PROPOSED RULE AMENDMENTS

Public Hearing:

November 16, 2016 – 10:30 am

Full Commission Vote:

November 18, 2016 – 9:00 am

Wake Technical Community College
Public Safety Training Center
321 Chapanoke Rd.
Raleigh, NC 27603

Instructions for Oral and Written Comments: The objection, reasons for the objection, and the clearly identified portion of the rule to which the objection pertains, must be submitted in writing to:

Trevor Allen
Department of Justice
Criminal Justice Standards Division
PO Drawer 149
Raleigh, NC 27602

Titles:	**General and Specialized Instructor Certification**
Agency:	Criminal Justice Education and Training Standards Commission
Contact:	Trevor Allen (919) 779-8205
Impact Summary:	State Government: No Local Government: No Substantial Impact: No Small Business: No

12 NCAC 09A .0103: Definitions
12 NCAC 09B .0302: General Instructor Certification
12 NCAC 09B .0303: Terms and Conditions of General Instructor Certification
12 NCAC 09B .0305: Terms and Conditions of Specialized Instructor Certification
12 NCAC 09B .0312: Instructor Certification Renewal
12 NCAC 09G .0102: Definitions
12 NCAC 09G .0309: Terms and Conditions of General Instructor Certification
12 NCAC 09G .0311: Terms and Conditions of Specialized Instructor Certification
12 NCAC 09G .0312: Instructor Certification Renewal

12 NCAC 09B .0403: Evaluation for Training Waiver

Statutory authority for the rule change: G.S. 17C-2; 17C-6; 17C-10; 153A-217

Amendment: The Criminal Justice Education and Training Standards Commission proposed amendments to these rules in order to revise the process for obtaining certification and recertification as a General and/or Specialized Instructor. For 12 NCAC 09B .0403, the Commission revised the process for officers certified with the NC Sheriffs' Standards Commission to obtain certification under the CJ Commission.

State Impact: None

Local Government Impact: None

Substantial Economic Impact: No

Small Business Impact: No

**Rules begin on the following page*

12 NCAC 09A .0103 is proposed for amendment as follows:

12 NCAC 09A .0103 DEFINITIONS

The following definitions apply throughout Subchapters 12 NCAC 09A through 12 NCAC 09F, except as modified in 12 NCAC 09A .0107 for the purpose of the Commission's rule-making and administrative hearing procedures:

(1) "Active Duty Military" means, for the purpose of determining eligibility for certification pursuant to 12 NCAC 09B .0401 and 12 NCAC 09B .0403, full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance while in the active military, service at a school designated as a service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty.

(2) "Agency" or "Criminal Justice Agency" means those state and local agencies identified in G.S. 17C-2(2).

(3) "Alcohol Law Enforcement Agent" means a law enforcement officer appointed by the Secretary of the Department of Public Safety as authorized by G.S. 18B-500.

(4) "Chief Court Counselor" means the person responsible for administration and supervision of juvenile intake, probation, and post-release supervision in each judicial district, operating under the supervision of the Department of Public Safety, Division of Adult Correction and Juvenile Justice.

(5) "Commission of an offense" means a finding by the North Carolina Criminal Justice Education and Training Standards Commission or equivalent regulating body from another state that a person performed the acts necessary to satisfy the elements of a specified criminal offense.

(6) "Convicted" or "Conviction" means, for purposes of this Chapter, the entry of:

(a) a plea of guilty;

(b) a verdict or finding of guilt by a jury, judge, magistrate, or other adjudicating body, tribunal, or official, either civilian or military; or

(c) a plea of no contest, nolo contendere, or the equivalent.

(7) "Criminal Justice Officer(s)" means those officers identified in G.S. 17C-2(3), and excluding Correctional officers and probation/parole officers.

(8) "Criminal Justice System" means the whole of the State and local criminal justice agencies described in Item (2) of this Rule.

(9) "Department Head" means the chief administrator of any criminal justice agency, and specifically includes any chief of police or agency director. "Department Head" also includes a designee appointed in writing by the Department Head.

(10) "Director" means the Director of the Criminal Justice Standards Division of the North Carolina Department of Justice.

(11) "Educational Points" means points earned toward the Professional Certificate Programs for studies completed, with passing scores achieved, for semester hour or quarter hour credit at a regionally accredited institution of higher learning. Each semester hour of college credit equals one educational point and each quarter hour of college credit equals two-thirds of an educational point.

(12) "Enrolled" means that an individual is currently actively participating in an on-going presentation of a Commission-certified basic training course that has not concluded on the day probationary certification expires. The term "currently actively participating" as used in this definition means:

(a) for law enforcement officers, that the officer is attending an approved course presentation averaging a minimum of 12 hours of instruction each week; and

(b) for Department of Public Safety, Division of Adult Correction and Juvenile Justice personnel, that the officer is attending the last or final phase of the approved training course necessary for satisfying the total course completion requirements.

(13) "High School" means graduation from an educational program that meets the compulsory attendance requirements in the jurisdiction in which the school is located.

(14) "In-Service Training" means all training prescribed in 12 NCAC 09E .0105 that must be completed, with passing scores achieved, by all certified law enforcement officers during each full calendar year of certification.

(15) "In-Service Training Coordinator" means the person designated by a ~~law enforcement~~ Criminal Justice Agency ~~agency~~ head to administer the agency's In-Service Training program.

(16) "Lateral Transfer" means the employment of a criminal justice officer, at any rank, by a Criminal Justice Agency based upon the officer's special qualifications or experience, without following the usual selection process established by the agency for basic officer positions.

(17) "Law Enforcement Code of Ethics" means the code adopted by the Commission on September 19, 1973, that reads as follows:

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality, and justice.

I will keep my private life unsullied as an example to all, and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with

relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will never engage in acts or corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement.

(18) "Juvenile Court Counselor" means a person responsible for intake services and court supervision services to juveniles under the supervision of the chief court counselor.

(19) "Juvenile Justice Officer" means a person designated by the Secretary of the Department of Public Safety, Division of Adult Correction and Juvenile Justice to provide for the care and supervision of juveniles placed in the physical custody of the Department.

(20) "Law Enforcement Officer" means an appointee of a Criminal Justice Agency, or agency of the State, or of any political subdivision of the State who, by virtue of his or her office, is empowered to make arrests for violations of the laws of this State. Specifically excluded from the title of "Law Enforcement Officer" are sheriffs and their sworn appointees with arrest authority who are governed by the provisions of G.S. 17E.

(21) "Law Enforcement Training Points" means points earned toward the Law Enforcement Officers' Professional Certificate Program by successful completion of Commission-approved law enforcement training courses. Twenty classroom hours of Commission-approved law enforcement training equals one law enforcement training point.

(22) "LIDAR" is an acronym for "Light Detection and Ranging" and means a speed-measuring instrument that electronically computes, from transmitted infrared light pulses, the speed of a vehicle under observation.

(23) "Local Confinement Personnel" means any officer, supervisor, or administrator of a local confinement facility in North Carolina as defined in G.S. 153A-217; any officer, supervisor, or administrator of a county confinement facility in North Carolina as defined in G.S. 153A-218; or any officer, supervisor, or administrator of a district confinement facility in North Carolina as defined in G.S. 153A-219.

(24) "Misdemeanor" means those criminal offenses not classified under the laws, statutes, or ordinances as felonies. Misdemeanor offenses are classified by the Commission as follows:

(a) "Class A Misdemeanor" means a misdemeanor committed or omitted in violation of any common law, duly-enacted ordinance, or criminal statute of this State that is not

classified as a Class B Misdemeanor pursuant to Sub-item (24)(b) of this Rule. Class A Misdemeanor also includes any act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of not more than six months. Excluded from "Class A Misdemeanor" criminal offenses for jurisdictions other than North Carolina are motor vehicle or traffic offenses designated as misdemeanors under the laws of other jurisdictions or duly enacted ordinances of an authorized governmental entity, with the exception of the offense of impaired driving that is included herein as a Class A Misdemeanor if the offender could have been sentenced for a term of not more than six months. Also included herein as a Class A Misdemeanor is the offense of impaired driving, if the offender was sentenced under punishment level three G.S. 20-179(i), level four G.S. 20-179(j), or level five G.S. 20-179(k). Class A Misdemeanor shall also include acts committed or omitted in North Carolina prior to October 1, 1994, in violation of any common law, duly enacted ordinance, or criminal statute of this State for which the maximum punishment allowable for the designated offense included imprisonment for a term of not more than six months.

