

14B NCAC 19A .0101 is adopted as published in 34:13 NCR 1205-1208 as follows:

CHAPTER 19 – STATEWIDE SEXUAL ASSAULT EVIDENCE COLLECTION KIT TRACKING SYSTEM

SUBCHAPTER 19A – GENERAL PROVISIONS

14B NCAC 19A .0101 SCOPE

The rules in this Chapter are applicable to persons or entities in the State that have custody of any sexual assault evidence collection kits, including medical service providers, law enforcement agencies, forensic laboratories, and the Department of Public Safety Law Enforcement Support Services.

History Note: Authority G.S. 114-65;

Eff. April 1, 2021.

14B NCAC 19A .0102 is adopted as published in 34:13 NCR 1205-1208 with changes as follows:

14B NCAC 19A .0102 DEFINITIONS

As used in this Chapter:

(a) “Covered entity” means an agency, medical facility, or medical professional, person, or entity subject to the System tracking requirements.

(b) “Director” means the Director of the North Carolina State Crime Laboratory.

(c) “Forensic laboratory” means a person, agency, or department that takes custody of a sexual assault evidence collection kit for purposes of conducting forensic testing.

(d) “Forensic medical examination” means an examination provided to a sexual assault victim by medical personnel trained to gather evidence of a sexual assault in a manner suitable for use in a court of law and includes collection and evaluation of physical evidence.

(e) “Kit” or “sexual assault evidence collection kit” means a prepared kit used to conduct a forensic medical examination.

(f) “Law enforcement agency” means any police department, sheriff’s office, campus police department, or any other person, agency, or department investigating a reported sexual assault for which a sexual assault evidence collection kit has been utilized by a medical service provider or that is taking possession of or storing an unreported or anonymous sexual assault evidence collection kit.

(g) “Medical service provider” means a medical facility or medical professional in the State who administers a forensic medical examination using a sexual assault evidence collection kit.

(h) “Previously untested kit” means a sexual assault evidence collection kit used in a forensic medical examination ~~which that~~ has not undergone forensic testing and was identified and included in the 2017 ~~statewide~~ Statewide inventory.

~~(i) “System guidelines” means the guidelines published by the Director of the North Carolina State Crime Laboratory for use by covered entities.~~

~~(j)~~ (i) “Statewide System Administrator” means an employee of the North Carolina State Crime Laboratory who has responsibility for the overall administrative functions of the System, including providing assistance to covered entities, training all covered entities, making corrections in the system, and generating data reports for the Director’s annual tracking report to the Joint Legislative Oversight Committee on Justice and Public Safety.

~~(k)~~ (j) “System” means Sexual Assault Evidence Collection Kit Tracking and Inventory Management System

27 (STIMS).

28 (k) “System guidelines” means the guidelines published by the Director of the North Carolina State Crime Laboratory
29 for use by covered entities.

30

31 *History Note: Authority G.S. 114-65; G.S. 143B-1200;*

32 *Eff. April 1, 2021.*

32

1 14B NCAC 19A .0103 is adopted as published in 34:13 NCR 1205-1208 with changes as follows:

2 **14B NCAC 19A .0103 STATEWIDE SYSTEM ADMINISTRATOR DESIGNATION**

3 (a) The System shall be administered by the Statewide System Administrator.

4 (b) The Statewide System Administrator ~~shall~~ shall:

(1) grant System access to each covered ~~entity~~-entity;

5 ~~(e) (2) The Statewide Administrator shall~~ provide training on the System and technical assistance to all local
~~administrators.~~ administrators; and

6 ~~(d) (3) The Statewide Administrator shall~~ keep a log of all notifications for entities out of compliance with the
7 rules of this ~~Chapter as covered in 14B NCAC 19C.0102 Compliance and Sanctions.~~ Chapter.

8 ~~(e) (c)~~ (c) The Statewide System Administrator contact information is

9 NCSTIMS@ncdoj.gov.

10
11 *History Note: Authority G.S. 114-65;*

10 *Eff. April 1, 2021.*

1 14B NCAC 19A .0104 is adopted as published in 34:13 NCR 1205-1208 with changes as follows:

2 **14B NCAC 19A .0104 COVERED ENTITY SYSTEM ACCESS; LOCAL ADMINISTRATORS**

3 (a) Each covered entity shall access the System and require that its users are trained to enter kit information data in
4 the System.

