

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

AGENCY: Department of Public Safety

RULE CITATION: All Rules

**DEADLINE FOR RECEIPT: Friday, January 13, 2023.**

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

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

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

*Ensure compliance with defined words, primarily those found in 14B NCAC 03 .0401. In many rules, you depart from the form of the term used in your definitions rule, either using a different term or different abbreviation. As an example, see "North Carolina Search and Rescue System" and reference being made to the "NC Search and Rescue Program" in 14B NCAC 03 .0410. If a phrase, entity, person, or other word is defined or abbreviated, that definition or abbreviation must be used later, depending upon the definition or abbreviation's applicability.*

*All uses of "NC" or any other shortened phrase without an appropriate abbreviation being stated beforehand should be spelled out in its entirety on the first use. For example, 14B NCAC 03 .0402 (10) and (11) and 14B NCAC 03 .0404 "FEMA ICS and NIMS".*

*Please capitalize "state" when referring only to the State of North Carolina.*

*Change all instances of "must" to "shall."*

*Please change your effective dates, as February 1, 2023 is the earliest possible effective date for these rules.*

*Throughout these Rules, I believe you've incorrectly applied G.S. 150B-21.6. You do not need to incorporate other rules or statutes by reference. However, you do need to incorporate by reference federal laws or regulations, the FEMA documents referenced in some of your rules, and other sources of information that you're attempting to enforce through these rules. Please revisit your incorporations and any other location where you're referencing outside material and revise accordingly. Further, please remember that G.S. 150B-21.6 requires you to state where the material is available and at what cost.*

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 1/5/23

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

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 03 .0401

**DEADLINE FOR RECEIPT: Friday, January 13, 2023.**

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

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

*In general, is this Rule necessary? We generally discourage the use of purpose or scope rules.*

*In (a), line 7, I believe "Department of Public Safety" should be possessive: "...the North Carolina Department of Public Safety's Division of Emergency Management...."*

*In (b), what "other participants" are being referenced? Is this defined? Does this encompass all involved entities, such as "Contract Response Teams" or "Participating Agencies", or perhaps all persons or entities made parties pursuant to G.S. 166A-66(a)(9)?*

*In (b), line 9, is it necessary to say "North Carolina Division of Emergency Management"? Earlier you say the "North Carolina Department of Public Safety Division of Emergency Management."*

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 1/5/23

1 14B NCAC 03 .0401 is adopted as published in 37:04 NCR 320 as follows:  
2

3 **SECTION .0400 – NORTH CAROLINA SEARCH AND RESCUE PROGRAM**  
4

5 **14B NCAC 03 .0401 PURPOSE**

6 (a) The purpose of this section is to prescribe requirements pertaining to the North Carolina Department of Public  
7 Safety Division of Emergency Management administered North Carolina Search and Rescue Program.

8 (b) This section applies to Sponsoring Agencies and other participants in the North Carolina Search and Rescue  
9 Program that have executed agreements administered by the North Carolina Division of Emergency Management.

10  
11 *History Note: Authority G.S. 166A-66;*  
12 *Eff. January 1, 2023.*  
13

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

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 03 .0402

**DEADLINE FOR RECEIPT: Friday, January 13, 2023.**

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

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

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

*All definitions should be formatted as “(Definition)” means (explanation). Please change all definitions to mirror the format for clarity.*

*Also, (3), (8), and (22) are terms defined in G.S. 166-65. To the extent that the definitions in the Rule differ from the statutory definitions, please explain whether you are expanding or narrowing the definition.*

*On line 4, I believe you meant to say “As used in this Section...”*

*In (1), what are “resources” and how do they “provide all applicable capability...”? “Resources” here seems to reference persons, while Article 1A, Part 2, Article 4, and Article 6 do not define “resources” but do use it in the context of things, rather than persons. Is this a reference to “System Resources” in item (28)?*

*In (1), “threats” in line 6 should be singular.*

*In (1), what does “has the potential to impact the State” mean? Who makes this determination?*

*In (2), you are using the term defined—“authority”—in the definition. Please rephrase.*

*In (2), what is “response authority”?*

*In (3), you do not need to incorporate the statute by reference here. Simply referencing it will suffice (i.e. delete everything between “which is adopted” and “pursuant to G.S. 150B-21.6”).*

*In (3), you are again using the term defined—“contract response team”—in the definition. The definition here, when boiled down, basically says a contract response team is a contract response team with self sustaining logistical support that can*

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Date submitted to agency: 1/5/23

*respond to disasters. The only unique term here is “self sustaining logistical support” which is undefined. Please revise.*

*The definition in (4) needs more specificity. Similarly to (1), what “resource” is being “shared”? Also, what is the “NC Statewide Mutual Aid Agreement”? Consider incorporating by reference.*

*In (5), line 19, who determines when the disaster “overwhelms” the resources of local and State authorities?*

*The definition of (7) has large portions which say how the ICS is used and give examples of an ICS, rather than actually saying what the ICS is. Please revise.*

*With respect to (7), in Rule .0404(1), you refer to “FEMA ICS”, rather than just “ICS”. Is this the same thing? Is ICS defined somewhere in FEMA’s regulations? If so, I think an incorporation by reference here might be necessary.*

*In (7), line 23, you state that an ICS is “standardized.” Are these FEMA standards? (See above). Also, what is a “standardized[,] on-scene emergency management construct”? What is a “construct” in this usage?*

*In (8), the definition of “Incident Support Team” is already done by statute, which is not referenced here. Please reference the statute.*

*In (8), line 32, the phrase “...assist local and State emergency management **in management...**” is redundant. Please revise.*

*In (9), what is a “County Emergency Management Coordinator”? Is this pursuant to G.S. 166A-19.15 or another statute?*

*In (9), line 36, when you say “specific geographic area” do you mean “county”?*

*In (10), lines 1-2, is “The North Carolina Emergency Management program” the same as the “State Emergency Management Program” established in G.S. 166A-19.10? Also, ensure this complies with (14)’s requests.*

*In (10), line 3, what are “incident management requirements”?*

*Similarly to above requests, in (11), does “resources” or “Resource” mean something beyond “System Resources” in (28)?*

*Also, in (11), line 5, what “resource typing definitions” are being referenced? What “definitions”? Consider revising the definition to include the second sentence’s purpose within the definition itself and avoid non-definitional substance.*

*In (11), line 6, I believe “defines” should be singular.*

*In (12), what is the “North Carolina Search and Rescue System”? G.S. 166A-66 establishes the “North Carolina Search and Rescue Program” in Article 6. Is this a mistake or oversight? Correct the abbreviation and all references in later rules.*

*Also, the definition in (12) appears to include two mistakes: (1) the Committee is tasked to advise the Secretary, based on G.S. 166A-69(d) and does not mention the Division of Emergency Management; and (2) the “search and rescue system” should be the “North Carolina Search and Rescue Program”, which needs to be accurately stated and as a proper noun.*

*Similarly, in (13), what is the “North Carolina Search and Rescue Technical Advisory Committee”? G.S. 166A-69 establishes the “North Carolina Search and Rescue Team Advisory Committee” in Article 6. Is this a mistake or oversight? Correct the abbreviation and all references in later rules.*

*In (14), what is the “North Carolina Emergency Management”? Does the agency mean the “Division of Emergency Management” as is found in G.S. 166A-19.3(4) and as is referenced in item (27) of this Rule? The proper name, especially when established by statute, should be used.*

*In (14), line 15, who determines whether an emergency “could occur”? What is the standard for whether an emergency “could occur”.*

*In (15), is the “Assistant Director” different from the “Deputy Director” as is found in G.S. 166A-69? Why is different terminology used?*

*In (17), what are the “principles” and how do they “guid[e] government agencies”?*

*In (17), line 20, “provides” should be singular.*

*In (18), line 25, is it necessary to say “paid or unpaid”?*

*In (18), line 25, what are the parameters of acting as an “agent of” a sponsoring or participating agency?*

*In (18), line 26, I believe you need to add “of” between “or” and “the”.*

*Also, ensure the correct abbreviations are used for the Division and Program, and the Sponsoring Agency and Participating Agency are used as they are defined in this Rule.*

*In (20), who makes the determination whether someone caused an event?*

*In (20), the sentence ends without an object. “The entity whose actions... caused an event requiring search and rescue resources” ... to do what?*

*Also, rewrite “search and rescue system resources” to be more specific. Presumably, the Department is referencing both the “North Carolina Search and Rescue Program” and “System Resources” which are defined in this Rule and should be used as such.*

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Commission Counsel

Date submitted to agency: 1/5/23

*In (21), does Chapter 132 (Public Records Act) come into play here?*

*In (21), line 32, it is not necessary to state “but not limited to” after using “include” or “including”.*

*In (21), line 33, insert a comma after “recordings” and consider “obtained” rather than “gained” to more accurately reflect receipt of the information.*

*Also, in (21), line 33, is “search and rescue operation” defined?*

*In (21), line 34, the “authority having jurisdiction” was previously abbreviated. Please use the abbreviation.*

*In (22), line 35, again you’re using the term being defined—“specialty rescue team”—in the definition. Please revise.*

*In (22), line 35, I believe “provided” should be “provide”.*

*In (23), lines 1-2, what is an “active response agreement”?*

*In (23) and in (24), ensure proper reference to the Search and Rescue System as abbreviated in (12).*