(b) "Class B Misdemeanor" means an act committed or omitted in violation of any common law, criminal statute, or criminal traffic code of this State that is classified as a Class B Misdemeanor as set forth in the Class B Misdemeanor Manual as published by the North Carolina Department of Justice, incorporated herein by reference, and shall include any later amendments and editions of the incorporated material as provided by G.S. 150B-21.6. The publication is available from the Commission's website: http://www.ncdoj.gov/getdoc/60bb12ca-47c0-48cb-a0e3-6095183c4c2a/Class-B-Misdemeanor-Manual-2005.aspx. Class B Misdemeanor also includes any act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of more than six months but not more than two years. Excluded from this grouping of "Class B Misdemeanor" criminal offenses for jurisdictions other than North Carolina, are motor vehicle or traffic offenses designated as being misdemeanors under the laws of other jurisdictions with the following exceptions: Class B Misdemeanor includes the following:

(i) either first or subsequent offenses of driving while impaired if the maximum allowable punishment is for a term of more than six months but not more than two years;

(ii) driving while license permanently revoked or permanently suspended;

(iii) those traffic offenses occurring in other jurisdictions which are comparable to the traffic offenses specifically listed in the Class B Misdemeanor Manual; and

(iv) an act committed or omitted in North Carolina prior to October 1, 1994, in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of this State for which the maximum punishment allowable for the designated offense included imprisonment for a term of more than six months but not more than two years.

(25) "Qualified Assistant" means an additional staff person designated by the School Director to assist in the administration of a course when an institution or agency assigns additional responsibilities to the certified School Director during the planning, development, and implementation of a certified course.

(26) "Radar" means a speed-measuring instrument that transmits microwave energy in the 10,500 to 10,550 MHZ frequency (X) band, the 24,050 to 24,250 MHZ frequency (K) band, or the 33,400 to 36,000 MHZ (Ka) band and operates in either the stationary or moving mode.

(27) "Resident" means any youth committed to a facility operated by the Department of Public Safety, Division of Adult Correction and Juvenile Justice.

(28) "School" or "criminal justice school" means an institution, college, university, academy, or agency that offers criminal justice, law enforcement, or traffic control and enforcement training for criminal justice officers or law enforcement officers. "School" includes the criminal justice training course curriculum, instructors, and facilities.

(29) "School Director" means the person designated by the sponsoring institution or agency to administer the criminal justice school.

(30) "Speed-Measuring Instruments" (SMI) means those devices or systems, including RADAR, Time-Distance and LIDAR, approved under authority of G.S. 17C-6(a)(13) for use in North Carolina in determining the speed of a vehicle under observation and particularly includes all devices or systems described or referenced in 12 NCAC 09C .0601.

(31) "Standards Division" means the Criminal Justice Standards Division of the North Carolina Department of Justice.

(32) "Time-Distance" means a speed-measuring instrument that electronically computes, from measurements of time and distance, the average speed of a vehicle under observation.

History Note: *Authority G.S. 17C-2; 17C-6; 17C-10; 153A-217;*
Eff. January 1, 1981;

Amended Eff. November 1, 1981; August 15, 1981;
Readopted Eff. July 1, 1982;
Temporary Amendment Eff. December 14, 1983 for a period of 120 days to expire on April 12, 1984;
Amended Eff. November 1, 1993; March 1, 1990; July 1, 1989;
Temporary Amendment Eff. October 1, 1994 for a period of 180 days to expire on April 1, 1995;
Amended Eff. August 1, 2000; April 1, 1999; August 1, 1998; January 1, 1995;
Temporary Amendment Eff. January 1, 2001;
Amended Eff. August 1, 2002; April 1, 2001;
Temporary Amendment Eff. April 15, 2003;
Amended Eff. February 1, 2016; January 1, 2015; January 1, 2006; June 1, 2005; April 1, 2004.

12 NCAC 09B .0302 is proposed for amendment as follows:

12 NCAC 09B .0302 GENERAL INSTRUCTOR CERTIFICATION

(a) General Instructor Certification issued after December 31, 1984 shall be limited to those topics that are not expressly incorporated under the Specialized Instructor Certification category. Individuals certified under the general instructor category shall not teach any of the subjects specified in Rule .0304 of this Subchapter, entitled "Specialized Instructor Certification." To qualify for issuance of General Instructor Certification, an applicant shall demonstrate a combination of education and experience in criminal justice and proficiency in the instructional ~~process to the satisfaction of the Commission. The applicant shall meet the following requirements for General Instructor Certification:~~ process by meeting the following requirements:

(1) Present documentary evidence showing that the applicant:

(A) is a high school, college or university graduate, or has received a high school equivalency credential as recognized by the issuing state; and

(B) has acquired four years of practical experience as a ~~criminal justice officer~~ Criminal Justice Officer, ~~or as~~ an administrator or specialist in a field directly related to the criminal justice ~~system.~~ system, or as an employee of a Criminal Justice Agency.

(2) Present evidence showing completion of a ~~Commission certified~~ Commission-accredited instructor training program or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private ~~enterprise.~~ enterprise; and

(3) ~~Pass~~ Achieve a passing score on the comprehensive written examination administered by the Commission, as required by Rule .0413(d) of this Subchapter.

(b) Applications for General Instructor Certification shall be submitted to the Standards Division within 60 days of the date the applicant passed the state comprehensive examination administered at the conclusion of the ~~Commission certified~~ Commission-accredited instructor training program or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise.

(c) Persons having completed a ~~Commission certified~~ Commission-accredited instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise, and not having made application within 60 days of completion of the course shall complete a subsequent ~~Commission certified~~ Commission-accredited instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise in its entirety.

(d) Applicants for Speed Measuring Instrument Instructor courses shall possess ~~general instructor certification.~~ General Instructor Certification.

History Note: *Authority G.S. 17C-6.*
Eff. January 1, 1981;

Amended Eff. January 1, 2015; January 1, 2006; May 1, 2004; August 1, 2000; July 1, 1991; December 1, 1987; October 1, 1985; January 1, 1985.

12 NCAC 09B .0303 TERMS AND CONDITIONS OF GENERAL INSTRUCTOR CERTIFICATION

(a) An applicant meeting the requirements for certification as a general instructor shall, for the first 12 months of certification, be in a probationary status. The General Instructor Certification, Probationary Status, shall automatically expire 12 months from the date of issuance.

(b) The probationary instructor shall be eligible for ~~full~~ general instructor status, if the instructor through application at the end of the probationary period, submits to the ~~Commission:~~ Commission a favorable recommendation from a School Director or In-Service Training Coordinator accompanied by a certification on a Commission Instructor Evaluation Form F-16 that the instructor taught a minimum of eight hours of Commission-accredited basic training course, Commission-recognized in-service training course, or training course pursuant to 12 NCAC 10B .0601, 10B .1302, or 10B .2005 during the probationary period. The instructor shall achieve a minimum of 64 points on all instruction evaluations submitted to the Commission. The Commission Instructor Evaluation Form F-16 is located on the agency's website: http://www.ncdoj.gov/getdoc/c2eba6aa-12bc-4303-bf4b-5fa0431ef5a1/F-16-6-11.aspx.

~~(1) a favorable recommendation from a school director or in-service training coordinator accompanied by certification on a Commission Instructor Evaluation Form that the instructor successfully taught a minimum of twelve hours in a Commission-certified basic course or a Commission-recognized in-service training course during the probationary year. The results of the student evaluation of the instructor must be considered by the school director or in-service training coordinator when determining recommendation; or~~

~~(2) a favorable written evaluation by a Commission or staff member, based on an on-site classroom evaluation of the probationary instructor in a Commission-certified course or a Commission-recognized in-service training course. Such evaluation shall be certified on a Commission Instructor Evaluation Form. In addition, instructors evaluated by a Commission or staff member must also teach a minimum of twelve hours in a Commission-certified training course or a Commission-recognized in-service training course.~~

(c) The term of certification as a general instructor is ~~three years from the date the Commission issues the certification.~~ indefinite, provided the instructor completes during each calendar year a minimum of one hour of instructor refresher training provided by North Carolina Justice Academy. The Standards Division shall post on its website on January 1 of the current year the list of instructors who have met this requirement during the previous calendar year. ~~The certification may subsequently be renewed by the Commission for three year periods. The application for renewal shall contain, in addition to the requirements listed in Rule .0302 of this Section, documentary evidence indicating that the applicant has remained active in the instructional process during the previous three year period. Such documentary evidence shall include proof that the applicant has, within the three year period preceding application for renewal, instructed a minimum of 12 hours in a Commission-certified training course or a Commission-recognized in-service training course; and either~~

~~(1) a favorable written recommendation from a school director or in-service training coordinator completed on a Commission Renewal of Instructor and Professional Lecturer Certification Form that the instructor successfully taught a minimum of 12 hours in a Commission-certified Commission-~~

~~accredited basic or instructor training course or a Commission-recognized in-service training course during the three-year period of general certification; or~~

~~(2) a favorable evaluation by a Commission or staff member, based on an on-site classroom evaluation of a presentation by the instructor in a Commission-certified training course or a Commission-recognized in-service training course, during the three year period of General Instructor Certification. In addition, instructors evaluated by a Commission or staff member must also teach a minimum of 12 hours in a Commission-certified training course or a Commission-recognized in-service training course.~~