5 (b) Each covered entity shall designate a local administrator, who shall provide his or her contact information to the
6 Statewide System Administrator in writing, by mail, hand delivery, or email. The address for the State System
7 Administrator is the State Crime Lab, 121 East Tryon Road, Raleigh, NC 27603. If a covered entity changes
8 its local administrator or contact information for its local administrator, the covered entity shall update the System
9 administrative information and provide written notice of the change to the Statewide System Administrator within 10
10 business days.

11 (c) The local administrator shall report any issues requiring technical support to the Statewide System Administrator
12 within two business days at NCSTIMS@ncdoj.gov.

13
12 *History Note: Authority G.S. 114-65;*

13 *Eff. April 1, 2021.*

1 14B NCAC 19B .0101 is adopted as published in 34:13 NCR 1205-1208 as follows:

2 **SUBCHAPTER 19B – COVERED ENTITY TRACKING REQUIREMENTS**

3
4 **14B NCAC 19B .0101 SYSTEM COMPATIBILITY FOR KITS**

5 Any State or local government agency responsible for the production of kits to be used in this State shall produce kits
6 that are compatible with the System. A government agency that contracts for kit production by a vendor shall ensure
7 that the vendor is contractually obligated to meet this requirement.

8
9 *History Note: Authority G.S. 114-65; G.S. 143B-1201;*

10 *Eff. April 1, 2021.*

1 14B NCAC 19B .0102 is adopted as published in 34:13 NCR 1205-1208 with changes as follows:

2 **14B NCAC 19B .0102 MEDICAL SERVICE PROVIDERS**

3 (a) Medical service providers shall:

4 (1) In the System, receive all kits used for the collection of physical evidence during forensic medical
5 examinations from the kit vendor;

6 (2) make all required data entries in accordance with System guidelines; and

7 (3) track all kit transfers from the provider to a law enforcement agency or to Law Enforcement Support
8 Services (LESS) in the System.

9 (b) Prior to using any kit that does not already have a tracking number, the medical service provider shall affix a
10 tracking label received from the ~~statewide System administrator.~~ Statewide System Administrator.

11 (c) The medical service provider shall inform the victim of the North Carolina Department of Justice Sexual Assault
12 Kit Tracking Web Portal found at <https://www.sexualassaultkittracking.ncdoj.gov/SexualAssaultKitTracking/> and
13 provide the victim with the kit tracking number to view kit tracking and testing information.
14

15 *History Note: Authority G.S. 114-65;*

16 *Eff. April 1, 2021.*

14B NCAC 19B .0103 is adopted as published in 34:13 NCR 1205-1208 with changes as follows:

14B NCAC 19B .0103 LAW ENFORCEMENT AGENCIES

(a) Each law enforcement agency in the State shall comply with System guidelines to track ~~the~~ the:

(1) receipt of kits by the law enforcement agency from medical service providers or Law Enforcement Support Services (LESS);

(2) ~~the~~ transfer of kits from the law enforcement agency to forensic laboratories; and

(3) ~~the~~ transfer of kits from forensic laboratories back to the law enforcement agency.

Each law enforcement agency shall enter all data in accordance with System guidelines and keep the data updated as the investigation of the incident evolves.

(b) When a law enforcement agency submits a kit to any private vendor laboratory or any public laboratory outside of North Carolina for forensic testing, the law enforcement agency shall coordinate with that forensic laboratory to ensure that entries for the tracking of the kit are made in the System, in accordance with System guidelines.

(c) Each law enforcement agency that receives into its custody a kit that does not already have an assigned tracking number shall affix a tracking label received from the Statewide System Administrator.

(d) Each law enforcement agency shall enter all data from each previously untested kit in ~~their~~ its custody into the North Carolina SAKI online data collection tool. Kits entered in the collection tool will be placed into STIMS by the ~~system administrator~~ Statewide System Administrator to make them trackable. Each law enforcement agency shall send an e-mail to NCSAKI@ncdoj.gov to gain access to the online data collection tool.