*In (24), lines 5-6, what is “North Carolina Emergency Management”?*

*In (24), what kind of “assistance” does the Department mean? System Resources?*

*In (25), what type of “document” does the Department mean? Is there anything specifically required to satisfy it as a “document”?*

*In (25), line 7, I think there is a verb missing between “document” and “under”. Please revise.*

*In (25), line 9, what is “an established[,] comprehensive, all-hazards approach”? Is this an All-hazards Disaster Response Model as used in (1)?*

*In (26), ensure proper reference to (12) and (14).*

*In (27), lines 12 and 14, again you’re using the term defined—“personnel”—in the definition for System Personnel.*

*In (28), similarly to (23), what is an “active response agreement”?*

*Also, in (28), ensure proper reference to (14).*

*In History Note: Authority, consider adding G.S. 166A-67 for contracting authority and G.S. 166A-69 for the Search and Rescue Team Advisory Committee.*

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 1/5/23

1 14B NCAC 03 .0402 is adopted as published in 37:04 NCR 320-321 as follows:

2  
3 **14B NCAC 03 .0402 ABBREVIATIONS AND DEFINITIONS**

4 As used in this the following abbreviations and terms mean:

- 5 (1) All-hazards Disaster Response Model – a response methodology where resources provide all  
6 applicable capability to respond to any threats or hazard that is impacting the state or has the  
7 potential to impact the state.
- 8 (2) Authority Having Jurisdiction (AHJ) - means those local, state, or federal entities having response  
9 authority to act over a specific aspect of search and rescue in a specific geographic area.
- 10 (3) Contract Response Team – A regional all-hazards disaster response contract response team as  
11 defined in G.S. 166A-65 which is adopted and incorporated by reference with subsequent changes  
12 or amendments pursuant to G.S. 150B-21.6 with self-sustaining logistical support allowing for  
13 responses into disaster areas.
- 14 (4) County to County Mutual Aid – Resource sharing between county public safety resources under the  
15 conditions of the NC Statewide Mutual Aid Agreement or another similar agreement between local  
16 governments.
- 17 (5) Federal Emergency Management Agency (FEMA) – is an agency of the United States Department  
18 of Homeland Security with the responsibility to coordinate the response to a Presidentially-declared  
19 disasters that has occurred in the United States and that overwhelms the resources of local and state  
20 authorities.
- 21 (6) FEMA Public Assistance Program – is a federal reimbursement grant program that provides federal  
22 funding to help communities respond to and recover from disasters.
- 23 (7) Incident Command System (ICS) - A standardized on-scene emergency management construct  
24 specifically designed to provide an integrated organizational structure that reflects the complexity  
25 and demands of single or multiple incidents, without being hindered by jurisdictional boundaries.  
26 The Incident Command System is the combination of facilities, equipment, personnel, procedures,  
27 and communications operating within a common organizational structure, designed to aid in the  
28 management of resources during incidents. ICS is used for all kinds of emergencies and is applicable  
29 to small as well as large and complex incidents. ICS is used by various jurisdictions and functional  
30 agencies, both public and private, to organize field-level incident management operations.
- 31 (8) Incident Support Team (IST) – A group of search and rescue experts who assist local and state  
32 emergency management in management and support of deployed search and rescue system  
33 resources.
- 34 (9) Local Emergency Management Coordinator (LEMC) – The County Emergency Management  
35 Coordinator who is responsible for all local disaster preparedness, response, and recovery activities  
36 in a specific geographic area.

- 1           (10)   NC All-Hazards Incident Management Team (NCAHIMT) – The North Carolina Emergency  
2           Management program responsible for supporting local and state incident management requirements  
3           in local and state disaster response activities.
- 4           (11)   NC Resource Typing – A document defining and categorizing, by capability, the resources  
5           requested, deployed, and used in incidents. Resource typing definitions establish a common  
6           language and defines a resource's minimum capabilities for equipment, teams, and units.
- 7           (12)   North Carolina Search and Rescue System (NC SAR System) – The state search and rescue program  
8           established in Article 6 of Chapter 166A of the North Carolina General Statutes.
- 9           (13)   North Carolina Search and Rescue Technical Advisory Committee (NC SAR TAC) – An advisory  
10          committee established in Article 6 of Chapter 166A of the North Carolina General Statutes to advise  
11          the Secretary of the North Carolina Department of Public Safety and the North Carolina Division of  
12          Emergency Management on the establishment of a search and rescue system.
- 13          (14)   North Carolina Emergency Management (NCEM) - A division of the North Carolina Department  
14          of Public Safety with the responsibility to coordinate the mitigation, planning, preparedness,  
15          response, and recovery to a disaster or emergency that has or could occur in the State.
- 16          (15)   North Carolina Emergency Management Operations Chief (NCEM OSC) – The Assistant Director  
17          of Operations for the North Carolina Division of Emergency Management.
- 18          (16)   North Carolina Emergency Management Director (NCEM Director) – The Director of the North  
19          Carolina Division of Emergency Management.
- 20          (17)   National Incident Management System (NIMS) - A set of principles that provides a systematic,  
21          proactive approach guiding government agencies at all levels, nongovernmental organizations, and  
22          the private sector to work to prevent, protect against, respond to, recover from, and mitigate the  
23          effects of incidents, regardless of cause, size, location, or complexity, to reduce the loss of life or  
24          property and harm to the environment.
- 25          (18)   On-duty – When a person is functioning, paid or unpaid, as an agent of their sponsoring or  
26          participating agency or the NC Division of Emergency Management as part of the NC Search and  
27          Rescue Program.
- 28          (19)   Participating Agency (PA) – An entity that assists a sponsoring agency with the formation of a  
29          search and rescue team by providing personnel or equipment.
- 30          (20)   Responsible Party (RP) – The entity whose actions or inactions caused an event requiring search  
31          and rescue system resources.
- 32          (21)   Sensitive Information – Any information, to include but not limited to audio recordings, images,  
33          and video recordings gained during a search and rescue operation that has not been released to the  
34          public by the authority having jurisdiction.
- 35          (22)   Specialty Rescue Team – A group of response personnel who provided specialized, technical search  
36          and rescue capability.



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

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 03 .0403

**DEADLINE FOR RECEIPT: Friday, January 13, 2023.**

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

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

*Pursuant to 14B NCAC 03 .0402 and above requests, all references to “NC SAR” should be “NC SAR Program”.*

*All references to “NCEM” or “NC Emergency Management” should be double checked to make sure they comply with any changes made to 14B NCAC 03 .0402.*

*In all instances of “System resources” or “qualified resources”, use the full, capitalized construction “System Resources”, unless another construction of the phrase is being used outside the defined term in 14B NCAC 03 .0402(25).*

*In (a), line 5, “all-hazards response model” should be capitalized, assuming it is the same term used in 14B NCAC 03 .0402(1).*

*In (a), lines 5-6, I do not understand the meaning of the sentence “System resources... missing person incidents.” Please rephrase for clarity.*

*While I generally have no objections to relieving human suffering or protecting life, property, or the environment, it appears to me that the language of (a), lines 6-8 goes beyond the statutory boundaries of what a search and rescue team is intended to do. 166A-65(2a) defines a search and rescue team as one that “assist[s] in the removal of trapped victims during emergencies[.]” Is there statutory authority for search and rescue teams organized under Ch. 166A to go beyond this mission?*

*Additionally, in (a), line 8, the rule refers to an “actual or potential threat”. How is this defined, and who determines what is and is not an actual or potential threat?*

*I think the language of (b) is unclear. As I understand it, the NC SAR System is comprised of teams that may be under local control (i.e. a local fire department). Are you saying in (b) that if NCEM deploys a local resource, NCEM controls that resource to the exclusion of the local government? I think this paragraph should be revised for clarity.*

Brian Liebman  
Commission Counsel

Date submitted to agency: 1/5/23

*Does (c) conflict with (b)? The idea that a local resource may deploy under its own authority, and that participation in the NC SAR System does not limit or supersede that local authority seems to be at odds with the idea that NCEM will “maintain direction and control” of a resource that it deploys. I suggest revising to clarify when NCEM has control and when the local authority has control.*

*In (d), line 13, who at “the State” is deploying System Resources? Please revise.*

*In (d)(1), line 16, what are “qualified resources”?*

*In (d)(1), line 18, what is a “team”? Is a “team” a “resource” or “System Resource”?*

*In (d)(1), line 21, what does “activating system resources” mean? If this is akin to deployment, I thought the AHJ made that decision under this model. Please clarify.*

*In (d)(2), line 23, remove the (s) in “barrier(s)” and choose either the singular or plural.*

*In (d)(2), line 24, what is “local . . . coordinated mutual aid”?*

*For both (d)(1) and (2), who chooses between these methods? Further, are there guidelines for choosing one over the other? It is unclear what the triggering event for each is. Only subparagraph (2) partly identifies a triggering event – “State of Emergency”.*

*In (e), line 28, where is the statutory authority for the LEMC to delegate his or her authority? It looks like the LEMC position is created by statute in G.S. 166A-19.15(b), and I don’t see where that provision allows the LEMC to delegate authority. Not saying it isn’t there, but I don’t see it. Please specify.*

