

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

AGENCY: Fire and Rescue Commission

RULE CITATION: 11 NCAC 05B .0301

**DEADLINE FOR RECEIPT: November 10, 2022**

***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:

*Generally, to the Rule:*

A “rule” is “any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency.” See G.S. 150B-2(8a).

Pursuant to G.S. 58-78-5 (a) (14b) and (17) the State Fire and Rescue Commission (SFRC) has the power **and duty** “to establish voluntary minimum professional qualifications for all levels of fire service and rescue service personnel, and to issue, deny, suspend, revoke or take similar actions with respect to certifications issued by the Commission of minimum professional qualifications established under this subdivision.” And the power “to adopt, modify, or repeal any rules and regulations necessary for the purpose of carrying out the provisions of this Article.”

Please explain why this Rule meets the definition of a “rule”.

Please explain why this Rule is necessary pursuant to G.S. 150B-21.9(a)(3) as the Rule appears to require the SFRC to adopt standards which it is already required to do by statute. The sentences referring to special committees appears to be an internal process not generally applicable to any outside regulated public.

William W. Peaslee  
Commission Counsel

Date submitted to agency: October 25, 2022

Where in the North Carolina Administrative Code can the adopted standards be found? If they are not in the Code, why wouldn't these standards need to be adopted pursuant to G.S. 150B?

Please explain why G.S. 58-2-40 is cited in the history note as that statute refers to the power of the Commissioner of Insurance, not the SFRC.

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

William W. Peaslee  
Commission Counsel

Date submitted to agency: October 25, 2022

1 11 NCAC 05B .0301 is readopted as published in NCR 37:01 15 as follows:  
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3 **SECTION .0300 - CERTIFICATION OF FIRE SERVICE PERSONNEL**  
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5 **11 NCAC 05B .0301 MINIMUM PROFESSIONAL QUALIFICATIONS**

6 The commission shall establish voluntary minimum professional qualifications for all levels of fire service personnel. These  
7 shall be developed by special committees, appointed by the chairman or full commission, and shall be subject to final  
8 approval of the full commission. All boards, committees and sub-committees, having recommendations for changes to these  
9 standards shall make them to the full commission for approval. The commission shall make final ruling on appeals to these  
10 standards, and shall have the authority to appoint boards or committees to act as intermediaries.  
11

12 *History Note: Authority G.S. 58-2-40; 58-78-5(a)(14b);*  
13 *~~Eff. November 1, 1988~~-Eff. November 1, 1988;*  
14 *Readopted Eff. December 1, 2022.*  
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