History Note: Authority G.S. 114-65;

Eff. April 1, 2021.

14B NCAC 19B .0104 is adopted as published in 34:13 NCR 1205-1208 with changes as follows:

14B NCAC 19B .0104 LAW ENFORCEMENT SUPPORT SERVICES

Law Enforcement Support Services shall:

(a) confirm all kits held or received into its custody have tracking ~~labels or are otherwise System compatible;~~
labels;

(b) enter tracking data in accordance with System guidelines; and

(c) track the subsequent transfer of any kit to a law enforcement agency in the System.

History Note: Authority G.S. 114-65;

Eff. April 1, 2021.

14B NCAC 19B .0105 is adopted as published in 34:13 NCR 1205-1208 with changes as follows:

14B NCAC 19B .0105 FORENSIC LABORATORIES

(a) Any forensic laboratory in this State that takes custody of a kit for purposes of conducting forensic testing shall:

(1) Enter the transfer and receipt of the kit in the tracking System in accordance with System guidelines;

(2) Enter all data on the examination in accordance with System ~~guidelines and keep the data updated if a CODIS~~
~~hit occurs;~~ guidelines; and

(3) Enter the transfer of the kit back to the submitting law enforcement agency in the tracking System in accordance
with System guidelines.

(b) Any forensic laboratory in this State that receives into its custody a kit that does not already have tracking label
shall affix a tracking label to the kit received from the Statewide System Administrator or otherwise make the kit
~~System compatible.~~ Administrator.

(c) North Carolina law enforcement agencies that submit kits to private vendor laboratories or public laboratories
outside of this State for purposes of conducting forensic testing shall coordinate with those laboratories to ensure that
entries for the tracking of the kit are made in the System in accordance with System guidelines.

History Note: Authority G.S. 114-65;

Eff. April 1, 2021.

1 14B NCAC 19B .0106 is adopted as published in 34:13 NCR 1205-1208 with changes as follows:

2 **14B NCAC 19B .0106 PREVIOUSLY UNTESTED KITS**

3 (a) Each covered entity's local administrator shall contact the Statewide System Administrator to obtain tracking
4 labels designated for previously untested kits.

5 (b) Covered entities shall comply with System guidelines for submitting data to be used by the Statewide System
6 Administrator to enter previously untested kits in their custody in the tracking System.

7
8
9 *History Note: Authority G.S. 114-65;*

10 *Eff. April 1, 2021.*

14B NCAC 19C .0101 is adopted as published in 34:13 NCR 1205-1208 with changes as follows:

SUBCHAPTER 19C – COMPLIANCE

14B NCAC 19C .0101 – DEFICIENCY CORRECTION AND SANCTIONS

(a) The Statewide System Administrator shall give written or oral notice to any covered entity out of compliance with the rules of this ~~Chapter~~ Chapter. ~~and such~~ The notice shall include:

(1) identification of the ~~deficiency or failure to comply;~~ deficiency; and

(2) notice that the deficiency must be corrected within 10 business days following notification.

(b) If a covered entity fails to correct the deficiency within 10 business days following notification, the Statewide System Administrator shall give written notice by mail, hand delivery, or email to the covered entity and such notice shall include:

(1) identification of the ~~deficiency or failure to comply;~~ deficiency; and

(2) notice that the failure to resolve the identified deficiency within 10 business days following notification may result in the covered entity being listed in the Director's annual tracking report to the Joint Legislative Oversight Committee on Justice and Public Safety.

(c) The Statewide System Administrator shall keep a log of all notifications for entities out of compliance with the rules of this Chapter.

History Note: Authority G.S. 114-65;

Eff. April 1, 2021.



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

January 21, 2021

Margaret McDonald
Department of Public Safety
Sent via email only to: Margaret.McDonald@ncdps.gov

Re: Extension of the Period of Review for Rules 14B NCAC 19A, 19B, and 19C

Dear Ms. McDonald:

At its meeting this morning, the Rules Review Commission extended the period of review for the above-captioned rules in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period in order to allow the agency to address the requested technical changes and submit the rewritten rules at a later meeting.

Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

Amanda J. Reeder
Commission Counsel

Julian Mann, III, Director
Chief Administrative Law Judge

Fred G. Morrison, Jr.
Senior Administrative Law Judge

Linda T. Worth
Deputy Director

An Equal Employment Opportunity Employer

1711 New Hope Church Road, Raleigh, NC 27609
Telephone: (984) 236-1850 | Facsimile: (984) 236-1871
www.oah.nc.gov

Burgos, Alexander N

Subject: FW: [External] RE: RRC Request for Technical Changes

From: McDonald, Margaret <Margaret.McDonald@ncdps.gov>

Sent: Wednesday, January 13, 2021 3:47 PM

To: Reeder, Amanda J <amanda.reeder@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: [External] RE: RRC Request for Technical Changes

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Amanda- The Department is working through the requested technical changes, but will need more time to revise the rules. The Department respectfully requests an extension of the period of review.

Margaret McDonald

Deputy General Counsel

NC Department of Public Safety

Office of the General Counsel

Mail Service Center 4201

Raleigh, NC 27699-4201

Office (919) 825-2743

margaret.mcdonald@ncdps.gov

www.ncdps.gov

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Public Safety

RULE CITATION: All Rules Submitted

DEADLINE FOR RECEIPT: Friday, January 15, 2021

NOTE: This request when viewed on computer extends 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 call our office to inquire concerning the staff recommendation.

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

On the Submission for Permanent Rule form:

In Box 6:

- *Please insert an "N/A" beside "Hearing on:" as you did not hold a hearing.*
- *Please state the date the agency adopted the Rule.*

In Box 8, was this a part of a combined analysis?

In each Rule:

For any Rule where no changes are requested, please remove "without changes" from the Introductory Statement.

Please use 1.5 line spacing.

In the History Note, please replace the period after the last statutory citation with a semicolon.

Please insert an effective date for each Rule. The earliest these Rules can become effective is February 1, 2021.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 5, 2021

14B NCAC 19A .0101 is adopted as published in 34:13 NCR 1205-1208 without changes as follows:

CHAPTER 19 – STATEWIDE SEXUAL ASSAULT EVIDENCE COLLECTION KIT TRACKING SYSTEM

SUBCHAPTER 19A – GENERAL PROVISIONS

14B NCAC 19A .0101 SCOPE

The rules in this Chapter are applicable to persons or entities in the State that have custody of any sexual assault evidence collection kits, including medical service providers, law enforcement agencies, forensic laboratories, and the Department of Public Safety Law Enforcement Support Services.

History Note: Authority G.S. 114-65.

Eff. [DATE]

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 19A .0102

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

In (d), line 10, what does "in a manner suitable for use in a court of law"? Is this the reason you included G.S. 143B-1200 in the History Note?

In (h), line 21, replace "which" with "that"

Also on line 21, please capitalize "Statewide"

Please put the terms in alphabetical order by moving (i) to the end of the Rule.

In (i), are these Director's "guidelines" referring to the guidelines in G.S. 114-65(b), which states:

(b) Establishment of System.--There is established in the State Crime Laboratory the Statewide Sexual Assault Evidence Collection Kit Tracking System (the System). All sexual assault evidence collection kits purchased or distributed under [G.S. 143B-1201](#) on or after October 1, 2018, shall be trackable and shall comply with the requirements of the System. The Director of the State Crime Laboratory (Director) shall implement protocols and administer the System. The Secretary of the Department of Public Safety (Secretary) shall adopt rules, guidelines, and sanctions, for agencies required to participate in the System under this section. The Director shall guidelines for agencies required to participate in the System under this section. The Director shall ensure that the System protects victim information against disclosure to nonparticipating agencies. Except as otherwise required for reporting under subsection (f) of this section, information maintained in the System is confidential and not a public record as defined in [G.S. 132-1](#).

In the History Note, why are you citing to G.S. 143B-1200? Is it to address (d)?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 5, 2021

1 14B NCAC 19A .0102 is adopted as published in 34:13 NCR 1205-1208 without changes as follows:

2 **14B NCAC 19A .0102 DEFINITIONS**

3 As used in this Chapter:

4 (a) “Covered entity” means an agency, medical facility, or medical professional, person, or entity subject to the System
5 tracking requirements.