*In (e), line 30, use AHJ for “authority having jurisdiction.”*

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



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

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 03 .0404

**DEADLINE FOR RECEIPT: Friday, January 13, 2023.**

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

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

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

*All references to "NCEM" should be double checked to make sure they comply with any changes made to 14B NCAC 03 .0402.*

*In all instances of "system resources" or "resources", use the full, capitalized construction "System Resources", unless another construction of the phrase is being used outside the defined term in 14B NCAC 03 .0402(25).*

*While the title refers to a "Contract Response Team" the first line of the rule broadens to "all search and rescue resources." Please clarify this apparent contradiction.*

*In (1), line 5-6, please state with specificity which FEMA ICS and NIMS standards you are incorporating by reference. Please note that G.S. 150B-21.6 requires you to state where these resources can be obtained and at what cost. Please revise.*

*On line 5, what is "NIMS"? Unless you've included it in the definitions rule, the full name of the organization should be stated when used the first time.*

*I am confused by (2). This seems to contradict earlier statements in Rule .0403 that local authorities may deploy under their own authority and that participation in the NC SAR System does not supersede that authority. Please clarify and revise the rule.*

*In (2), line 7, what "personnel" must a resource follow? For instance, would the NCEM spokesman be able to direct the activities of a search and rescue team? Please revise for clarity.*

*In (3), line 8, "actives" should be "activities".*

*What are you requiring in (5)? Does state and federal law not apply to a search and rescue team otherwise? Please consider removing or at the very least specifying what specific state and federal laws a team must follow.*

Brian Liebman  
Commission Counsel  
Date submitted to agency: 1/5/23

*In your History Note, please remove the reference to the National Incident Management System, 3<sup>rd</sup> Edition, as I do not believe it confers authority on the Department.*

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 1/5/23

1 14B NCAC 03 .0404 is adopted as published in 37:04 NCR 322 as follows:  
2

3 **14B NCAC 03 .0404 ON-SITE OPERATIONS OF A CONTRACT RESPONSE TEAM**

4 All search and rescue system resources shall operate in accordance with the following standards of response:

- 5 (1) FEMA ICS and NIMS standards which are adopted and are incorporated by reference with  
6 subsequent changes or amendments pursuant to G.S. 150B-21.6;  
7 (2) following all direction from NCEM personnel;  
8 (3) when responding in support of law enforcement operations, resources shall coordinate actives with  
9 the law enforcement authorities to ensure their actions support any potential criminal investigation.  
10 (4) resources shall not release any sensitive information to the public or media during operations  
11 without the consent of the local, state, or federal authority having jurisdiction consistent with the  
12 Chapter 132 of the North Carolina General Statutes which is adopted and incorporated by references  
13 with subsequent changes or amendments pursuant to G.S. 150B-21.6; and  
14 (5) state and federal law.  
15

16 *History Note: Authority G.S. 166A-66, National Incident Management System, 3<sup>rd</sup> Edition;*  
17 *Eff. January 1, 2023.*  
18

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

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 03 .0405

**DEADLINE FOR RECEIPT: Friday, January 13, 2023.**

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

*All references to "NCEM" should be double checked to make sure they comply with any changes made to 14B NCAC 03 .0402.*

*In all instances of "system resources", "resources", "state mission", and "system personnel", use the full, capitalized construction, unless another construction of the phrase is being used outside the defined term in 14B NCAC 03 .0402(25).*

*Throughout, the Rule requires "system resources" to maintain records and take other actions, yet that term as defined in Rule .0402 refers to "personnel"—which makes sense—and "equipment"—which does not. Please specify who must maintain take action pursuant to this Rule.*

*In (a), line 5, the rule states that the personnel records shall "include" the items in the following list. Beyond the 4 items in the list, what else is required?*

*In the list from (a)(1)-(4), the first letter of each item should be in lowercase.*

*In (b), what is "an on-duty status as an emergency management worker"? The referenced statute, G.S. 166A-19.60, defines "emergency management worker", but does not address "on-duty." Please clarify and revise.*

*Also in (b), it is not necessary to incorporate the statute by reference. Merely referring to it is sufficient.*

*In (d), line 14, what does it mean to "maintain all team training"?*

*In (g), line 17, what "documentation" is required?*

*In (g), line 18, I believe you need "the" between "with" and "FEMA"*

*In (g), lines 18-19, where can this Guide be found and at what cost?*

Brian Liebman  
Commission Counsel

Date submitted to agency: 1/5/23

*In (g), line 20, what are the factors or criteria for determination of whether an extension may be granted? This is ambiguous and does not inform the regulated public of how determinations can be made. Moreover, G.S. 150B-19(6) requires that when an agency waives or modifies a requirement set in a rule, it must establish specific guidelines for doing so.*

*In your History Note, do either 42 U.S.C. 5121 et seq. or 44 CFR Part 206 confer authority for rulemaking?*

*With respect to 42 USC 5121, if it is appropriate for inclusion, please remove the “et seq” and specify which statutes you are referring to. Similarly, what portions of Part 206 of Title 44 of the CFR are you referring to?*

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

1 14B NCAC 03 .0405 is adopted as published in 37:04 NCR 322 as follows:

2  
3 **14B NCAC 03 .0405        STANDARDS FOR ADMINISTRATION OF A CONTRACT RESPONSE TEAM,**  
4 **INCLUDING PROCEDURES FOR REIMBURSEMENT OF RESPONSE COSTS**

5 (a) System resources shall maintain all personnel records to include:

- 6        (1)        Responder medical history;
- 7        (2)        Emergency contact information;
- 8        (3)        Current pay and benefit rates, including overtime rates; and
- 9        (4)        Policies for overtime pay if deploying paid persons.

10 (b) System personnel shall be in an on-duty status as an emergency management worker as defined in G.S. 166A-  
11 19.60(e) which is adopted and incorporated by reference with subsequent changes or amendments pursuant to G.S.  
12 150B-21.6 during all training and response activities.

13 (c) System resources shall maintain a current team roster.

14 (d) System resources shall maintain all team training, certification, and credentials.

15 (e) System resources shall maintain all inventory and maintenance records for deployable equipment.

16 (f) Resource records must be available for review by NCEM officials to ensure compliance.

17 (g) Within 90 days of demobilization from a state mission, system resources shall submit documentation of actual  
18 costs to NCEM for reimbursement consistent with FEMA Public Assistance Program and Policy Guide which is  
19 adopted and incorporated by reference with subsequent changes or amendments pursuant to G.S. 150B-21.6. NCEM  
20 may grant extensions beyond the 90-day period at their discretion due to extenuating circumstances such as extended  
21 equipment repairs.

22  
23 *History Note:        Authority G.S. 166A-19.60; 166A-66; 42 U.S.C.5121 et seq; 44 CFR Part 206;*  
24 *Eff. January 1, 2023.*  
25

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

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 03 .0406

**DEADLINE FOR RECEIPT: Friday, January 13, 2023.**

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

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

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

*Why is this Rule organized as a list? Would it not make more sense to make the first paragraph (a), and make (1) and (2) into (b) and (c)?*

*All references to "NCEM" should be double checked to make sure they comply with any changes made to 14B NCAC 03 .0402.*

*In line 5, wouldn't a "negligent" disaster also be a "manmade" disaster? Do you mean "negligent or intentional"?*

*Similarly to 14B NCAC 03 .0402, what is the extent to which the Department makes determinations of fault or liability in considering a "responsible party"? What is the authority for such a determination? In the case of persons disputing such a determination and reimbursement, what are the avenues for adjudication?*

*Both (1) and (2) are written in the passive tense. Please consider revising in the active tense. I.e. who shall bill a responsible party for costs, and who shall payment be remitted to?*

*In (1), line 7, please delete or define "reasonable costs". While I understand this is a statutory term, a Rule cannot be ambiguous or unclear even if it is repeating a statutory term.*

*In (1), line 9, I believe the reference should be to G.S. 166A.*

*In (1), there's no need to incorporate the statute by reference. Simply referring to it is sufficient.*

*In lines 11 and 12, what is the effect of "of eligible costs"? I think this is just kind of misplaced in the sentence – suggest revision.*

Brian Liebman  
Commission Counsel  
Date submitted to agency: 1/5/23

*In (2), line 12, is the invoice to go out via Certified Mail, or the payment?*

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 1/5/23

1 14B NCAC 03 .0406 is adopted as published in 37:04 NCR 322 as follows:

2

3 **14B NCAC 03 .0406 RECOVERING THE COSTS OF A SEARCH AND RESCUE TEAM OR**  
4 **SPECIALTY RESCUE TEAM MISSION**

5 NCEM shall seek reimbursement by the responsible party for system response costs in cases of negligence or manmade  
6 disaster.

7 (1) Responsible parties shall be billed reasonable costs to include personnel and equipment costs  
8 consistent with current protocols established for the recovery of cost of activation of a response team  
9 for a hazardous materials emergency response set out in G.S. 166-27 which is adopted and  
10 incorporated by reference with subsequent changes or amendments pursuant to G.S. 150B-21.6 of  
11 eligible costs.

12 (2) Responsible parties shall remit payment within 30 days of receipt of invoice via certified mail.