~~(d) For Speed Measuring Instrument Instructors, the General Instructor Certification shall run concurrent with the Speed Measuring Instrument Instructor's certification. For the initial issuance of Speed Measuring Instrument Instructor certifications, the terms for the instructor's General Instructor certification shall automatically be reissued for a three year period determined by the certification period of the Speed Measuring Instrument Instructor certification. The general instructors are not required to submit documentation of having taught the minimum 12 hours during the period preceding the initial certification as specified in Paragraph (c) of this Rule. For the first renewal of Speed Measuring Instrument instructor certifications occurring after January 2006, the terms for the instructor's General Instructor certification shall automatically be reissued for a three year period determined by the certification period of the Speed Measuring Instrument Instructor certification. The general instructors are not required to submit documentation of having taught the minimum 12 hours during the period preceding the initial certification as specified in Paragraph (c) of this Rule. Once the General Instructor's certification becomes concurrent with the Speed Measuring Instrument certification, all instructors must meet the requirements in Subparagraph (c)(1) or (c)(2) of this Rule to be eligible for re-certification.~~

~~(e) All instructors shall remain active during their period of certification. If an instructor does not teach a minimum of 12 hours during the period of certification, the certification shall not be renewed, and the instructor shall file application for General Instructor Certification, Probationary Status. Such applicants shall meet the minimum requirements of Rule .0302 of this Section.~~

~~(f) All instructors shall have 90 days from the date of expiration of their instructor certification to submit an application for renewal along with documentation of having met the minimum requirements of Paragraph (c) of this Rule during the previous certification period. The prescribed 90 day period shall not extend the instructor certification period beyond its specified expiration period. If the renewal application is not submitted within 90 days from the expiration of the previous certification, such applicants will be required to meet the minimum requirements for general instructor certification as specified in Rule .0302 of this Section.~~

(d) If the instructor fails to complete the instructor refresher training specified in Paragraph (c) of this Rule, he or she shall deliver eight hours of evaluated instruction in a Commission-accredited basic training, Commission-recognized in-service training course, or training course pursuant to 12 NCAC 10B .0601, 10B .1302, or 10B .2005, and complete the instructor refresher training specified in Paragraph (c) of this Rule within 60 days from the last day of the previous calendar year.

(e) If an instructor fails to complete the requirements of Paragraph (d) of this Rule, the certification period for the instructor shall cease, and the instructor shall be required to complete the requirements of Rule 09B .0302 of this Section in order to obtain probationary instructor status.

~~(g)~~(f) The use of guest participants in a delivery of the Basic Law Enforcement Training Course is permissible. However, such guest participants are subject to the direct on-site supervision of a Commission-certified instructor and must be authorized by the ~~school director.~~ School Director. A guest participant shall only be used to complement the primary certified instructor of the block of instruction and shall in no way replace the primary instructor.

(g) "Commission-recognized in-service training" shall mean training meeting the following requirements:

(1) training is taught by an instructor certified by the Commission;

(2) training utilizes a lesson plan authored in the Instructional Systems Design format; and

(3) completion of training shall be demonstrated by a passing score on a written test as follows:

(A) a written test comprised of at least five questions per credit shall be developed by the agency or the North Carolina Justice Academy for each in-service training topic requiring testing. Written courses that are more than four credits in length are required to have a written test comprising of a minimum of 20 questions. The Firearms Training and Qualifications in-service course is exempt from this written test requirement;

(B) a student shall pass each test by achieving 70 percent correct answers; and

(C) a student who completes a topic of in-service training in a traditional classroom setting or online and fails the end of topic exam shall be given one attempt to re-test. If the student fails the exam a second time, the student shall complete the in-service training topic in a traditional classroom setting before taking the exam a third time.

(D) Topics delivered pursuant to 12 NCAC 09E .0104(1) and 12 NCAC 09E .0105(a)(1) shall not require written testing.

~~(h) For purposes of this Section, "Commission-recognized in-service training" shall mean any training for which the instructor is evaluated by a certified school director or in-service training coordinator on a Commission Instructor Evaluation Form. Such training shall be objective based and documented by lesson plans designed consistent with the Basic Law Enforcement Training format and documented by departmental training records to include required post-test and testing methodology. The signature of the school director on the Commission Instructor Evaluation Form shall verify compliance with this Rule.~~

History Note: *Authority G.S. 17C-6;*
Eff. January 1, 1981;
Amended Eff. December 1, 2007; November 1, 2007; August 1, 2006; January 1, 2006; August 1, 2000; July 1, 1991; October 1, 1985; January 1, 1985; January 1, 1983.

12 NCAC 09B .0305 TERMS AND CONDITIONS OF SPECIALIZED INSTRUCTOR CERTIFICATION

(a) An applicant meeting the requirements for Specialized Instructor Certification as set forth in Rule .0304 of this Section shall be issued a certification to expire three years from the date of issuance. ~~run concurrently with the existing General Instructor Certification, except as set out in Paragraph (d) of this Rule.~~ The applicant shall apply for certification as a Specialized Instructor within 60 days from the date the applicant achieved a passing score on the state comprehensive exam for the respective Specialized Instructor training course.

~~(b) The requirements for certification as a specialized instructor are determined by the expiration date of the existing General Instructor Certification. The following requirements apply during the initial period of certification:~~

~~(1)~~(b) Where certification for both General Probationary Instructor as set forth in Rule .0303 of this Section and Specialized Instructor Certification are issued on the same date, the instructor is required to ~~satisfy the teaching requirement for only the general probationary instructor certification.~~ instruct, within 36 months, a minimum of 12 hours in each of the topics for which Specialized Instructor Certification was granted and that instruction was provided in a Commission-accredited basic training, Specialized Instructor Training, Commission-recognized in-service training course, or training course delivered pursuant to 12 NCAC 10B .0601, .1302, or .2005. The instructor may satisfy the teaching requirement for the General Probationary Instructor certification by teaching any specialized topic for which certification has been issued;

~~(2)~~(c) When Specialized Instructor Certification is issued during an existing period of General Probationary Instructor Certification, ~~either probationary status or general status,~~ the specialized instructor may satisfy the teaching requirement for the General Probationary Certification by teaching the specialized subject for which certification has been issued;

~~(3) where Specialized Instructor Certification becomes concurrent with an existing active period of General Instructor Certification, and there are 12 months or more until the certifications' expiration date, the instructor shall teach 12 hours for each specialized topic for which certification has been issued; and~~

~~(4) where Specialized Instructor Certification becomes concurrent with an existing active period of General Instructor Certification, and there are fewer than 12 months until the certification expiration date, the instructor shall not be required to teach any hours for the specialized subject.~~

~~(c)~~(d) The term of certification as a specialized instructor shall not exceed ~~the~~ 36 ~~month period of General Instructor Certification.~~ months. The application for renewal shall contain, in addition to the requirements listed in Rule .0304 of this Section, documentary evidence that the applicant has remained active in the instructional process during the previous three-year period. Such documentary evidence shall include the following:

(1) proof that the applicant has, within the three-year period preceding application for renewal, instructed at least 12 hours in each of the topics for which Specialized Instructor Certification was granted and that instruction was provided in a Commission-accredited basic ~~training or~~ training, Specialized Instructor ~~Training course~~ Training, ~~or~~ Commission-recognized in-service training

course, ~~pursuant to 12 NCAC 09E .0105.~~ or training course delivered pursuant to 12 NCAC 10B .0601, .1302, or .2005. Acceptable documentary evidence shall include official Commission records submitted by School Directors or In-Service Training Coordinators and written certification from a School Director or In-Service Training Coordinator;

(2) proof that the applicant has, within the three-year period preceding application for renewal, attended and completed any instructor updates that have been issued by the Commission. Acceptable documentary evidence shall include official Commission records submitted by School Directors or In-Service Training Coordinators, or copies of certificates of completion issued by the institution which provided the instructor updates; and

(A) a favorable written recommendation from a School Director or In-Service Training Coordinator completed on a Commission Renewal of Instructor and Professional Lecturer Certification Form that the instructor taught at least 12 hours in each of the topics for which Specialized Instructor Certification was granted. The teaching ~~must~~ shall have occurred in a Commission-accredited basic ~~training,~~ training, ~~or~~ Specialized Instructor Training course, pursuant to Rule 12 NCAC 09C .0401, ~~or an~~ Commission-recognized in-service training ~~course, pursuant to 12 NCAC 09E .0105, during the three-year period of Specialized Instructor Certification;~~ course, or training course delivered pursuant to 12 NCAC 10B .0601, .1302, or .2005; ~~or~~

(B) a favorable written evaluation by a ~~Commission or staff member,~~ School Director, In-Service Training Coordinator, or another Specialized Instructor certified in the same specialized subject, based on an on-site classroom evaluation of a presentation by the instructor in a ~~Commission-certified~~ Commission-accredited basic ~~training course~~ training, Specialized Instructor Training, ~~or~~ a Commission-recognized in-service training course, or in-service training course delivered pursuant to 12 NCAC 10B .0601, .1302, or .2005 during the three-year period of Specialized Instructor Certification. Such evaluation shall be certified on a ~~Commission~~ Criminal Justice Instructor Evaluation ~~Form,~~ Form F-16, located on the agency's website: http://www.ncdoj.gov/getdoc/c2eba6aa-12bc-4303-bf4b-5fa0431ef5a1/F-16-6-11.aspx;

(C) has met the requirement set forth in Rule 09B .0303(c) of this Section.