6 (b) “Director” means the Director of the North Carolina State Crime Laboratory.

7 (c) “Forensic laboratory” means a person, agency, or department that takes custody of a sexual assault evidence
8 collection kit for purposes of conducting forensic testing.

9 (d) “Forensic medical examination” means an examination provided to a sexual assault victim by medical personnel
10 trained to gather evidence of a sexual assault in a manner suitable for use in a court of law and includes collection and
11 evaluation of physical evidence.

12 (e) “Kit” or “sexual assault evidence collection kit” means a prepared kit used to conduct a forensic medical
13 examination.

14 (f) “Law enforcement agency” means any police department, sheriff’s office, campus police department, or any other
15 person, agency, or department investigating a reported sexual assault for which a sexual assault evidence collection
16 kit has been utilized by a medical service provider or that is taking possession of or storing an unreported or anonymous
17 sexual assault evidence collection kit.

18 (g) “Medical service provider” means a medical facility or medical professional in the State who administers a forensic
19 medical examination using a sexual assault evidence collection kit.

20 (h) “Previously untested kit” means a sexual assault evidence collection kit used in a forensic medical examination
21 which has not undergone forensic testing and was identified and included in the 2017 statewide inventory.

22 (i) “System guidelines” means the guidelines published by the Director of the North Carolina State Crime Laboratory
23 for use by covered entities.

24 (j) “Statewide System Administrator” means an employee of the North Carolina State Crime Laboratory who has
25 responsibility for the overall administrative functions of the System, including providing assistance to covered entities,
26 training all covered entities, making corrections in the system, and generating data reports for the Director’s annual
27 tracking report to the Joint Legislative Oversight Committee on Justice and Public Safety.

28 (k) “System” means Sexual Assault Evidence Collection Kit Tracking and Inventory Management System (STIMS).
29

30 *History Note: Authority G.S. 114-65; G.S. 143B-1200.*

31 *Eff. [DATE]*
32

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 19A .0103

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

Throughout this Rule, you refer to a "Statewide Administrator" but in Rule .0102, the defined term is "Statewide System Administrator" Assuming the terms are referring to the same person, please use the same term in both places, either by amending Rule .0102 or this Rule.

Consider combining (b) through (d) by stating:

(b) The Statewide Administrator shall:
(1) grant System access to each covered entity;
(2) provide training ... administrators; and
(3) keep a log...

In (c), training on what? How to use the system?

In (d), line 7, either end the sentence after "Chapter" or state "Chapter, as set forth in 14B NCAC 19C .0101." (using the correct citation and not including the Rule name)

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 5, 2021

14B NCAC 19A .0103 is adopted as published in 34:13 NCR 1205-1208 without changes as follows:

14B NCAC 19A .0103 SYSTEM ADMINISTRATOR DESIGNATION

(a) The System shall be administered by the Statewide Administrator.

(b) The Statewide Administrator shall grant System access to each covered entity.

(c) The Statewide Administrator shall provide training and technical assistance to all local administrators.

(d) The Statewide Administrator shall keep a log of all notifications for entities out of compliance with the rules of this Chapter as covered in 14B NCAC 19C.0102 Compliance and Sanctions.

(e) The Statewide Administrator contact information is NCSTIMS@ncdoj.gov.

History Note: Authority G.S. 114-65.

Eff. [DATE]

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 19A .0104

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

Throughout this Rule, please be sure to use the proper term of "Statewide Administrator" or "Statewide System Administrator," depending upon the updates to Rule .0102.

In (b), line 6, what is the address for mail or hand delivery? Rule .0103 only includes an email address.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 5, 2021

1 14B NCAC 19A .0104 is adopted as published in 34:13 NCR 1205-1208 without changes as follows:

2 **14B NCAC 19A .0104 COVERED ENTITY SYSTEM ACCESS; LOCAL ADMINISTRATORS**

3 (a) Each covered entity shall access the System and require that its users are trained to enter kit information data in
4 the System.