13

14 *History Note: Authority G.S. 166A-27; 166A-66;*

15 *Eff. January 1, 2023.*

16

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

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 03 .0407

**DEADLINE FOR RECEIPT: Friday, January 13, 2023.**

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

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

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

*All references to "NCEM" and "NC SAR System" should be double checked to make sure they comply with any changes made to 14B NCAC 03 .0402. Also, ensure the abbreviations are used.*

*In all instances of "system resources", "resources", "state mission", "specialty rescue team", and "system personnel", use the full, capitalized construction, unless another construction of the phrase is being used outside the defined term in 14B NCAC 03 .0402(25).*

*Throughout each list in this Rule, please make the first word of each Item lowercase.*

*In (a)(1), line 6, change "must" to "shall."*

*I'm not sure, but in (A), line 7, I believe "state recognized" should be hyphenated. Please check and revise if necessary.*

*In (C), what are "members"? This has not been used before. Is this similar to "personnel"?*

*In (C), lines 11-12, as well as in (a)(2) lines 14-15, and (b)(2) lines 21-23, you do not need to incorporate Rule 409. Just referencing it is fine. Please delete.*

*In (b), line 19, change "must" to "shall".*

*Also, in (b)(1), line 19, what is a "memorandum of agreement"? Is this a contract?*

*In (b)(2), who is responsible for ensuring that members possess qualifications?*

*In (c), line 24, when does the "within 18 months of a new contract period" begin? The first day of the contractual performance?*

Brian Liebman  
Commission Counsel  
Date submitted to agency: 1/5/23

*In (c), line 26, how is the “specified date” determined for interested parties? Is there a rule specifying a “specific date” shall be included for interested parties when distributing the bid announcement? This also applies to (c)(2).*

*In (c), line 27, change “must” to “shall”.*

*In (c)(4), line 33, what are the “agreed upon criteria”? How is this established or what statute or rule is this determination made pursuant to? Who agrees upon this criteria? What informs the regulated public of this review process?*

*In (c)(4), line 34, can the designee set the date referenced as well as the NCEM Director? The designee can establish the committee, but not the date they meet?*

*In (c)(6), line 1, how will the successful bidders be notified?*

*In (c)(6), line 1, who shall draft the agreements?*

*Additionally, in (c)(6), lines 1-2, avoid a comma splice and rewrite the subparagraph as “... notified and system agreements shall be drafted and executed...”*

*Further, what are “system agreements”?*

*In (c)(7), line 3, what “two agreements” shall be drafted, executed, and maintained?*

*In (c)(7), line 3, the rule states the agreement has to be with the “sponsoring agency”. I thought these agreements were between the NCEM and the contract response team. Please clarify.*

*In (c)(7)(A), lines 5-6, the rule states that the agreement is with the “sponsoring agency”, but then states that the agreement will outline the terms that the “resource” must follow. Aren’t these two different entities? How can the sponsoring agency make an agreement to bind the resource?*

*In (c)(7)(A), line 6, what “conditions and activities” shall be included in the cooperative agreement? What are the requirements for this agreement?*

*In (c)(7)(A), line 6, change “must” to “shall”.*

*In (c)(7)(A), line 9, is the “contract period” referenced the contract between NCEM and the contract response team? Or is it the period of the two agreements mentioned in line 3? Please clarify.*

*In (c)(7)(B), what are “program costs”?*

*In (c)(7)(B), line 11, the funds are to be “utilized by the sponsoring and/or participating agencies” for what purpose? Please specify in the rule, or reorganize the paragraph for clarity.*

*Also, remove “and/or” and use either “and” or “or”.*

*In (c)(7)(C), line 14, how is “search and rescue capability” defined? You’re telling your regulated public they can only use the money for one purpose but don’t define that purpose. Please revise.*

*In (c)(7)(D), line 15, change “any” to “each”.*

*In (c)(7)(D), lines 17-18, the sentence “NCEM... agencies” is permissive and the language doesn’t meet the definition of a Rule. Please consider deleting.*

*In (c)(7)(D), line 19, the line “...as long as they have an active agreement” is unclear. Who has an active agreement, and for what? Please revise.*

*In (c)(7)(E), the paragraph is vague. With whom should the resource maintain an agreement? What are “response activities”? Please revise with specifics.*

*In (d), line 22, to what does “additional” refer?*

*Where are the “established program areas” established? (d)(1)(A) through (D) states some of them, but where are they actually “established”?*

*In (d) and (d)(1), the Rule refers to “certain established program areas” and then names 4 program areas in (d)(1), but prefaces the list with “includes”. As “includes” indicates that there may be other program areas, please specify what program areas are involved here.*

*In (d)(2), line 29, what is “program support”?*

*In (d)(2), line 29, what are “program standards” and how are they developed?*

*In (d)(2), line 30, what is “specialized training”?*

*In (d)(2) line 30, what is “specialized equipment”?*

*In (d)(2), lines 31-32, how can participation be terminated at will? Isn’t participation pursuant to a response agreement, per (d)(3)? Does this provision render response agreements unenforceable? Please clarify.*

*In (d)(3), what is a “qualified resource”?*

*In (d)(4), line 36, change “must” to “shall”.*

*Also on line 36, what is a “self-supported resource”?*

*In (d)(5), line 1, change “any” to “each”.*

*In (d)(5), line 2, I thought a specialty rescue team was supposed to be “self-supported”? How can it be self-supported but have agreements with other agencies for support? Please clarify and revise.*

*Also, are there any requirements on the “agreements” with specialty rescue teams?*

*Additionally, the final sentence of (d)(5) the sentence “NCEM... agencies” is permissive and the language doesn’t meet the definition of a Rule. Please consider deleting.*

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

1 14B NCAC 03 .0407 is adopted as published in 37:04 NCR 322-324 as follows:

2  
3 **14B NCAC 03 .0407 PROCEDURES FOR BIDDING AND CONTRACTING FOR SEARCH AND**  
4 **RESCUE TEAM AND SPECIALTY RESCUE TEAM MISSION**

5 (a) Eligibility for participation as a contract or specialty rescue team:

6 (1) Sponsoring agencies must:

7 (A) Be a local unit of government, state recognized tribal government, or maintain an active  
8 response agreement with a local or tribal unit of government;

9 (B) Maintain participation in the statewide mutual aid agreement; and

10 (C) Ensure all members possess the qualifications as outlined in Rule .0409 of this Section  
11 which is adopted and incorporated by reference with subsequent changes or amendments  
12 pursuant to G.S. 150B-21.6.

13 (2) Participating agencies shall ensure all members possess the qualifications as outlined in Rule .0409  
14 of this Section which is adopted and incorporated by reference with subsequent changes or  
15 amendments pursuant to G.S. 150B-21.6.

16 (b) Eligibility for participation on an incident support team.

17 (1) Personnel shall be a participating member of the NC SAR System, NCEM All-Hazards Incident  
18 Management Team Program, or an employee of NC Emergency Management. If not an employee  
19 of NCEM, each member's sponsoring agency must have an active memorandum of agreement that  
20 outlines the conditions of their participation on an incident support team.

21 (2) Ensure all members possess the qualifications as outlined in Rule .0409 of this Section which is  
22 adopted and incorporated by reference with subsequent changes or amendments pursuant to G.S.  
23 150B-21.6.

24 (c) Contract Response Teams – Within 18 months of a new contract period, NCEM shall electronically distribute a  
25 bid announcement via electronic mail to all system resources and local emergency management coordinators for  
26 interested parties to return a letter of interest by a specified date. NCEM shall distribute an electronic bid package to  
27 all interested parties that must be returned to NCEM by a date specified in the bid package.

28 (1) Contract response teams shall be limited to seven regionally based all hazard response taskforces.  
29 Each taskforce will be assigned a primary response region in the state.

30 (2) Bid packages shall be submitted for a specific response region.

31 (3) The bidding agency and any participating agencies shall be located in that specified response region.

32 (4) A review committee shall be established by the NCEM Director or designee. This committee will  
33 open all completed sealed bid packages and evaluate them based on an agreed upon criteria at a date  
34 to be set by the NCEM Director.

35 (5) The committee shall develop a bid package review summary that includes their recommendations  
36 for selections that will be sent to the NCEM Operations Chief for concurrence before being reviewed  
37 and approved by the NCEM Director.

1           (6)     Agencies who are successful in the bid process will be notified, system agreements shall be drafted,  
2                     and executed by all parties for the agreed upon period.

3           (7)     NCEM shall draft, execute, and maintain two agreements with the sponsoring agency for the  
4                     resource to maintain participation in the program.

5                     (A)     NCEM shall execute and maintain a cooperative agreement with the sponsoring agency  
6                             that outlines the conditions and activities that the resource must follow to enable  
7                             reimbursement of eligible training, equipment, and personnel costs associated with  
8                             maintaining a contract response team. The cooperative agreement shall be limited to the  
9                             contract period.

10                    (B)     Funds reimbursed through this agreement shall go directly to cover program costs and be  
11                            utilized by the sponsoring and/or participating agencies.

12                    (C)     The sponsoring agency shall maintain all records of any program spending and shall not  
13                            comingle funds or use program funding for any other purpose other than maintaining or  
14                            building search and rescue capability.

15                    (D)     Each sponsoring agency is responsible to draft, execute, and maintain agreements with any  
16                            participating agency that is supporting their bid for a contract response team with  
17                            personnel, equipment, or funding. NCEM may provide a template agreement for use  
18                            between sponsoring and participating agencies. The sponsoring agency may include any  
19                            participating agency resources in their bid as long as they have an active agreement.