~~(3)~~(D) proof that the individual applying for renewal as a Specialized Firearms Instructor has achieved a minimum score of 92 on the day and night Basic Law Enforcement Training firearms qualification courses, administered by a certified Specialized Firearms Instructor, within the three-year period preceding the application for renewal.

~~(4)~~(E) proof that the individual applying for renewal as a Specialized Physical Fitness Instructor has passed the Basic Law Enforcement Training Police Officer Physical Abilities Test, administered by a certified Specialized Physical Fitness Instructor, within the three-year period preceding the application for renewal.

~~Upon the applicant's submission of the required documentation for renewal, the Commission staff shall renew the certification as a Specialized Instructor. Such renewal shall occur at the time of renewal of the General Instructor certification.~~

~~(d)~~(e) Certification as a Specialized Instructor in the First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice Medical Emergencies topic areas as outlined in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1) of this Section, specifically those certifications not based upon General Instructor Certification, shall remain in effect for 36 months from the date of issuance. During the 36 month term all non-Commission certificates required in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1) for Specialized Instructor certification in the First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice Medical Emergencies topical areas shall be maintained.

~~(e) All instructors shall remain active during their period of certification. Any Specialized Instructor training courses previously accepted by the Commission for purposes of certification shall no longer be recognized if the instructor does not teach at least 12~~ evaluated ~~hours in each of the specialized topics during the three-year period for which certification was granted. Upon application for re-certification, such applicants shall meet the requirements of Rule .0304 of this Section.~~

(f) The use of guest participants in a delivery of the "Basic Law Enforcement Training Course" shall be permissible. However, such guest participants are subject to the on-site supervision of a Commission-certified instructor and shall be authorized by the School Director. A guest participant shall be used only to complement the primary certified instructor of the block of instruction and shall in no way replace the primary instructor.

History Note: *Authority G.S. 17C-6;*
Eff. January 1, 1981;
Amended Eff. August 1, 2015; May 1, 2014; June 1, 2012; November 1, 2007; January 1, 2006; December 1, 2004; August 1, 2004; August 1, 2000; July 1, 1991; July 1, 1989; December 1, 1987; February 1, 1987.

12 NCAC 09B .0312 is proposed for amendment as follows:

12 NCAC 09B .0312 INSTRUCTOR CERTIFICATION RENEWAL

(a) Individuals who hold ~~general instructor certification or full-specialized instructor~~ Specialized Instructor certification may, for just cause, be granted an extension of the three year period to ~~successfully~~ teach the 12 hour minimum ~~requirement.~~ Requirement, pursuant to Rule .0305(d) of this Subchapter. The Director may grant such extensions on a one-time basis only not to exceed 12 months. For purposes of this Rule, just cause means accident, illness, emergency, course cancellation, or other exceptional circumstances which precluded the instructor from fulfilling the teaching requirement.

(b) The Director may, for just cause, grant an extension of the 90 day period in which an instructor's renewal application must be submitted as specified in 12 NCAC 09B ~~.0303(e).~~ .0305(d). Such extension, however, shall not exceed 12 months and shall not extend the instructor's certification period beyond its specified expiration period.

History Note: *Authority G.S. 17C-6;*
Eff. March 1, 1990;
Amended Eff. August 1, 2006; January 1, 2006; August 1, 2000; January 1, 1995.

12 NCAC 09G .0102 is proposed for amendment as follows:

12 NCAC 09G .0102 DEFINITIONS

The following definitions apply throughout this Subchapter only:

(1) "Commission of an offense" means a finding by the North Carolina Criminal Justice Education and Training Standards Commission or an administrative body that a person performed the acts necessary to satisfy the elements of a specified offense.

(2) "Convicted" or "Conviction" means, for purposes of this Subchapter, the entry of:

(a) a plea of guilty;

(b) a verdict or finding of guilt by a jury, judge, magistrate, or other duly constituted, established adjudicating body, tribunal, or official, either civilian or military; or

(c) a plea of no contest, nolo contendere, or the equivalent.

(3) "Correctional Officer" means an employee of the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice, responsible for the custody of inmates or offenders.

(4) "Corrections Officer" means either or both of the two classes of officers employed by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice: correctional officer or probation/parole officer.

(5) "Criminal Justice System" means the whole of the State and local criminal justice agencies including the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice.

(6) "Director" means the Director of the Criminal Justice Standards Division of the North Carolina Department of Justice.

(7) "Educational Points" means points earned toward the State Correction Officers' Professional Certificate Program for studies completed, with passing scores achieved, for semester hour or quarter hour credit at a regionally accredited institution of higher education. Each semester hour of college credit equals one educational point and each quarter hour of college credit equals two-thirds of an educational point.

(8) "High School" means graduation from a high school that meets the compulsory attendance requirements in the jurisdiction in which the school is located.

(9) "In-Service Training Coordinator" means a person designated by a Criminal Justice Agency head to administer the agency's In-Service Training program.

~~(9)~~(10) "Misdemeanor" for corrections officers means those criminal offenses not classified under the laws, statutes, or ordinances as felonies. Misdemeanor offenses for corrections officers are classified by the Commission as the following as set forth in G.S. or other state or federal law:

(a) 14-2.5 Punishment for attempt (offenses that are Class A-1 misdemeanor)

(b) 14-27.7 Intercourse and sexual offenses with certain victims (If defendant is

		school personnel other than a teacher, school administrator, student teacher or coach)
(c)	14-32.1(f)	Assault on handicapped persons
(d)	14-32.2(b)(4)	Patient abuse and neglect, punishments
(e)	14-32.3	Exploitation by caretaker of disabled/elder adult in domestic setting; resulting in loss of less than one thousand dollars ($1000) (August 1, 2001-December 1, 2005. Repealed December 1, 2005)
(f)	14-33(b)(9)	Assault, battery against sports official
(g)	14-33(c)	Assault, battery with circumstances
(h)	14-34	Assault by pointing a gun
(i)	14-34.6(a)	Assault on Emergency Personnel
(j)	14-54	Breaking or Entering into buildings generally (14-54(b))
(k)	14-72	Larceny of property; receiving stolen goods etc.; not more than one thousand dollars ($1000.00) (14-72(a))
(l)	14-72.1	Concealment of merchandise (14-72.1(e); third or subsequent offense)
(m)	14-76	Larceny, mutilation, or destruction of public records/papers
(n)	CH 14 Art. 19A	False/fraudulent use of credit device (14-113.6)
(o)	CH 14 Art. 19B	Financial transaction card crime (14-113.17(a))
(p)	14-114(a)	Fraudulent disposal of personal property on which there is a security interest
(q)	14-118	Blackmailing
(r)	14-118.2	Obtaining academic credit by fraudulent means (14-118.2(b))
(s)	14-122.1	Falsifying documents issued by a school (14-122.1(c))
(t)	14-127	Willful and wanton injury to real property
(u)	14-160	Willful and wanton injury to personal property greater than two hundred dollars ($200.00) (14-160(b))
(v)	14-190.5	Preparation of obscene photographs
(w)	14-190.9	Indecent Exposure
(x)	14-190.14	Displaying material harmful to minors (14-190.14(b))
(y)	14-190.15	Disseminating harmful material to minors (14-190.15(d))
(z)	14-202.2	Indecent liberties between children
(aa)	14-202.4	Taking indecent liberties with a student
(bb)	14-204	Prostitution (14-207; 14-208)
(cc)	14-223	Resisting officers
(dd)	14-225	False, etc., reports to law enforcement agencies or officers
(ee)	14-230	Willfully failing to discharge duties
(ff)	14-231	Failing to make reports and discharge other duties