5 (b) Each covered entity shall designate a local administrator, who shall provide his or her contact information to the
6 Statewide Administrator in writing, by mail, hand delivery, or email. If a covered entity changes its local administrator
7 or contact information for its local administrator, the covered entity shall update the System administrative information
8 and provide written notice of the change to the Statewide Administrator within 10 business days.

9 (c) The local administrator shall report any issues requiring technical support to the Statewide Administrator within
10 two business days at NCSTIMS@ncdoj.gov.

11
12 *History Note: Authority G.S. 114-65.*

13 *Eff. [DATE]*
14

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 19B .0101

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

So that I'm clear – this Rule is only governing State and local government agencies, and not covered entities? Will covered entities not produce the kits?

On line 6, how will they know if the kits are “compatible with the System”? Or is this to address G.S. 143B-1201(d), which states:

(d) The Secretary, in consultation with the Director of the State Crime Laboratory, shall require that all sexual assault evidence collection kits purchased or distributed on or after October 1, 2018, are compatible with the Statewide Sexual Assault Evidence Collection Kit Tracking System established under [G.S. 114-65](#).

So that I'm clear – the intent of the language on lines 6 and 7 is to require the contract to have a clause mandating the vendor complies with this requirement?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 5, 2021

1 14B NCAC 19B .0101 is adopted as published in 34:13 NCR 1205-1208 without changes as follows:

2 **SUBCHAPTER 19B – COVERED ENTITY TRACKING REQUIREMENTS**

3
4 **14B NCAC 19B .0101 SYSTEM COMPATIBILITY FOR KITS**

5 Any State or local government agency responsible for the production of kits to be used in this State shall produce kits
6 that are compatible with the System. A government agency that contracts for kit production by a vendor shall ensure
7 that the vendor is contractually obligated to meet this requirement.

8
9 *History Note: Authority G.S. 114-65; G.S. 143B-1201.*

10 *Eff. [DATE]*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 19B .0102

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

In (a)(1), line 4, what do you mean by "In the System"?

On line 5, who is the "kit vendor"? Is it the State or local government entities (or their vendors) discussed in Rule .0101?

In (a)(2), what are these "required date entries"? And what do you mean by "System guidelines"? Are you relying upon the language in G.S. 114-65(b) to establish guidelines outside of rulemaking?

In (a)(3), lines 7 and 8, who or what is the "Law Enforcement Support Services"? I take it your regulated public knows, but I do not, so I wanted to inquire.

In (b), line 10, please be sure to use the correct term and capitalize the entire term.

And how is this tracking label requested? By just contracting the Administrator?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 5, 2021

14B NCAC 19B .0102 is adopted as published in 34:13 NCR 1205-1208 without changes as follows:

14B NCAC 19B .0102 MEDICAL SERVICE PROVIDERS

(a) Medical service providers shall:

(1) In the System, receive all kits used for the collection of physical evidence during forensic medical examinations from the kit vendor;

(2) make all required data entries in accordance with System guidelines; and

(3) track all kit transfers from the provider to a law enforcement agency or to Law Enforcement Support Services (LESS) in the System.

(b) Prior to using any kit that does not already have a tracking number, the medical service provider shall affix a tracking label received from the statewide System administrator.

(c) The medical service provider shall inform the victim of the North Carolina Department of Justice Sexual Assault Kit Tracking Web Portal found at <https://www.sexualassaultkittracking.ncdoj.gov/SexualAssaultKitTracking/> and provide the victim with the kit tracking number to view kit tracking and testing information.

History Note: Authority G.S. 114-65.

Eff. [DATE]

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 19B .0103

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

In (a). line 3, state, "... to track:" Then begin (a)(1) with "the" Alternatively, you can insert colon after "the" on line 3 and delete "the" at the beginning of (a)(2) and (3).

On lines 8 and 12, when you refer to "System guidelines," what are these? How are they known? And are you relying upon G.S. 114-65(b) to establish them outside of rulemaking?

In (d), line 15, replace "their" with "its"

On line 16, what is the "SAKI online data collection tool"? Is this known to the law enforcement agencies?