20                    (E)     Resources shall maintain a response agreement that outlines response activities and the  
21                            reimbursement for costs of state missions.

22     (d) Specialty Rescue Teams - NC Emergency Management shall enter into response agreements with additional  
23     specialty rescue teams to ensure statewide response capability in certain established program areas.

24           (1)     These program areas shall include:

25                     (A)     Swiftwater Search and Rescue;

26                     (B)     Wilderness / Land Search and Rescue;

27                     (C)     Mountain Search and Rescue; and

28                     (D)     Helicopter Search and Rescue

29           (2)     NC Emergency Management shall provide program support in establishing program standards,  
30                     supporting specialized training, and providing specialized equipment within the confines of  
31                     available funding. Participation as a specialty rescue team is considered at will and can be terminated  
32                     with or without cause by either party with 30-day notice.

33           (3)     Each qualified resource shall enter into a response agreement specific to each established program  
34                     area with NCEM. The resource will then enter into a memorandum of understanding with NCEM  
35                     that shall be referred to as a specialty rescue team response agreement.

36           (4)     Specialty rescue teams must demonstrate their ability to respond as a self-supported resource outside  
37                     their jurisdiction to be eligible to participate in the NC SAR System.

1           (5)     Each specialty rescue team is responsible to draft, execute, and maintain agreements with any  
2                     participating agency that is supporting the sponsoring agency for a specialty response team with  
3                     personnel, equipment, or funding. NCEM may provide a template agreement for use between  
4                     sponsoring and participating agencies.

5  
6     *History Note:     Authority G.S. 166A-65; 166A-66; 166A-67;*  
7                     *Eff. January 1, 2023.*

8

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

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 03 .0408

**DEADLINE FOR RECEIPT: Friday, January 13, 2023.**

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

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

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

*All references to "NCEM" and "NC SAR System" should be double checked to make sure they comply with any changes made to 14B NCAC 03 .0402. Also, ensure the abbreviations are used.*

*In all instances of "system resources", "resources", "state mission", "specialty rescue team", and "system personnel", use the full, capitalized construction, unless another construction of the phrase is being used outside the defined term in 14B NCAC 03 .0402(25).*

*In this Rule, (a) references "bidding entities", while 14B NCAC 03 .0407 references "bidding agencies", then (d)(2) uses "bidding agency" What is the difference?*

*Also, in (a)(1), how are "bidding entities... submitted"? Please revise.*

*In (a), line 4, and (a)(2), line 10, change "must" to "shall".*

*In (a), line 8, what does "not being impacted locally" mean? Please revise.*

*In (a)(2) and (a)(3), include "the" before "bidding entity". In (a)(3), also include "the" or (a) before "required number".*

*In (a)(3), lines 14-15, you do not need to incorporate Rule 409. Just referencing it is fine. Please delete.*

*In (b), line 17, delete "below" and revise.*

*In (b), line 17, what does "consistent with" the CFR mean? Please clarify.*

*In (b), what criteria found within 2 CFR Part 200 shall be used in the evaluation? Please specify.*

Brian Liebman  
Commission Counsel  
Date submitted to agency: 1/5/23

*Further, what occurs in the event 2 CFR Part 200 either contradicts 14B NCAC 03 .0408's criteria or is otherwise not consistent?*

*Also, do these factors in (b) appear in 2 CFR Part 200?*

*In (b)(2), what is a "negative impact"? Please define.*

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

Brian Liebman  
Commission Counsel  
Date submitted to agency: 1/5/23

1 14B NCAC 03 .0408 is adopted as published in 37:04 NCR 324 as follows:

2  
3 **14B NCAC 03 .0408 CRITERIA FOR EVALUATING BIDS FOR CONTRACT RESPONSE TEAM**

4 (a) Bidding entities must:

- 5 (1) be submitted by an authorized representative of a local unit of government, state recognized tribal  
6 government, or maintain an active response agreement with a local or tribal unit of government;  
7 (2) provide a plan for bidding entity to deploy the required number of personnel for a period of up to  
8 14 days when not being impacted locally. This may be as a single entity or as a collaboration of  
9 multiple agencies in the specified response region. If a collaboration of multiple agencies, the  
10 sponsoring or bidding agency must maintain cooperative agreements with all supporting agencies.  
11 For the purposes of the bid submission, the bidding entity shall provide a letter of support from all  
12 supporting agencies;  
13 (3) provide a plan for bidding entity to maintain required number of personnel trained per Rule .0409  
14 of this Section which is adopted and incorporated by reference with subsequent changes or  
15 amendments pursuant to G.S. 150B-21.6; and  
16 (4) ensure all participating members possess the qualifications as outlined in Rule .0409 of this Section.

17 (b) Bids shall be evaluated using the below criteria and consistent with 2 CFR Part 200 which is adopted and  
18 incorporated by reference with subsequent changes or amendments pursuant to G.S. 150B-21.6:

- 19 (1) geographic location of team base;  
20 (2) ability to maintain required number of trained personnel to ensure response readiness without  
21 negative impacts to local response obligations;  
22 (3) ability to maintain and care for any system provided equipment;  
23 (4) availability of local equipment to support response activities; and  
24 (5) availability to maintain dedicated administrative staff to ensure management of administrative  
25 duties, training, and logistical requirements.

26  
27 *History Note: Authority G.S. 166A-66; 166A-67;*  
28 *Eff. January 1, 2023.*  
29

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

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 03 .0409

**DEADLINE FOR RECEIPT: Friday, January 13, 2023.**

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

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

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

*All references to "NCEM" and "NC SAR System" should be double checked to make sure they comply with any changes made to 14B NCAC 03 .0402. Also, ensure the abbreviations are used.*

*In all instances of "system resources", "resources", "state mission", "specialty rescue team", and "system personnel", use the full, capitalized construction, unless another construction of the phrase is being used outside the defined term in 14B NCAC 03 .0402(25).*

*Throughout the Rule, you require a certain number of personnel, then go on to specify additional numbers of personnel who shall fulfill a particular role. For instance, in (e), you require a roster of 32 personnel, but then in (e)(1)(A)-(C), require that the team "additionally maintain" eight members who completed the Swiftwater Flood Rescue Boat Operator Course, two members who completed team leader courses, and two members who completed communications specialist courses. Does this mean those 12 members specified in (A)-(C) are meant to be part of the 32 referenced in (e)(1), or do they bring the total to 44? Please revise for clarity.*

*In (a)(2), the second sentence jumps between singular and plural usages. Use "he or she" and "an agent", rather than "they" and "agents", respectively.*

*In (a)(2), lines 8-9, is it within the authority delegated to the agency by the General Assembly to determine whether personnel is or is not an agent of the State as a matter of law?*

*In (a)(4), it is unnecessary to incorporate the statute by reference. Merely referring to the statute is sufficient.*

*Restructure (a)(4) to clarify what you're referencing with the citation to G.S. 166A-19.60. As it currently reads, the citation to the statute suggests "program activity" is defined in the statute, while "emergency management worker" is defined instead.*

Brian Liebman

Commission Counsel

Date submitted to agency: 1/5/23

*Consider “while participating in any program activity, personnel shall be considered emergency management workers as defined...”*

*In Item (a)(5)(B), 12 NCAC 09B .0111(1) is an incorrect reference. The Criminal Justice Education and Training Standards Commission recently revised several of their rules, so please revisit and correct the reference.*

*In (a)(5)(B), line 19, add a comma following “misdemeanor”. Also, remove the period after “150B-21.6” and insert a comma.*

*In (a)(5)(B), lines 21-22, what is the period of time you’re attempting to outline here? It says no misdemeanors for “five years or the completion of any corrections supervision imposed by the courts, whichever is later.” I don’t understand what this means. Please revise and clarify.*

*In (a)(5)(D), lines 28-29, I’m not sure what the reference “for the purpose of participating in the search and rescue system” (incidentally, should this be “NC SAR”?) means. Are you saying that being untruthful in some contexts is OK?*

*In (a)(5)(E), line 30, add a comma after “convicted.”*

*In (a)(5)(E), line 31, capitalize “rule.”*

*In (a)(5)(F), line 32, what kind of conduct are you referring to? This is very broad and impermissibly vague. Please revise and state with specificity what conduct is unsuitable for a NC SAR member.*

*In (a)(5)(F), line 33, where is “moral turpitude” defined? Without a definition, this is impermissibly vague.*

*In both (a)(6)(A) and (B), include a comma after “qualifying event”.*

*In (a)(6)(A), where can the Manual be accessed? Can it be accessed for free? Also, in (B), it is unnecessary to incorporate the Manual again.*

*In (a)(6)(B), line 5, does the agency mean “convicted” when stating “found guilty”?*

*In (a)(6)(C), line 9, change “they” to “he or she has”.*

*In (a)(6)(C), line 10, what is meant by “against the individual”?*

*In (a)(6)(D), capitalize “sponsoring agency” and use the abbreviation “NCEM”.*

*Also, replace “person’s” with “system personnel’s”.*

*In (a)(6)(D), lines 13-14, the agency shall notify the Division of “arrests or criminal charges and final dispositions” of whom?*

*In (a)(6)(E), remove all parentheticals and replace them with “pursuant to” each statute.*

*In (b)(1), line 20, who shall equipment “be made available for inspection and inventory”? By whom?*