	(gg)	14-232	Swearing falsely to official records
	(hh)	14-239	Allowing prisoners to escape punishment
	(ii)	14-255	Escape of working prisoners from custody
	(jj)	14-256	Prison breach and escape
	(kk)	14-258.1(b)	Furnishing certain contraband to inmates
	(ll)	14-259	Harboring or aiding certain persons
	(mm)	CH 14 Art. 34	Persuading inmates to escape; harboring fugitives (14-268)
	(nn)	14-269.2	Weapons on campus or other educational property (14-269.2(d), (e) and (f))
	(oo)	14-269.3(a)	Weapons where alcoholic beverages are sold and consumed
	(pp)	14-269.4	Weapons on state property and in courthouses
	(qq)	14-269.6	Possession and sale of spring-loaded projectile knives prohibited (14-269.6(b))
	(rr)	14-277	Impersonation of a law-enforcement or other public officer verbally, by displaying a badge or insignia, or by operating a red light (14-277 (d1) and (e))
	(ss)	14-277.2(a)	Weapons at parades, etc., prohibited
	(tt)	14-277.3	Stalking (14-277.3(b))
	(uu)	14-288.2(b)	Riot
	(vv)	14-288.2(d)	Inciting to riot
	(ww)	14.288.6(a)	Looting; trespassing during emergency
	(xx)	14-288.7(c)	Transporting weapon or substance during emergency
	(yy)	14-288.9(c)	Assault on emergency personnel; punishments
	(zz)	14-315(a)	Selling or giving weapons to minors
	(aaa)	14-315.1	Storage of firearms to protect minors
	(bbb)	14-316.1	Contributing to delinquency
	(ccc)	14-318.2	Child abuse
	(ddd)	14-360	Cruelty to animals
	(eee)	14-361	Instigating or promoting cruelty to animals
	(fff)	14-401.14	Ethnic intimidation; teaching any technique to be used for (14-401.14(a) and (b))
	(ggg)	14-454(a) or (b)	Accessing computers
	(hhh)	14-458	Computer trespass (Damage less than two thousand five hundred dollars ($2500.00)
	(iii)	15A-266.11	Unauthorized use of DNA databank; willful disclosure (15A-266.11(a) and (b))
	(jjj)	15A-287	Interception and disclosure of wire etc. communications

(kkk)	15B-7(b)	Filing false or fraudulent application for compensation award
(lll)	18B-902(c)	False statements in application for ABC permit (18B-102(b))
(mmm)	20-37.8(a) & (c)	Fraudulent use of a fictitious name for a special identification card
(nnn)	20-102.1	False report of theft or conversion of a motor vehicle
(ooo)	20-111(5)	Fictitious name or address in application for registration
(ppp)	20-130.1	Use of red or blue lights on vehicles prohibited (20-130.1(e))
(qqq)	20-137.2	Operation of vehicles resembling law-enforcement vehicles (20-137.2(b))
(rrr)	20-138.1	Driving while impaired (punishment level 1 (20-179(g))or 2 (20-179(h))
(sss)	20-138.2I	Impaired driving in commercial vehicle (20-138.2(e))
(ttt)	20-141.5(a)	Speeding to elude arrest
(uuu)	20-166(b)	Duty to stop in event of accident or collision
(vvv)	20-166(c)	Duty to stop in event of accident or collision
(www)	20-166(c1)	Duty to stop in event of accident or collision
(xxx)	50B-4.1	Knowingly violating valid protective order
(yyy)	58-33-105	False statement in applications for insurance
(zzz)	58-81-5	Careless or negligent setting of fires
(aaaa)	62A-12	Misuse of 911 system
(bbbb)	90-95(d)(2)	Possession of schedule II, III, IV
(cccc)	90-95(d)(3)	Possession of Schedule V
(dddd)	90-95(d)(4)	Possession of Schedule VI (when punishable as Class 1 misdemeanor)
(eeee)	90-95(e)(4)	Conviction of 2 or more violations of Art. 5
(ffff)	90-95(e)(7)	Conviction of 2 or more violations of Art. 5
(gggg)	90-113.22	Possession of drug paraphernalia (90-113.22(b))
(hhhh)	90-113.23	Manufacture or delivery of drug paraphernalia (90-113.23(c))
(iiii)	97-88.2(a)	Misrepresentation to get worker's compensation payment
(jjjj)	108A-39(a)	Fraudulent misrepresentation of public assistance
(kkkk)	108A-53	Fraudulent misrepresentation of foster care and adoption assistance payments
(llll)	108A-64(a)	Medical assistance recipient fraud; less than four hundred dollars ($400.00) (108-64(c)(2))
(mmmm)	108A-80	Recipient check register/list of all recipients of AFDC and state-county special assistance (108A-80(b))
(nnnn)	108A-80	Recipient check register/ list of all recipients of AFDC and state-county special assistance; political mailing list (108A-80(c))
(oooo)	113-290.1(a)(2)	Criminally negligent hunting; no bodily disfigurement

(pppp) 113-290.1(a)(3) Criminally negligent hunting; bodily disfigurement
(qqqq) 113-290.1(a)(4) Criminally negligent hunting; death results
(rrrr) 113-290.1(d) Criminally negligent hunting; person convicted/suspended license
(ssss) 143-58.1(a) Use of public purchase or contract for private benefit (143-58.1(c))
(tttt) 148-45(d) Aiding escape or attempted escape from prison
(uuuu) 162-55 Injury to prisoner by jailer
(vvvv) Common-Law misdemeanors:
(i) Going Armed to the Terror of the People
(ii) Common-Law Mayhem
(iii) False Imprisonment
(iv) Common-Law Robbery
(v) Common-Law Forgery
(vi) Common-Law Uttering of Forged paper
(vii) Forcible Trespass
(viii) Unlawful Assembly
(ix) Common-Law Obstruction of Justice
(wwww) Those offenses occurring in other jurisdictions that are comparable to the offenses specifically listed in (a) through (vvvv) of this Rule.
(xxxx) Any offense proscribed by 18 U.S.C. 922 (1996), (http://www.gpo.gov/fdsys/pkg/USCODE-2011-title18/pdf/USCODE-2011-title18-partI-chap44-sec922.pdf), that would prohibit possessing a firearm or ammunition.

~~(10)~~(11) "Pilot Courses" means those courses approved by the Education and Training Committee, consistent with 12 NCAC 09G .0404, which are utilized to develop new training course curricula.

~~(11)~~(12) "Probation/Parole Officer" means an employee of the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice whose duties include supervising, evaluating, or otherwise instructing offenders placed on probation, parole, post release supervision, or assigned to any other community-based program operated by the Division of Adult Correction and Juvenile Justice.

~~(12)~~(13) "Qualified Assistant" means an additional staff person designated as such by the School Director to assist in the administration of a course when a certified institution or agency assigns additional responsibilities to the certified School Director during the planning, development, and implementation of a certified course.

~~(13)~~(14) "School" means an institution, college, university, academy, or agency that offers penal or corrections training for correctional officers or probation/parole officers. "School" includes the corrections training course curricula, instructors, and facilities.

~~(14)~~(15) "School Director" means the person designated by the Secretary of the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice to administer the "School."

(~~15~~)(16) "Standards Division" means the Criminal Justice Standards Division of the North Carolina Department of Justice.

(~~16~~)(17) "State Corrections Training Points" means points earned toward the State Corrections Officers' Professional Certificate Program by successful completion of Commission-approved corrections training courses. Twenty classroom hours of Commission-approved corrections training equals one State Corrections training point.

History Note: *Authority G.S. 17C-2; 17C-6; 17C-10; 153A-217;*
Temporary Adoption Eff. January 1, 2001;
Eff. August 1, 2002;
Amended Eff. January 1, 2015; April 1, 2009; August 1, 2004.

12 NCAC 09G .0308 GENERAL INSTRUCTOR CERTIFICATION

(a) General Instructor Certifications issued after December 31, 1984, shall be limited to those topics that are not expressly incorporated under the Specialized Instructor Certification category, specified in Rule .0310 of this Section. Individuals certified under the general instructor category are not authorized to teach any of the subjects specified in Rule .0310 of this Subchapter, entitled "Specialized Instructor Certification." To qualify for issuance of General Instructor Certification, an applicant shall demonstrate a combination of education and experience in criminal justice and proficiency in the instructional process by meeting the following requirements:

(1) Present documentary evidence showing that the applicant:

(A) is a high school, college, or university graduate or has received a high school equivalency credential as recognized by the issuing state; and

(B) has acquired four years of practical experience as a ~~criminal justice officer~~ Criminal Justice Officer, Corrections Officer, Probation/Parole Officer, ~~or as~~ an administrator or specialist in a field related to the criminal justice ~~system;~~ system, or an employee of a Criminal Justice Agency.

(2) Present evidence showing successful completion of a ~~Commission-certified~~ Commission-accredited instructor training program or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise; and

(3) Achieve a passing score on the comprehensive written examination administered by the Commission, as specified in 12 NCAC 09B .0413(d), within 60 days of completion of the ~~Commission-certified~~ Commission-accredited instructor training program.

(b) Applications for General Instructor Certification shall be submitted to the Standards Division within 60 days of the date the applicant passed the state comprehensive written examination administered by the Commission for the ~~Commission-certified~~ Commission-accredited instructor training program or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise.

(c) Persons having completed a ~~Commission-certified~~ Commission-accredited instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise, and not having made application within 60 days of completion of the course shall complete a subsequent ~~Commission-certified~~ Commission-accredited instructor training ~~course.~~ course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise in its entirety.

History Note: *Authority G.S. 17C-6;*
Temporary Adoption Eff. January 1, 2001;
Eff. August 1, 2002;
Amended Eff. February 1, 2016; November 1, 2015; January 1, 2015; January 1, 2006.

