification shall be granted on the basis of documented qualifications of
8 experience, education, and training in accord with the requirements of this Section and reflected on the applicant's
9 Request for Instructor Certification Form.

10 (c) In addition to all other requirements of this Section, each instructor certified by the Commission to teach in a
11 Commission-accredited course shall remain competent in his/her specialized areas. Such competence includes
12 remaining current in the instructors area of expertise, which shall be demonstrated by attending and successfully
13 completing all instructor updates issued by the Commission.

14 (d) The Standards Division may notify an applicant for instructor certification or a certified instructor that a
15 deficiency appears to exist and attempt, in an advisory capacity, to assist the person in correcting the deficiency.

16 (e) When any person certified as an instructor by the Commission is found to have knowingly and willfully violated
17 any provision or requirement of these Rules, the Commission may take action to correct the violation and to ensure
18 that the violation does not recur, including:

- 19 (1) issuing an oral warning and request for compliance;
- 20 (2) issuing a written warning and request for compliance;
- 21 (3) issuing an official written reprimand;
- 22 (4) suspending the individual's certification for a specified period of time or until acceptable
23 corrective action is taken by the individual;
- 24 (5) revoking the individual's certification.

25 (f) The Commission may deny, suspend, or revoke an instructor's certification when the Commission finds that the
26 person:

- 27 (1) has failed to meet and maintain any of the requirements for qualification; or
- 28 (2) has failed to remain currently knowledgeable in the person's areas of expertise; or
- 29 (3) has failed to deliver training in a manner consistent with the instructor lesson plans outlined in the
30 "Basic Instructor Training Manual" as found in 12 NCAC 09B .0209; or
- 31 (4) has failed to follow specific guidelines outlined in the "Basic Law Enforcement Training Course
32 Management Guide" as found in 12 NCAC 09B .0205; or

- 33 (5) has demonstrated unprofessional personal conduct in the delivery of commission-mandated
- 34 training; or
- 35 (6) has demonstrated instructional incompetence; or
- 36 (7) has knowingly and willfully obtained, or attempted to obtain instructor certification by deceit,
- 37 fraud, or misrepresentation; or
- 38 (8) has failed to meet or maintain good moral character as defined in: re Willis, 299 N.C. 1, 215 S.E.
- 39 2d 771 appeal dismissed 423 U.S. 976 (9175); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940);
- 40 in re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E.
- 41 635 (1906); in re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538,
- 42 308 S.E. 2d 647 (1983); and their progeny, as required to effectively discharge the duties of a
- 43 criminal justice ~~instructor~~ instructor; or
- 44 (9) has failed to deliver training in a manner consistent with the Retired Law Enforcement Officers
- 45 Firearms Qualification Certification Program as found in 12 NCAC 09H .0102; or
- 46 (10) has knowingly and willfully aided or attempted to aid any person in obtaining
- 47 qualification/certification under the Retired Law Enforcement Officers Firearms Qualification
- 48 Certification Program by deceit, fraud or misrepresentation.

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

51 *Eff. January 1, 1981;*

52 *Amended Eff: December 1, 2008; August 1, 2004; April 1, 1999; July 1, 1991; January 1, 1985.*