*What does (b)(2) mean? What “requirement” is referenced? Please revise.*

*In (b)(3), line 23, I think you mean “manufacturer’s recommendations”.*

*Also, what do you mean by “damage to state property”? Do you mean the state-owned and issued equipment?*

*In (b)(4), place a comma after “upon separation”.*

*In (b)(4), to whom or where must the property be returned?*

*In (c), (e), and (f), where are the “Type I” and “Type II” teams outlined or created?*

*Also, the NC USAR course should be stated in its entirety when first used.*

*And what is the federal “Equivalent Course”.*

*In (c)(3), insert an “a” before “qualified”, or make “specialist” plural.*

*Also, what is a “typed urban search and rescue team”?*

*At the end of (d), (e), and (f), place a colon.*

*In (d)(1), line 1, what does “functionally equivalent” mean? Please define.*

*In (d)(1), lines 2-3, where is the Cache List found, and at what cost?*

*In (d)(2), line 6, define “state of readiness”.*

*In (e)(1), state the full name of “NFPA”, unless stated previously. Further, please state where these materials can be found and at what cost.*

*In the subparagraphs (e)(1) through (3), how is “training that meets or exceeds training requirements” met?*

*In (e)(2) and (3), it is not necessary to reincorporate the NFPA chapters, just a reference will suffice.*

*In (f)(1)(C), (2)(C), and (3)(C), do you mean one portable computer? Also, what is a “minimum” of cellular internet access?*

*In (f)(1)(D) (2)(D), and (3)(D), define or delete “suitable”.*

*In (f)(1)(E), and (2)(E), “spotlight” should be plural.*

*In (f)(1)(F), (2)(F), and (3)(E), do you mean a map of the whole state, or the region the team is assigned to?*

*Also, in each provision, “hardcopy” should be separate words and made plural.*

*In (f)(1)(H), (2)(H), and (3)(G), insert an Oxford comma after “sledgehammer”.*

*In (f)(1)(H), (K), and (L), are the “kit[s]” fully described here? If not, what else is required?*

*In (f)(1)(J), (2)(J), and (3)(I) are the boats and motors separate requirements? It would seem as though the agency is trying to require 4 boats and 6 motors, but a reading of the text “with not less than six outboard motors” could be interpreted as each boat must have six motors.*

*In (f)(1)(L), (2)(L), and (3)(K), remove the first comma and add a comma after “bleach solution,”.*

*In (f)(1)(L), (2)(L), and (3)(K), how many sprayers, buckets, work boxes, and pumps are required?*

*In (f)(1)(L), (2)(L), and (3)(K), what kind of solutions are you requiring? What soap? What concentration of each?*

*In (f)(1)(N), “raft” should be plural.*

*In (f)(1)(O), (2)(O), and (3)(N), please define what a “clamshell kit” is, and revise the “kit per kit” language.*

*In (f)(1)(Q), (2)(Q), and (3)(P), how is the 30-minute setup requirement determined? Is it an objective or subjective standard? Also, “setup” should be two words.*

*Also, in (1)(Q), (2)(Q), and (3)(P), separate the shelter system from the sleeping kits, unless the shelter system is required to have 16 sleeping kits internally within it. This is worded poorly and causes ambiguity. Please revise.*

*In (1)(Q), (2)(Q), and (3)(P), “cots” should be singular.*

*Additionally, in (1)(Q), (2)(Q), and (3)(P) remove the “and” at the end of each.*

*In (f)(1)(S), (2)(S), and (3)(R), what are “whip or fill” systems? Also, make “system” plural.*

*In (g)(1), line 36, “Program” should be plural.*

*In (g)(3), add “on” after “training”, and “a” after “than.”*

*In (g)(3), is this training already required elsewhere for certification? If so, is the requirement here more stringent than that required elsewhere? Do you have statutory authority to require more or less training than the entity that otherwise certifies helicopter rescue technicians?*

*In (h)(1), what does “good working order” mean? Define or delete.*

*In (h)(2), similarly to above, what does “damage” and “unusual wear” mean?*

*In (i)(1), please state the full name of ASTM, and state where the resource can be found and at what cost.*

*In (i) and (k)(2)(C), remove the parenthetical.*

*In (i) and (k)(2)(I), what is in the “set” of rain gear, and, in (i)(2)(L), the “fire starting kit”.*

*In (i)(2)(M), the second instance of “measure” should be “measuring”.*

*In (i) and (k)(2)(O), what is a ICS 214 form?*

*At the end of (i)(3)(A), insert an “and”.*

*In (i)(3)(B), is a “first aid kit” standardized? What should be in it?*

*In (j)(3)(F), “cord” should be plural.*

*In (j)(3)(I), I think “of” is necessary after “each”.*

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

1 14B NCAC 03 .0409 is adopted as published in 37:04 NCR 324-329 as follows:

2  
3 **14B NCAC 03 .0409 PERSONNEL, TRAINING, AND EQUIPMENT STANDARDS FOR**  
4 **CONTRACT RESPONSE TEAMS AND SPECIALTY RESCUE TEAMS**

5 (a) Requirements for all system personnel:

- 6 (1) personnel shall be no less than 18 years of age;  
7 (2) personnel shall be an agent of a sponsoring agency, participating agency, or an employee of the  
8 North Carolina Division of Emergency Management. By participating in this program, they remain  
9 agents of their employer and at no time become an agent of the State unless they are an employee  
10 of the State;  
11 (3) personnel shall maintain no less than 24 hours of search and rescue training annually;  
12 (4) personnel shall be considered emergency management workers while participating in any program  
13 activity as defined in G.S. 166A-19.60 which is adopted and incorporated by reference with  
14 subsequent changes or amendments pursuant to G.S. 150B-21.6; and  
15 (5) personnel shall possess the qualifications of character and general fitness requisite for a public  
16 servant and be of good moral character and entitled to the high regard and confidence of the public  
17 as evidenced by:  
18 (A) not having been convicted of a felony;  
19 (B) not having been convicted of a misdemeanor as defined in 12 NCAC 09B .0111(1) which  
20 is adopted and incorporated by reference with subsequent changes or amendments pursuant  
21 to G.S. 150B-21.6. for five years or the completion of any corrections supervision imposed  
22 by the courts, whichever is later;  
23 (C) not having been convicted of an offense that would prohibit the possession of a firearm or  
24 ammunition, under 18 U.S.C. 922, which is hereby incorporated by reference with  
25 subsequent amendments and editions pursuant to G.S. 150B-21.6 can be found at no cost  
26 [https://www.govinfo.gov/content/pkg/USCODE-2018-title18/pdf/USCODE-2018-title18-](https://www.govinfo.gov/content/pkg/USCODE-2018-title18/pdf/USCODE-2018-title18-partI-chap44.pdf)  
27 [partI-chap44.pdf](https://www.govinfo.gov/content/pkg/USCODE-2018-title18/pdf/USCODE-2018-title18-partI-chap44.pdf);  
28 (D) being truthful in providing information to the appointing agency for the purpose of  
29 participating in the search and rescue system;  
30 (E) not having pending or outstanding felony charges that, if convicted would exclude  
31 eligibility under this rule; and  
32 (F) not having engaged in any conduct that brings into question the truthfulness or credibility  
33 of the individual, or involves "moral turpitude."  
34 (6) make the following notifications:  
35 (A) within seven days of the qualifying event notify the Sponsoring Agency in writing of all  
36 criminal offenses for which the individual is charged or arrested. This shall include traffic  
37 offenses identified in the Class B Misdemeanor Manual which is adopted and incorporated

1 by reference with subsequent changes or amendments pursuant to G.S. 150B-21.6 and  
2 offenses of driving under the influence (DUI) or driving while impaired (DWI);

3 (B) within seven days of the qualifying event notify the Sponsoring Agency in writing of all  
4 criminal offenses for which the individual pleads no contest, pleads guilty, or of which the  
5 individual is found guilty. This shall include traffic offenses identified in the Class B  
6 Misdemeanor Manual which is adopted and incorporated by reference with subsequent  
7 changes or amendments pursuant to G.S. 150B-21.6 and offenses of driving under the  
8 influence (DUI) or driving while impaired (DWI);

9 (C) within seven days of service, shall notify the Sponsoring Agency that they have been served  
10 by a judicial official against the individual;

11 (D) within seven days of the date the case was disposed of in court, the sponsoring agency,  
12 provided they have knowledge of the person's arrests or criminal charges and final  
13 dispositions, shall also notify the Division of Emergency Management of arrests or  
14 criminal charges and final disposition; and

15 (E) within seven days of the issuance of all Domestic Violence Protective Orders (G.S. 50B)  
16 and Civil No Contact Orders (G.S. 50C), the sponsoring agency, provided they have  
17 knowledge of the order, shall also notify the Division of Emergency Management of these  
18 orders.

19 (b) Requirements for all system equipment:

20 (1) equipment shall be made available for inspections and inventory;

21 (2) system resources shall count any state-owned issued equipment to the specified equipment  
22 requirements;

23 (3) system resources shall maintain any state-owned equipment per manufactures recommendations and  
24 immediately notify NCEM of any damage to state property; and

25 (4) upon separation all system resources shall return all state property in no more than 30 days.