12 NCAC 09G .0309 is proposed for amendment as follows:

12 NCAC 09G .0309 TERMS AND CONDITIONS OF GENERAL INSTRUCTOR CERTIFICATION

(a) An applicant meeting the requirements for certification as a general instructor shall, for the first 12 months of certification, be in a probationary status. The General Instructor Certification, Probationary Status, shall automatically expire 12 months from the date of issuance.

(b) The probationary instructor shall be eligible for ~~full~~ general instructor status if the instructor, through application at the end of the probationary period, submits to the ~~Commission:~~ Commission a favorable recommendation from a School Director or In-Service Training Coordinator accompanied by a certification on a Commission Instructor Evaluation Form F-16 that the instructor taught a minimum of eight hours in Commission-accredited basic training course or Commission-recognized in-service training course during the probationary period. The instructor shall achieve a minimum of 64 points on all instruction evaluations submitted to the Commission. The Commission Instructor Evaluation Form F-16 is located on the agency's website: http://www.ncdoj.gov/getdoc/c2eba6aa-12bc-4303-bf4b-5fa0431ef5a1/F-16-6-11.aspx.

~~(1) a favorable recommendation from a School Director accompanied by certification on a Commission Instructor Evaluation Form that the instructor successfully taught a minimum of twelve hours in a Commission-certified course or a Commission-recognized in-service training course during the probationary year. The results of the students' evaluation of the instructor must be considered by the School Director when determining recommendation; or~~

~~(2) a written evaluation by a staff member, based on an on-site classroom evaluation of the probationary instructor in a Commission-certified course or a Commission-recognized in-service training course. Such evaluation shall be certified on a Commission Instructor Evaluation Form. In addition, instructors evaluated by a staff member must also teach a minimum of twelve hours in a Commission-certified training course or a Commission-recognized in-service training course.~~

(c) The term of certification as a general instructor is ~~three years from the date the Commission issues the certification.~~ indefinite, provided the instructor completes during each calendar year a minimum of one hour of instructor refresher training provided by North Carolina Justice Academy. The Standards Division shall post on its website on January 1 of the current year the list of instructors who have met this requirement during the previous calendar year. ~~The certification may subsequently be renewed by the Commission for three year periods. The application for renewal shall contain, in addition to the requirements listed in 12 NCAC 09G .0308, documentary evidence indicating that the applicant has remained active in the instructional process during the previous three year period. Such documentary evidence shall include the following:~~

~~(1) proof that the applicant has, within the three year period preceding application for renewal, instructed a minimum of 12 hours in a Commission-certified training course or a Commission-recognized in-service training course; and~~

~~(2) either:~~

~~(A) a favorable written recommendation from a School Director accompanied by certification on a Commission Instructor Evaluation Form that the instructor successfully taught a minimum~~

~~of twelve hours in a Commission certified training course or a Commission recognized in-service training course during the three year period of general certification; or~~

~~(B) a written evaluation by a staff member, based on an on-site classroom evaluation of a presentation by the instructor in a Commission certified training course or a Commission-recognized in-service training course, during the three year period of General Instructor Certification.~~

~~(d) If an instructor does not teach a minimum of 12 hours during the period of certification, the certification shall not be renewed, and the instructor shall file application for General Instructor Certification, Probationary Status. Such applicants shall be required to meet the minimum requirements of 12 NCAC 09G .0308 of this Section.~~

~~(e) All instructors shall have 90 days from the date of the expiration of their instructor certification to submit an application for renewal along with documentation of having met the minimum requirements of Paragraph (c) of this Rule during the previous certification period. The prescribed 90 day period shall not extend the instructor certification period beyond its specified expiration period. If the renewal application is not submitted within 90 days following the expiration of the previous certification, the applicant will be required to meet the minimum requirements for general instructor certification as specified in Rule .0302 of this Section.~~

(d) If the instructor fails to complete the instructor refresher training specified in Paragraph (c) of this Rule, he or she shall deliver eight hours of evaluated instruction in a Commission-accredited basic or Commission-recognized training course, and complete the instructor refresher training specified in Paragraph (c) of this Rulewithin 60 days.

(e) If an instructor fails to complete the requirements of Paragraph (d) of this Rule, the certification period for the instructor shall cease, and the instructor shall be required to complete the requirements of Rule 09G .0308 of this Section in order to obtain probationary instructor status.

(f) "Commission-recognized in-service training" shall mean training meeting the following requirements:

(1) training is taught by an instructor certified by the Commission;

(2) training utilizes a lesson plan authored in the Instructional Systems Design format;and

(3) completion of training shall be demonstrated by a passing score on a written test as follows:

(A) a written test comprised of at least five questions per credit shall be developed by the agency or the North Carolina Justice Academy for each in-service training topic requiring testing. Written courses that are more than four credits in length are required to have a written test comprising of a minimum of 20 questions. The Firearms Training and Qualifications in-service course is exempt from this written test requirement;

(B) a student shall pass each test by achieving 70 percent correct answers; and

(C) a student who completes a topic of in-service training in a traditional classroom setting or online and fails the end of topic exam shall be given one attempt to re-test. If the student fails the exam a second time, the student shall complete the in-service training topic in a traditional classroom setting before taking the exam a third time.

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

Temporary Adoption Eff. January 1, 2001;

Eff. August 1, 2002;

Amended Eff. June 1, 2012; August 1, 2006; January 1, 2006.

12 NCAC 09G .0311 is proposed for amendment as follows:

12 NCAC 09G .0311 TERMS AND CONDITIONS OF SPECIALIZED INSTRUCTOR CERTIFICATION

(a) An applicant meeting the requirements for Specialized Instructor Certification shall be issued a certification to expire three years from the date of issuance. ~~run concurrently with the existing General Instructor Certification.~~ The applicant must apply for certification as a specialized instructor within 60 days from the date of completion of a specialized instructor course.

~~(b) The terms of certification as a specialized instructor shall be determined by the expiration date of the existing General Instructor Certification. The following requirements shall apply during the initial period of certification~~:

~~(1)~~(b) Where certifications for both General Probationary Instructor and Specialized Instructor are issued on the same date, the instructor shall ~~only~~ be required to ~~satisfy the teaching requirement for the general probationary instructor certification.~~ instruct within 36 months, a minimum of 12 hours in each of the topics for which Specialized Instructor Certification was granted and that instruction was provided in a Commission-accredited basic training, Specialized Instructor Training, Commission-recognized in-service training course, or training course delivered pursuant to 12 NCAC 10B .0601, .1302, or .2005. The instructor may satisfy the teaching requirement for the General Probationary Instructor certification by teaching any specialized topic for which certification has been issued;

~~(2)~~(c) When Specialized Instructor Certification is issued during an existing period of General Probationary Instructor ~~Certification, either probationary status or full general status,~~ Certification the specialized instructor may satisfy the teaching requirement for the General Probationary Certification by teaching the specialized subject for which certification has been issued;

~~(3) where Specialized Instructor Certification becomes concurrent with an existing active period of General Instructor Certification, and there are 12 months or more until the certifications' expiration date, the instructor must teach 12 hours for each specialized topic for which certification has been issued; and~~

~~(4) where Specialized Instructor Certification becomes concurrent with an existing active period of General Instructor Certification, and there are fewer than 12 months until the certification expiration date, the instructor is not required to teach any hours for the specialized subject.~~

~~(c)~~(d) The term of certification as a specialized instructor shall not exceed ~~the~~ 36 ~~month period of full General Instructor Certification.~~ months. ~~The certification may subsequently be renewed by the Commission at the time of renewal of the full General Instructor Certification.~~ The application for renewal shall contain, in addition to the requirements listed in Rule .0310 of this Section, documentary evidence that the applicant has remained active in the instructional process during the previous three-year period. Such documentary evidence shall include ~~proof that the applicant has, within the three-year period preceding application for renewal, instructed at least 12 hours in each of the topics for which the Specialized Instructor Certification was granted and that instruction was provided in a Commission certified Commission accredited training course or a Commission recognized in service training course. Acceptable documentary~~

~~evidence shall include official Commission records submitted by School Directors and written certification from a School Director and either of~~ the following:

(1) proof that the applicant has, within the three-year period preceding application for renewal, instructed ~~a favorable written recommendation from a School Director accompanied by certification that the instructor successfully taught~~ at least 12 hours in each of the topics for which Specialized Instructor Certification was granted and that instruction was provided ~~Such teaching must have occurred~~ in a ~~Commission certified~~ Commission-accredited basic ~~training course or~~ training, Specialized Instructor Training, or a Commission-recognized in-service training ~~course during the three year period of Specialized Instructor Certification; or~~ course. Acceptable documentary evidence shall include official Commission records submitted by School Directors or In-Service Training Coordinators and written certification from a School Director or In-Service Training Coordinator;

(2) proof that the applicant has, within the three-year period preceding application for renewal, attended and completed any instructor updates that have been issued by the Commission. Acceptable documentary evidence shall include official Commission records submitted by School Directors or In-Service Training Coordinators, or copies of certificates of completion issued by the institution which provided the instructor updates; and

(A) a favorable written recommendation from a School Director or In-Service Training Coordinator completed on a Commission Renewal of Instructor and Professional Lecturer Certification Form that the instructor taught at least 12 hours in each of the topics for which Specialized Instructor Certification was granted. Such teaching shall have occurred in a Commission-accredited basic training, Specialized Instructor Training course, pursuant to Rule 09G .0310 of this Section, or Commission-recognized in-service training course;

(B) a favorable written evaluation by a School Director, In-Service Training Coordinator, or another instructor certified in the same specialized subject, based on an on-site classroom evaluation of a presentation by the instructor in a Commission-accredited basic ~~training course or a~~ training, Specialized Instructor Training, or Commission-recognized in-service training course, during the three-year period of Specialized Instructor Certification. Such evaluation shall be certified on a Criminal Justice Instructor Evaluation Form F-16, located on the agency's website: http://www.ncdoj.gov/getdoc/c2eba6aa-12bc-4303-bf4b-5fa0431ef5a1/F-16-6-11.aspx.