On lines 16 and 17, please use the correct term to refer to the Administrator and please be sure to capitalize the term.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 5, 2021

1 14B NCAC 19B .0103 is adopted as published in 34:13 NCR 1205-1208 without changes as follows:

2 **14B NCAC 19B .0103 LAW ENFORCEMENT AGENCIES**

3 (a) Each law enforcement agency in the State shall comply with System guidelines to track the

4 (1) receipt of kits by the law enforcement agency from medical service providers or Law Enforcement
5 Support Services (LESS);

6 (2) the transfer of kits from the law enforcement agency to forensic laboratories; and

7 (3) the transfer of kits from forensic laboratories back to the law enforcement agency.

8 Each law enforcement agency shall enter all data in accordance with System guidelines and keep the data updated as
9 the investigation of the incident evolves.

10 (b) When a law enforcement agency submits a kit to any private vendor laboratory or any public laboratory outside of
11 North Carolina for forensic testing, the law enforcement agency shall coordinate with that forensic laboratory to ensure
12 that entries for the tracking of the kit are made in the System, in accordance with System guidelines.

13 (c) Each law enforcement agency that receives into its custody a kit that does not already have an assigned tracking
14 number shall affix a tracking label received from the Statewide System Administrator.

15 (d) Each law enforcement agency shall enter all data from each previously untested kit in their custody into the North
16 Carolina SAKI online data collection tool. Kits entered in the collection tool will be placed into STIMS by the system
17 administrator to make them trackable. Each law enforcement agency shall send an e-mail to NCSAKI@ncdoj.gov to
18 gain access to the online data collection tool.

19
20 *History Note: Authority G.S. 114-65.*

21 *Eff. [DATE]*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 19B .0104

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

In (a), line 4, what do you mean by "otherwise System compatible"? Will these not need tracking numbers? And I note that in Rule .0105, you hyphenated "System-compatible"

In (b), line 5, what are these guidelines? Are they known?

In (c), so that I'm clear – LESS will only transfer the kit to a law enforcement agency?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 5, 2021

1 14B NCAC 19B .0104 is adopted as published in 34:13 NCR 1205-1208 without changes as follows:

2 **14B NCAC 19B .0104 LAW ENFORCEMENT SUPPORT SERVICES**

3 Law Enforcement Support Services shall:

4 (a) confirm all kits held or received into its custody have tracking labels or are otherwise System compatible;

5 (b) enter tracking data in accordance with System guidelines; and

6 (c) track the subsequent transfer of any kit to a law enforcement agency in the System.

7
8 *History Note: Authority G.S. 114-65.*

9 *Eff. [DATE]*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 19B .0105

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

Throughout this Rule, where you refer to "guidelines," are they known? And are you relying upon G.S. 114-65(b) to establish them outside of rulemaking?

In (a)(2), lines 5 and 6, what is a "CODIS hit"? Does your regulated public know? And what do you mean by "keep the data updated" in this context?

In (b), lines 10 and 11, what do you mean by "or otherwise make the kit System-compatible"? Those kits won't need tracking numbers?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 5, 2021

14B NCAC 19B .0105 is adopted as published in 34:13 NCR 1205-1208 without changes as follows:

14B NCAC 19B .0105 FORENSIC LABORATORIES

(a) Any forensic laboratory in this State that takes custody of a kit for purposes of conducting forensic testing shall:

(1) Enter the transfer and receipt of the kit in the tracking System in accordance with System guidelines;

(2) Enter all data on the examination in accordance with System guidelines and keep the data updated if a CODIS hit occurs; and

(3) Enter the transfer of the kit back to the submitting law enforcement agency in the tracking System in accordance with System guidelines.

(b) Any forensic laboratory in this State that receives into its custody a kit that does not already have tracking label shall affix a tracking label to the kit received from the Statewide System Administrator or otherwise make the kit System-compatible.

(c) North Carolina law enforcement agencies that submit kits to private vendor laboratories or public laboratories outside of this State for purposes of conducting forensic testing shall coordinate with those laboratories to ensure that entries for the tracking of the kit are made in the System in accordance with System guidelines.

History Note: Authority G.S. 114-65.

Eff. [DATE]

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 19B .0106

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

In (a), you refer to the "Statewide Administrator" and in (b), you refer to the "Statewide System Administrator" Please be consistent with the term.