26 (c) Urban Search and Rescue Team Personnel and Training Requirements

27 (1) A Type I or Type II Urban Search and Rescue Team shall maintain a roster of 116 personnel who  
28 have successfully completed the NC USAR Structural Collapse Rescue Technician Course or the  
29 Federal Emergency Management Agency Equivalent Course.

30 (2) A Type III Urban Search and Rescue Team shall maintain a roster of 58 personnel who have  
31 successfully completed the NC USAR Structural Collapse Rescue Technician Course or the Federal  
32 Emergency Management Agency Equivalent Course.

33 (3) North Carolina Division of Emergency Management shall be responsible for providing qualified  
34 structures specialist, medical team managers, and canine search specialists for any typed urban  
35 search and rescue team if required for a response.

36 (d) Urban Search and Rescue Team Equipment Requirements

1           (1)     Urban Search and Rescue Teams shall maintain a functionally equivalent cache of equipment based  
2                   on the appropriate team type with the Emergency Management Accreditation Program Urban Search  
3                   and Rescue Cache List which is adopted and incorporated by reference with subsequent changes or  
4                   amendments pursuant to G.S. 150B-21.6. as outlined in the latest published standard by the  
5                   Emergency Management Accreditation Program.

6           (2)     Equipment shall be maintained in a state of readiness and with a means to transport all required  
7                   equipment.

8     (e) Swiftwater Rescue Team Personnel and Training Requirements

9           (1)     Any Type I Swiftwater Rescue Team shall maintain a roster of 32 personnel who have successfully  
10                   completed Swiftwater Rescue Technician level training that meets or exceeds training requirements  
11                   of Chapters 5, 11, and 12 of NFPA 1006 which is adopted and incorporated by reference with  
12                   subsequent changes or amendments pursuant to G.S. 150B-21.6. From the complete roster, the team  
13                   shall additionally maintain the following number of personnel trained in position specific roles:

14                   (A)     eight personnel who have completed the North Carolina Swiftwater Flood Rescue Boat  
15                            Operator Course;

16                   (B)     two personnel who have completed either the North Carolina Swiftwater / Flood Rescue  
17                            Team Leader Course or North Carolina Urban Search and Rescue Task Force Leader  
18                            Course; and

19                   (C)     two personnel who have completed either the North Carolina Swiftwater / Flood Rescue  
20                            Team Communications Specialist Course or North Carolina Urban Search and Rescue  
21                            Communications Specialist Course.

22           (2)     Any Type II Swiftwater Rescue Team shall maintain a roster of 24 personnel who have successfully  
23                   completed Swiftwater Rescue Technician level training that meets or exceeds training requirements  
24                   of Chapters 5, 11, and 12 of NFPA 1006 which is adopted and incorporated by reference with  
25                   subsequent changes or amendments pursuant to G.S. 150B-21.6. From the complete roster, the team  
26                   shall additionally maintain the following number of personnel trained in position specific roles:

27                   (A)     four personnel who have completed the North Carolina Swiftwater Flood Rescue Boat  
28                            Operator Course;

29                   (B)     two personnel who have completed either the North Carolina Swiftwater Flood Rescue  
30                            Team Leader Course or North Carolina Urban Search and Rescue Task Force Leader  
31                            Course; and

32                   (C)     two personnel who have completed either the North Carolina Swiftwater Flood Rescue  
33                            Team Communications Specialist Course or North Carolina Urban Search and Rescue  
34                            Communications Specialist Course.

35           (3)     Any Type III Swiftwater Rescue Team shall maintain a roster of 16 personnel who have successfully  
36                   completed Swiftwater Rescue Technician level training that meets or exceeds training requirements  
37                   from Chapters 5, 11, and 12 of NFPA 1006 which is adopted and incorporated by reference with

1 subsequent changes or amendments pursuant to G.S. 150B-21.6. From the complete roster, the team  
2 shall additionally maintain the following number of personnel trained in position specific roles:

3 (A) two personnel who have completed the North Carolina Swiftwater Flood Rescue Boat  
4 Operator Course;

5 (B) two personnel who have completed either the North Carolina Swiftwater Flood Rescue  
6 Team Leader Course or North Carolina Urban Search and Rescue Task Force Leader  
7 Course; and

8 (C) two personnel who have completed either the North Carolina Swiftwater Flood Rescue  
9 Team Communications Specialist Course or North Carolina Urban Search and Rescue  
10 Communications Specialist Course.

11 (f) Swiftwater Rescue Team Equipment Requirements

12 (1) Any Type I Swiftwater Rescue Team shall maintain an equipment cache of no less than:

13 (A) six 800 MHz portable radios programed with the NC VIPER Radio System template;

14 (B) 16 portable radios capable for internal team communications;

15 (C) portable computer with a minimum of cellular internet access;

16 (D) 16 each of dry suits with a suitable liner, personal floatation devices with not less than  
17 22lbs of floatation, helmet with headlamp, rescue knife, pealess whistle, boat motor key,  
18 water rescue throw bag, and pair of water rescue boots;

19 (E) four each thermal imaging cameras and handheld spotlight;

20 (F) two hardcopy of NC road map;

21 (G) six global positioning system receivers;

22 (H) two forcible entry kits to include a Halligan, axe, sledgehammer and bolt cutters per kit;

23 (I) two chain saws;

24 (J) four inflatable ridged boats not less than 4 meters in length with not less than six outboard  
25 motors;

26 (K) one rope rescue kit to include 20 locking carabiners, four full body harness, two knot  
27 passing pulleys, 12 tandem prusiks, eight pulleys, two 200 foot life safety rope in a bag,  
28 two 300 foot life safety rope in a bag, line thrower, and six sections of each 5 foot, 12 foot,  
29 15 foot, 20 foot nylon tubular webbing;

30 (L) two decontamination kits to include, 2.5 gallon pressure sprayer, five gallon bucket, 40  
31 gallon work box, 110 volt submersible pump, two 25 foot sections of garden hose, garden  
32 hose wye adaptor, 110 volt submersible pump, soap and bleach solution, 1.5 inch to .75  
33 inch male garden hose adapter;

34 (M) six non-venting fuel cells with fuel lines;

35 (N) two self-bailing raft;

36 (O) four boat field repair kits to include a patch and clamshell kit per kit;

37 (P) 12 paddles;

- 1           (Q)     Shelter system for 16 personnel that can be setup in under 30 minutes time and does not  
2                     require power for setup with 16 each of a sleeping kit such as a cots, pad, or sleeping bag;  
3                     and  
4           (R)     Two each of two kilowatt or larger generators with portable lights; and  
5           (S)     Two electric air pumps, four manual inflation pumps, and eight compressed air cylinders  
6                     with whip or fill system to inflate boats or rafts.
- 7       (2)     Any Type II Swiftwater Rescue Team shall maintain an equipment cache of no less than:
- 8           (A)     four 800 MHz portable radios programed with the NC VIPER Radio System template;  
9           (B)     ten portable radios capable for internal team communications;  
10          (C)     portable computer with a minimum of cellular internet access;  
11          (D)     ten each of dry suits with a suitable liner, personal floatation devices with not less than  
12                     22lbs of floatation, helmet with headlamp, rescue knife, pealess whistle, boat motor key,  
13                     water rescue throw bag, and pair of water rescue boots;  
14          (E)     two each thermal imaging cameras and handheld spotlight;  
15          (F)     two hardcopy of NC road map;  
16          (G)     four global positioning system receivers;  
17          (H)     one forcible entry kits to include a Halligan, axe, sledgehammer and bolt cutters per kit;  
18          (I)     two chain saws;  
19          (J)     two inflatable ridged boats not less than 4 meters in length with not less than three outboard  
20                     motors;  
21          (K)     one rope rescue kit to include 20 locking carabiners, four full body harness, two knot  
22                     passing pulleys, 12 tandem prusiks, eight pulleys, two 200 foot life safety rope in a bag,  
23                     two 300 foot life safety rope in a bag, line thrower, and six sections of each 5 foot, 12 foot,  
24                     15 foot, 20 foot nylon tubular webbing;  
25          (L)     one decontamination kit to include, 2.5 gallon pressure sprayer, five gallon bucket, 40  
26                     gallon work box, 110 volt submersible pump, two 25 foot sections of garden hose, garden  
27                     hose wye adaptor, 110 volt submersible pump, soap and bleach solution, 1.5 inch to .75  
28                     inch male garden hose adapter;  
29          (M)     four non-venting fuel cells with fuel lines;  
30          (N)     one self-bailing raft;  
31          (O)     two boat field repair kits to include a patch and clamshell kit per kit;  
32          (P)     six paddles;  
33          (Q)     shelter system for ten personnel that can be setup in under 30 minutes time and does not  
34                     require power for setup with ten each of a sleeping kit such as a cots, pad, or sleeping bag;  
35                     and  
36          (R)     two each of two kilowatt or larger generators with portable lights; and

1           (S)     two electric air pumps, two manual inflation pumps, and four compressed air cylinders  
2                     with whip or fill system to inflate boats or rafts.