(C) has met the requirement set forth in 09G .0309(c) of this Section.

~~(d) Any specialized instructor training courses previously accepted by the Commission for purposes of certification shall no longer be recognized if the instructor does not successfully teach at least 12 hours in each of the specialized topics during the three-year period for which certification was granted. Upon application for re-certification, such applicants shall be required to meet the requirements of Rule .0310 of this Section.~~

(e) The use of guest participants in a delivery of a Commission-mandated training course pursuant to this Section shall be permissible. However, such guest participants are subject to the on-site supervision of a Commission-certified

instructor and shall be authorized by the School Director. A guest participant shall be used only to complement the primary certified instructor of the block of instruction and shall in no way replace the primary instructor.

History Note: *Authority G.S. 17C-6;*
Temporary Adoption Eff. January 1, 2001;
Eff. August 1, 2002;
Amended Eff. May 1, 2014; June 1, 2012; January 1, 2006.

12 NCAC 09G .0312 is proposed for amendment as follows:

12 NCAC 09G .0312 INSTRUCTOR CERTIFICATION RENEWAL

(a) Individuals who hold ~~General Instructor Certification or~~ Specialized Instructor Certification may, for just cause, be granted an extension of the three year period to ~~successfully~~ teach the 12 hour minimum ~~requirement.~~ requirement, pursuant to Rule .0311(c) of this Section. The Director of the Standards Division may grant such extensions on a one-time basis only not to exceed 12 months. For purposes of this Rule, just cause means accident, illness, emergency, course cancellation, or other exceptional circumstances which precluded the instructor from fulfilling the teaching requirement.

(b) The Director of the Standards Division may, for just cause, grant an extension of the 90 day period in which an instructor's renewal application must be submitted as specified in 12 NCAC 09G ~~.0309(c).~~ .0311(c). Such extension, however, shall not exceed 12 months and shall not extend the instructor's certification period beyond its specified expiration period.

History Note: *Authority G.S. 17C-6;*
Temporary Adoption Eff. January 1, 2001;
Eff. August 1, 2002;
Amended Eff. August 1, 2006; January 1, 2006.

12 NCAC 09B .0403 is proposed for amendment as follows:

12 NCAC 09B .0403 EVALUATION FOR TRAINING WAIVER

(a) The Standards Division staff shall evaluate each law enforcement officer's training and experience to determine if equivalent training has been completed as specified in Rule .0402(a) of this Section. Applicants for certification with prior law enforcement experience shall have been employed in a full-time, sworn law enforcement position in order to be considered for training evaluation under this Rule. Applicants for certification with a combination of full-time and part-time experience shall be evaluated on the basis of the full-time experience only. The following criteria shall be used by Standards Division staff in evaluating a law enforcement officer's training and experience to determine eligibility for a waiver of training requirements:

(1) Persons having completed a Commission-accredited basic training program and not having been duly appointed and sworn as a law enforcement officer within one year of completion of the program shall complete a subsequent Commission-accredited basic training program, as prescribed in Rule .0405(a) of this Section, and achieve a passing score on the State Comprehensive Examination prior to obtaining probationary law enforcement certification, unless the Director determines that a delay in applying for certification was not due to neglect on the part of the applicant, in which case the Director may accept a Commission-accredited basic training program that is over one year old. The extension of the one year period shall not exceed 30 days from the first year anniversary of the passing of the state comprehensive examination;

(2) Out-of-state transferees shall be evaluated to determine the amount and quality of their training and experience. Out-of-state transferees shall not have a break in service exceeding one year. At a minimum, out-of-state transferees shall have two years' full-time, sworn law enforcement experience and have completed a basic law enforcement training course accredited by the transferring State. Prior to employment as a certified law enforcement officer, out-of-state transferees must complete with a passing score the employing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E .0106. At a minimum, out-of-state transferees shall complete the Legal Unit in a Commission-accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1) of this Subchapter and shall achieve a passing score on the State Comprehensive Examination within the 12 month probationary period;

(3) Persons who have completed a minimum 369-hour basic law enforcement training program accredited by the Commission under guidelines administered beginning October 1, 1984 and have been separated from a sworn position for over one year but less than three years who have had a minimum of two years' experience as a full-time, sworn law enforcement officer in North Carolina shall complete the Legal Unit in a Commission-accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1) of this Subchapter, and shall achieve a passing score on the State Comprehensive Examination within the 12 month probationary period. Prior to employment as a certified law enforcement officer, these persons shall complete with a passing

score the employing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E;

(4) Persons out of the law enforcement profession for over one year but less than three years who have had less than two years' experience as a full-time, sworn law enforcement officer in North Carolina shall complete a Commission-accredited basic training program, as prescribed in Rule .0405(a) of this Section, and achieve a passing score on the State Comprehensive Examination;

(5) Persons out of the law enforcement profession for over three years regardless of prior training or experience shall complete a Commission-accredited basic training program, as prescribed in Rule .0405(a) of this Section, and shall achieve a passing score on the State Comprehensive Examination;

(6) Persons who separated from law enforcement employment during their probationary period after having completed a Commission-accredited basic training program and who have separated from a sworn law enforcement position for more than one year shall complete a subsequent Commission-accredited basic training program and achieve a passing score on the State Comprehensive Examination;

(7) Persons who separated from a sworn law enforcement position during their probationary period after having completed a Commission-accredited basic training program and who have separated from a sworn law enforcement position for less than one year shall serve a new 12 month probationary period as prescribed in Rule .0401(a) of this Section, but need not complete an additional training program;

(8) Persons who have completed a minimum 160-hour basic law enforcement training program accredited by the North Carolina Criminal Justice Training and Standards Council under guidelines administered beginning on July 1, 1973 and continuing through September 30, 1978 and who have separated from a sworn law enforcement position for over one year but less than two years shall be required to complete the Legal Unit and the topical area entitled "Law Enforcement Driver Training" of a Commission-accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1) and .0205(b)(5)(C) of this Subchapter and achieve a passing score on the State Comprehensive Examination within the 12 month probationary period;

(9) Persons who have completed a minimum 160-hour basic law enforcement training program accredited by the North Carolina Criminal Justice Training and Standards Council under guidelines administered beginning on July 1, 1973 and continuing through September 30, 1978 and have been separated from a sworn law enforcement position for two or more years shall be required to complete a Commission-accredited basic training program, as prescribed in Rule .0405 of this Section regardless of training and experience and shall achieve a passing score on the State Comprehensive Examination;

(10) Persons who have completed a minimum 240-hour basic law enforcement training program accredited by the Commission under guidelines administered beginning October 1, 1978 and

continuing through September 30, 1984 and have been separated from a sworn position over one year but less than three years shall be required to complete the Legal Unit in a Commission-accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1) of this Subchapter and achieve a passing score on the State Comprehensive Examination within the 12 month probationary period;

(11) Persons previously holding law enforcement certification in accordance with G.S. 17C-10(a) who have been separated from a sworn law enforcement position for over one year and who have not previously completed a minimum basic training program accredited by either the North Carolina Criminal Justice Training and Standards Council or the Commission shall complete a Commission-accredited basic training program, as prescribed in Rule .0405 of this Section, and shall achieve a passing score on the State Comprehensive Examination prior to employment;

(12) Persons who have completed training as a federal law enforcement officer and are candidates for appointment as a sworn law enforcement officer in North Carolina shall be required to complete a Commission-accredited basic training program, as prescribed in Rule .0405 of this Section, and shall achieve a passing score on the State Comprehensive Examination;

(13) Applicants with part-time experience who have a break in service in excess of one year shall complete a Commission-accredited basic training program, as prescribed in Rule .0405 of this Section, and achieve a passing score on the State Comprehensive Examination prior to employment;

(14) Applicants who hold or previously held certification issued by the North Carolina Sheriffs' Education and Training Standards Commission (Sheriffs' Commission) shall be subject to evaluation based on the applicant's active or inactive certification status with the Sheriffs' Commission. ~~of their prior training and experience on an individual basis.~~ A deputy sheriff certified with the Sheriffs' Commission is considered active if he or she has performed any law enforcement function in the previous 12 months. A deputy sheriff certified with the Sheriffs' Commission is considered inactive if he or she has not performed a law enforcement function within the previous 12 months. ~~The Standards Division staff shall determine the amount of training required of these applicants, based upon:~~

~~(A) the active or inactive status held by the applicant;~~

~~(B) the amount of time served in an active status during the year immediately prior to application for certification by the Commission;~~

~~(C) the length of any break in the applicant's service; and~~

~~(D) whether the applicant has completed mandatory in-service training for each year his or her certification was held by the Sheriffs' Commission.~~

(A) The Standards Division shall issue certification to an applicant holding active general certification with the Sheriffs' Commission provided the applicant:

(i) Does not have a break in service of greater than 12 months;

(ii) Has completed the mandatory in-service training requirements pursuant to 12 NCAC 10B .2005 for each year certification was held; and

(iii) Held active status with the Sheriffs' Commission within 12 months of the date the applicant achieved a passing score on the Basic Law Enforcement Training state comprehensive examination.