In (a), line 4, what do you mean by "designated"?

In (b), what are these guidelines? And are you relying upon G.S. 114-65(b) to establish them outside of rulemaking?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 5, 2021

14B NCAC 19B .0106 is adopted as published in 34:13 NCR 1205-1208 without changes as follows:

14B NCAC 19B .0106 PREVIOUSLY UNTESTED KITS

(a) Each covered entity's local administrator shall contact the Statewide Administrator to obtain tracking labels designated for previously untested kits.

(b) Covered entities shall comply with System guidelines for submitting data to be used by the Statewide System Administrator to enter previously untested kits in their custody in the tracking System.

History Note: Authority G.S. 114-65.

Eff. [DATE]

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 19B .0107

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

On line 4, what are reasonable measures? Is this to restate the requirement in G.S. 114-65(e), which states:

(e) Tracking of Previously Untested Kits. - The Director shall implement protocols and the Secretary shall adopt rules and guidelines to ensure that previously untested sexual assault evidence collection kits are trackable and are entered into the System. Any law enforcement agency, medical provider, or forensic laboratory that has in its custody a previously untested sexual assault evidence collection kit used for a forensic medical examination shall comply with the established protocols, rules, and guidelines with respect to all untested kits.

For purposes of this subsection, a "previously untested sexual assault evidence collection kit" means any kit that has not undergone forensic testing and was identified and included in the 2017 statewide inventory of kits in law enforcement custody pursuant to Section 17.7 of S.L. 2017-57. To the extent practicable, and consistent with protecting victim confidentiality for unreported sexual assaults, a law enforcement agency having custody of a kit governed by this subsection shall take reasonable measures to provide appropriate tracking information to the affected victim.

If so, what is the need for this Rule? What is it addressing that the statute is not?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 5, 2021

1 14B NCAC 19B .0107 is adopted as published in 34:13 NCR 1205-1208 without changes as follows:

2 **14B NCAC 19B .0107 VICTIM NOTIFICATION FOR KITS COLLECTED PRIOR TO OCTOBER 1,**
3 **2018**

4 Law enforcement agencies shall take reasonable measures to provide victims with kit tracking numbers and
5 information about the System after a previously untested kit is assigned a tracking number and entered into the System.

6
7 *History Note: Authority G.S. 114-65.*

8 *Eff. [DATE]*
9

Withdrawn

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Public Safety

RULE CITATION: 14B NCAC 19C .0101

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

Please provide the Subchapter name on the Rule, as you did in Rules 19A .0101 and 19B .0101. I note that in the Register, you published the Subchapter name as "Compliance and Sanctions" and you also published a Section name for .0100, "Provisions" (Please note, a Section name is not required here.)

In (a), line 4, end the sentence after "Chapter" Then state "The notice shall include:"

In (a)(1), line 5, and elsewhere in this Rule you refer to them, what is the difference between a "deficiency" and "failure to comply"? If they are different, then I note you only require deficiencies to be corrected. (See (a)(2) and (b)(2))

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 5, 2021

1 14B NCAC 19C .0101 is adopted as published in 34:13 NCR 1205-1208 without changes as follows:

2 **14B NCAC 19C .0101 COMPLIANCE AND SANCTIONS**

3 (a) The Statewide Administrator shall give written or oral notice to any covered entity out of compliance with the
4 rules of this Chapter and such notice shall include:

5 (1) identification of the deficiency or failure to comply; and

6 (2) notice that the deficiency must be corrected within 10 business days following notification.

7 (b) If a covered entity fails to correct the deficiency within 10 business days following notification, the Statewide
8 Administrator shall give written notice by mail, hand delivery, or email to the covered entity and such notice shall
9 include:

10 (1) identification of the deficiency or failure to comply; and

11 (2) notice that the failure to resolve the identified deficiency within 10 business days following notification may
12 result in the covered entity being listed in the Director's annual tracking report to the Joint Legislative
13 Oversight Committee on Justice and Public Safety.

14 (c) The Statewide Administrator shall keep a log of all notifications for entities out of compliance with the rules of
15 this Chapter.

16
17 *History Note: Authority G.S. 114-65.*

18 *Eff. [DATE]*