3       (3)     Any Type III Swiftwater Rescue Team shall maintain an equipment cache of no less than:

4           (A)     six 800 MHz portable radios programed with the NC VIPER Radio System template;

5           (B)     six portable radios capable for internal team communications;

6           (C)     portable computer with a minimum of cellular internet access;

7           (D)     six each of dry suits with a suitable liner, personal floatation devices with not less than  
8                     22lbs of floatation, helmet with headlamp, rescue knife, pealess whistle, boat motor key,  
9                     water rescue throw bag, and pair of water rescue boots;

10          (E)     one hardcopy of NC road map;

11          (F)     two global positioning system receivers;

12          (G)     one forcible entry kits to include a Halligan, axe, sledgehammer and bolt cutters per kit;

13          (H)     one chain saw;

14          (I)     one inflatable ridged boats not less than 4 meters in length with not less than two outboard  
15                     motors;

16          (J)     one rope rescue kit to include 20 locking carabiners, two full body harness, two knot  
17                     passing pulleys, 12 tandem prusiks, four pulleys, 200 foot life safety rope in a bag, 300  
18                     foot life safety rope in a bag, line thrower, and three sections of each 5 foot, 12 foot, 15  
19                     foot, 20 foot nylon tubular webbing;

20          (K)     one decontamination kit to include, 2.5 gallon pressure sprayer, five gallon bucket, 40  
21                     gallon work box, 110 volt submersible pump, two 25 foot sections of garden hose, garden  
22                     hose wye adaptor, 110 volt submersible pump, soap and bleach solution, 1.5 inch to .75  
23                     inch male garden hose adapter;

24          (L)     two non-venting fuel cells with fuel lines;

25          (M)     one self-bailing raft;

26          (N)     one boat field repair kits to include a patch and clamshell kit per kit;

27          (O)     three paddles;

28          (P)     shelter system for six personnel that can be setup in under 30 minutes time and does not  
29                     require power for setup with six each of a sleeping kit such as a cot, pad, or sleeping bag;  
30                     and

31          (Q)     one each of two kilowatt or larger generators with portable lights; and

32          (R)     one electric air pumps, one manual inflation pumps, and two compressed air cylinders with  
33                     whip or fill system to inflate boats or rafts.

34     (g)     Helicopter search and rescue technicians shall:

35           (1)     be a member of the Urban Search and Rescue, Swiftwater Rescue, Wilderness Search and Rescue,  
36                     or Mountain Rescue Program with a letter of support from their sponsoring agency;

1           (2)     complete the North Carolina Division of Emergency Management Helicopter Rescue Indoctrination  
2                    Course; and

3           (3)     attend scheduled training no less than quarterly basis to maintain their qualification as a helicopter  
4                    rescue technician.

5     (h) Helicopter Rescue Team Equipment Requirements

6           (1)     Helicopter search and rescue technicians shall maintain all issued equipment in good working order  
7                    and in accordance with the manufacturer recommendations.

8           (2)     Helicopter search and rescue technicians shall inspect their issued equipment prior to and after each  
9                    use and report any damage or unusual wear to the Aviation Life Safety Equipment Officer.

10    (i) Wilderness Search and Rescue Team Requirements

11          (1)     A wilderness search and rescue team shall maintain a roster of no less than eight personnel that have  
12                    completed the NC Land Search Field Team Member Course or other wilderness search course that  
13                    meets the current requirements of ASTM F2209 which is adopted and incorporated by reference  
14                    with subsequent changes or amendments pursuant to G.S. 150B-21.6.

15          (2)     A wilderness search and rescue team shall maintain a team equipment cache of no less than eight of  
16                    the following:

17            (A)     field pack able to carry required equipment;

18            (B)     multi-purpose knife;

19            (C)     water container(s) sufficient to hold two quarts of potable water;

20            (D)     safety glasses;

21            (E)     pealess whistle;

22            (F)     grid reader for 1:24000 scale;

23            (G)     compass;

24            (H)     two light sources with spare batteries;

25            (I)     set of rain gear;

26            (J)     tracking stick no less than 42 inches long;

27            (K)     watch;

28            (L)     fire starting kit;

29            (M)     measuring device capable of measure no less than 18 inches;

30            (N)     paper and pen or pencil;

31            (O)     ICS 214 form;

32            (P)     50 foot of cordage;

33            (Q)     eight zip ties; and

34            (R)     signaling mirror.

35          (3)     A wilderness search and rescue team shall maintain a rescue equipment cache of no less than the  
36                    following:

37            (A)     two global positioning system receivers;

1 (B) two first aid kits.

2 (j) Mountain Rescue Team Requirements

3 (1) A mountain rescue team shall maintain a roster of no less than eight personnel that have completed  
4 the NC Mountain Rescue Operations Course with no less than two personnel that have completed  
5 the NC Mountain Rescue Technician Level Course.

6 (2) A mountain rescue team shall maintain a team equipment cache of no less than eight of following:

7 (A) field pack able to carry required equipment;

8 (B) multi-purpose knife;

9 (C) water container(s) sufficient to hold two quarts of potable water;

10 (D) grid reader for 1:24000 scale;

11 (E) fire starting kit;

12 (F) compass;

13 (G) two light sources with spare batteries;

14 (H) set of rain gear;

15 (I) watch;

16 (J) paper and pen or pencil; and

17 (K) ICS 214 form.

18 (3) A mountain rescue team shall maintain a rescue equipment cache of no less than the following:

19 (A) two global positioning system receivers;

20 (B) ten screw gate carabiners;

21 (C) four belay type friction devices;

22 (D) eight pre-sewn runners;

23 (E) eight sets of matching prussik pairs;

24 (F) four 30 foot cord suitable for anchor and litter rigging;

25 (G) eight mountaineering harnesses;

26 (H) two rappel type friction devices;

27 (I) two each single and double micro pulleys;

28 (J) two 150 foot ropes with a rating equal to or greater than 20 kilonewtons;

29 (K) two 250 foot ropes with a rating equal to or greater than 20 kilonewtons;

30 (L) eight pairs of snow shoes;

31 (M) eight pairs of trekking poles;

32 (N) four ice screws;

33 (O) eight pairs of slip-on boot traction devices;

34 (P) four pairs of crampons;

35 (Q) a patient litter such as a military type stokes basket or sked system; and

36 (R) two 800 MHz portable radios programed with the NC VIPER Radio System temlate.

37

- 1 *History Note:* *Authority G.S. 166A-66; 166A-67; 166A-68;*
- 2 *Eff. January 1, 2023.*
- 3

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

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 03 .0410

**DEADLINE FOR RECEIPT: Friday, January 13, 2023.**

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

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

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

*All references to "NCEM", "NCEM Operations Chief", "NC Search and Rescue Program", and "NC SAR System" should be double checked to make sure they comply with any changes made to 14B NCAC 03 .0402. Also, ensure the abbreviations are used, such as "NCEM Director".*

*In all instances of "system resources", "resources", "contract response team", "specialty rescue team", and "system personnel", use the full, capitalized construction, unless another construction of the phrase is being used outside the defined term in 14B NCAC 03 .0402(25).*

*Are (a)(1) and (a)(2) exhaustive lists of the records NCEM will require?*

*The phrasing of (a) or (a)(3) should be revised. How does one make "available for [auditing]... access to functional exercises...?"*

*In (b) and the items under it, the text could use a rewrite for clarity. For instance, (b) is in the passive tense and could be simplified. Similarly, (b)(1) and (2) are more verbose than necessary. Please revise and simplify.*

*In (b)(2), what does it mean to "address" a finding? What are you requiring?*

*In (b)(2), who makes the referral to the disciplinary committee? Revise in the active tense.*

*Also in (b)(2), who gets referred to the disciplinary committee? An individual? The entire team? The team's leader? Please specify.*

*In (b)(3), what is "malicious or willful misconduct"? Please define. Similarly, what is meant by "misrepresentation" or "fraud"? What do these terms mean in context of a search and rescue operation?*

Brian Liebman  
Commission Counsel

Date submitted to agency: 1/5/23

*In (c), is it within the authority delegated to the agency by the General Assembly to create a disciplinary committee and impose sanctions upon participants in the NC SAR system? G.S. 166A-66(10) gives you the authority to “audit” for the purpose of ensuring compliance with State and federal guidelines, but I don’t see the power to impose sanctions for misconduct.*

*Even assuming there is authority to impose sanctions, do you have statutory authority to place the disciplinary committee under the Search and Rescue Technical Advisory Committee? G.S. 166A-69 establishes the Technical Advisory Committee and limits its role to “advis[ing] the Secretary on the establishment” of the SAR program and to “evaluat[ing] and advis[ing] the Secretary of the need for additional contract response teams....” I don’t see where they have the authority to hear and rule on disciplinary matters.*

*In (c)(1)(C), what are you referring to here? What programs? What is a technical advisory group?*

*In (c)(2), what is “misconduct” beyond “breach of program requirements”? These are listed as two distinct areas for review. Please define.*

*In (c)(2), is it within the authority delegated to the agency by the General Assembly to prevent parties from being represented by counsel at a disciplinary hearing?*

*In (c)(2)(B), please revise for clarity. Facts cannot be in violation of the Rules.*

*In (c)(2)(B), does “the rules of the NC Search and Rescue Program” mean these Rules? If so, please say so.*

*In (c)(2)(C), is “dismission” necessary? I know it is a word, but it seems like “dismissal” is more easily understood by the regulated public and has the same meaning.*

*In (c)(2)(C), does the Director have the authority to dismiss an individual from a team that is not under his or her jurisdiction? i.e. a contract team, or one under the jurisdiction of a local authority.*

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