(B) The Standards Division shall issue certification to an applicant holding inactive certification with the Sheriffs' Commission provided the applicant:

(i) Holds inactive probationary or general certification with the Sheriffs' Commission;

(ii) Has served a minimum of 24 months full-time, sworn service, or does not has a break in service of greater than 12 months;

(iii) Has completed the mandatory in-service training requirements pursuant to 12 NCAC 10B .2005, with the exception of Firearms Training and Requalification, during each year certification was held; and

(iv) Held active status with the Sheriffs' Commission within 12 months of the date the applicant achieved a passing score on the Basic Law Enforcement Training state comprehensive examination.

(C) An applicant awarded certification with the Sheriffs' Commission by means of the Sheriffs' Standards BLET Challenge as prescribed in 12 NCAC 10B .0505(9)(b) shall meet the following requirements in order to obtain probationary certification from the Commission:

(i) Have a minimum of 24 months sworn, full-time law enforcement service;

(ii) Not have a break in service of greater than 12 months; and

(iii) Have completed all mandatory in-service requirements pursuant to 12 NCAC 10B .0505 during the previous 2 years.

(D) An applicant defined as a criminal justice officer, as defined in G.S. 17C-2(3), who are elected Sheriff, shall not be required to maintain certification with the Sheriffs' Commission for the time period he or she serves as Sheriff. The applicant's certification shall be reinstated by the Commission upon the conclusion of the period of service as a Sheriff, and in conformance with 12 NCAC 09C .0303.

(15) Alcohol law enforcement agents who received basic alcohol law enforcement training prior to November 1, 1993 and transfer to another law enforcement agency in a sworn capacity shall be subject to evaluation of their prior training and experience on an individual basis. The Standards Division staff shall determine the amount of training required of these applicants, based upon the type of certification held by the applicant and the length of any break in the applicant's sworn, full-time service.

(16) Wildlife enforcement officers who separate from employment with the Wildlife Enforcement Division and transfer to another law enforcement agency in a sworn capacity shall be subject to evaluation of their prior training and experience on an individual basis. The Standards Division staff shall determine the amount of training required of these applicants, based upon the type of certification held by the applicant and the length of any break in the applicant's sworn, full-time service.

(17) Active duty, guard, or reserve military members failing to complete all of the required annual in-service training topics, as defined in 12 NCAC 09E .0105, of this Chapter, due to military obligations, are subject to the following training requirements as a condition for return to active criminal justice status. The agency head shall verify the person's completion of the appropriate training by submitting a statement, on Form F-9C, Return to Duty Request form. This form is located on the agency's website: http://www.ncdoj.gov/getdoc/ac22954d-5e85-4a33-87af-308ba2248f54/F-9C-6-11.aspx.

(A) Active duty members of the armed forces eligible for probationary certification pursuant to Paragraph (18) of this Rule, and active duty, guard, or reserve military members holding probationary or general certification as a criminal justice officer who fail to complete all of the required annual in-service training topics due to military obligations for up to a period of three years, shall complete the previous year's required in-service training topics, the current year's required in-service training topics, and complete with a passing score the appointing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E prior to their return to active criminal justice status;

(B) Active, guard or reserve military members holding probationary or general certification as a criminal justice officer who fail to complete all of the required annual in-service training topics due to military obligations for a period greater than three years shall complete the following topic areas within the following time frames:

(i) The person shall complete the previous year's required in-service training topics, the current year's required in-service training topics, and complete the appointing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E prior to their return to active criminal justice status;

(ii) The person shall achieve a passing score on the practical skills testing for the First Responder, Law Enforcement Driver Training, and Subject Control Arrest Techniques topics enumerated in Rule .0205(b)(5) of this Subchapter prior to return to active criminal justice status. This practical skills testing may be completed either in a Commission-accredited Basic Law Enforcement Training course or under the instruction of a [Commission-certified] instructor for that particular skill. The person shall complete one physical fitness assessment in

lieu of the Fitness Assessment and Testing topic. The person must also be examined by a physician per Rule .0104(b) of this Subchapter; and

(iii) The person shall complete some of the topics in the legal unit of instruction in the Basic Law Enforcement Training course as set forth in Rule .0205(b)(1) of this Subchapter. The required topics include Motor Vehicle Law; Juvenile Laws and Procedures; Arrest, Search and Seizure/Constitutional Law; and ABC Laws and Procedures. The person shall achieve a passing score on the appropriate topic tests for each course delivery. The person may undertake each of these legal unit topics of instruction either in a Commission-accredited Basic Law Enforcement Training course or under the instruction of a Commission certified instructor for that particular topic of instruction. The person shall have 12 months from the beginning of his or her return to active criminal justice status to complete each of the enumerated topics of instruction.

(18) An active duty member of the armed forces who completes the basic training course in its entirety as prescribed in Rule .0405 of this Subchapter, and annually completes the mandatory in-service training topics as prescribed in Rule 9E .0105 of this Chapter, with the exception of the Firearms Qualification and Testing requirements contained in Paragraph (a)(1) of Rule 9E .0105 of this Subchapter for each year subsequent to the completion of the basic training course and achieves a passing score on the state comprehensive examination as prescribed in Rule .0406 of this Subchapter within five years of separating from active duty status, shall be eligible for probationary certification as prescribed in Rule 9C .0303 of this Chapter for a period of 12 months from the date he or she separates from active duty status in the armed forces. All mandatory in-service training topics as prescribed in Rule 9E .0105 of this Chapter must be completed by the individual prior to receiving probationary certification as prescribed in Rule 9C .0303 of this Chapter.

(b) In the event the applicant's prior training is not equivalent to the Commission's standards, the Commission shall prescribe as a condition of certification supplementary or remedial training to equate previous training with current standards.

(c) Where certifications issued by the Commission require satisfactory performance on a written examination as part of the training, the Commission shall require the examinations for the certification.

(d) In those instances not incorporated within this Rule or where an evaluation of the applicant's prior training and experience determines that required attendance in the entire Basic Law Enforcement Training Course would be impractical, the Director of the Standards Division is authorized to exercise his or her discretion in determining the amount of training those persons shall complete during their probationary period.

(e) The following criteria shall be used by Standards Division staff in evaluating prior training and experience of local confinement personnel to determine eligibility for a waiver of training requirements:

(1) Persons who hold probationary, general, or grandfather certification as local confinement personnel and separate after having completed a Commission-accredited course as prescribed in Rule .0224 or .0225 of this Subchapter and have been separated for one year or more shall complete a subsequent Commission-accredited training course and achieve a passing score on the State Comprehensive Examination during the probationary period as prescribed in Rule .0401(a) of this Section;

(2) Persons who separated from a local confinement personnel position after having completed a Commission-accredited course as prescribed in Rule .0224 or .0225 of this Subchapter and who have been separated for less than one year shall serve a new 12 month probationary period, but need not complete an additional training program;

(3) Applicants who hold or previously held "Detention Officer Certification" issued by the North Carolina Sheriffs' Education and Training Standards Commission shall be subject to evaluation of their prior training and experience on an individual basis. No additional training shall be required where the applicant obtained certification and successfully completed the required 120 hour training course, and has not had a break in service in excess of one year; and

(4) Persons holding certification for local confinement facilities who transfer to a district or county confinement facility shall complete the course for district and county confinement facility personnel, as adopted by reference in Rule .0224 of this Subchapter, and achieve a passing score on the State Comprehensive Examination during the probationary period as prescribed in Rule .0401(a) of this Section.

History Note: *Authority G.S. 17C-2; 17C-6; 17C-10; 93B-15.1*
Eff. January 1, 1981;
Amended Eff. October 1, 2016; November 1, 2014; August 1, 2000; November 1, 1993; March 1, 1992; July 1, 1989; February 1, 1987.