

**Regulatory Impact Analysis
NC Regional Response Team Program
Proposed by Agency: August 2023**

Agency Name: Department of Public Safety / Division of Emergency Management

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Rules proposed for adoption: Rule 14B NCAC 03.0501
Rule 14B NCAC 03.0502
Rule 14B NCAC 03.0503
Rule 14B NCAC 03.0504
Rule 14B NCAC 03.0505
Rule 14B NCAC 03.0506
Rule 14B NCAC 03.0507
Rule 14B NCAC 03.0508
Rule 14B NCAC 03.0509

State Impact: Yes

Local Impact: Yes

Substantial Economic Impact: Yes

Authorizing Statutes: G.S. 166A-22; 166A-27;

Statement of Necessity:

The Department of Public Safety, Division of Emergency Management is promulgating permanent rules as required under N.C. Sess. Law 1993-769. The necessity of a State Regional Response Team Program has been made apparent through the significant number of hazardous materials incidents that have required coordinated and qualified resources to augment local hazardous materials response capabilities. Rules are required to ensure an equitable implementation of the NC Regional Response Team Program. The NC Regional Response Team Program is a partnership between local and State governments where the State augments local response capabilities to enhance disaster response capabilities through a regional approach. These rules establish standards for eligibility, resource type, and response expectations both administratively as well as operationally when responding under the authorities of the NC Regional Response Team Program. The rules of this section only apply to those entities who elect to participate in the program and establish the standards and requirements of program participation as well as the expectations on the NC Division of Emergency Management in administration of this program.

Rule Text: Attached as Appendix 1

Background Information

After the December 3rd, 1984, chemical leak and disaster in the City of Bhopal, India the State and nation began to take actions to better regulate and respond to hazardous materials incidents. The Emergency Planning and Community Right-to-Know Act of 1986 was enacted by the federal government to begin to improve preparedness and coordinate with chemical facilities in communities to prevent a similar incident in the US. The State began to research how to better address comprehensive response capabilities for hazardous materials incidents in the 1992 regular legislative session. This would lead to the establishing of the NC Regional Response Team Program in N.C. Sess. Law 1993-769.

The NC Regional Response Team Program has always been a partnership between local and State governments where the State augmented existing local capabilities to enhance response capabilities and ensure resources are available to deploy outside of their home jurisdictions to assist other jurisdictions. The Division of Emergency Management is the lead state coordinating agency and has partnered with various other State and local agencies to augment hazardous materials response capability across the State. Annual receipt funds are provided to offset some local expenses and to enhance local, organic response capability. This symbiotic relationship ensures response capability while being fiscally responsible. Participation in the NC Regional Response Team Program is completely voluntary for local units of government and does not prevent local authority having jurisdictions from maintaining local response capabilities nor responding under their local authorities and agreements. Participation in the program can benefit local response resources through additional access to highly specialized training and equipment. The program is not intended to build response capability from the ground up but merely augment existing capability to ensure its readiness to respond outside of its own jurisdiction to support other local governments who need additional response resources to address an unmet need in a disaster or emergency.

The Division of Emergency Management is seeking to adopt rules to ensure clarity and equitable application of state funds in support of this program. The rules seek to further clarify the purpose, intent, and application of Article 2 of N.C.G.S. Chapter 166A. The rules address the definition of local units of government as to eligibility in participation in the program as well as the process to become a program participant. Finally, the rules seek to establish broader program requirements as well as established equitable standards that can be enforced by the Division of Emergency Management to ensure the purpose and intent of the program is sustained to address hazardous materials response needs for the State as it relates to Regional Response Teams.

The proposed rules apply only to entities who are participating in the NC Regional Response Team Program and when they are responding under the authorities of Article 2 of N.C.G.S. Chapter 166A. The rules as proposed do not impact an entity's ability to function independent of any rules of this section when operating as a resource under their existing authorities and agreements of a local, state, or federal authority having jurisdiction. NC Division of Emergency

Management is not an authority having jurisdiction but a coordinating entity who establishes standards for participation in a coordinated regional response team program to address response gaps when local organic response capabilities are overwhelmed in responding to a hazardous materials incident.

Proposed Rule Additions and Impacts:

The proposed rule additions include the following:

1. Rule 14B NCAC 03.0501

This rule establishes the purpose of this Chapter and establishes the entities or persons that are subject to the rules applicable to the North Carolina Regional Response Team Program. This rule clarifies that this subsection only applies to those local and state agencies who elect to participate in the program administered by the North Carolina Division of Emergency Management.

2. Rule 14B NCAC 03.0502

This rule provides necessary definitions for terms used in the Chapter.

3. Rule 14B NCAC 03.0503

This rule establishes the procedures for the dispatch of participating resources in the North Carolina Regional Response Team Program. This rule clarifies what program resources may respond to, when responding under this program who they answer to, as well as who can request program resources. The rule establishes the local incident commander, local emergency management coordinator, Director, Secretary of Public Safety, or the Governor as the requesting authority. This rule establishes administrative process for the activation of participating resources under the program and codifies expectations that emergencies or disasters trigger local response actions first. State and/or Federal resources are only brought in to augment local capability. This is a core aspect of the Federal Emergency Management Agency's National Response Framework and is an established practice that is being codified for clarity and completeness. This expectation on local emergency management programs was established for a broader purpose under N.C.G.S. § 166A-19.15; as a result, the impact of this rule is minimal.

4. Rule 14B NCAC 03.0504

This rule establishes the standards for participating resources for on-site operations during response activities under the program. This rule clarifies how program resources will integrate with local, state, and/or federal response resources, integrate with ongoing law enforcement operations, as well as establish a standard of care related to sensitive response information. The core of the rule is to codify the adherence to Federal Emergency Management Agency standards, but these standards are already requirements for all public and private entities who seek federal preparedness dollars. These standards have become the basis of response across the country and have no specific impact directly from being included in rule as they are already external national response standards. Additionally, this rule codifies the expectation of coordination with law

enforcement agencies in instances where response may be in support of a potential criminal investigation.

Regional response operations closely coordinating with law enforcement authorities is a general expectation across the emergency response community. As a result of this, the impact of this rule is minor as it is merely codifying an existing expectation within the hazardous materials response community to enable enforcement if an issue with program resources coordinating with law enforcement was identified. Similarly, Rule (0504) (d) codifies the expectation of participating entities to not directly release sensitive information to the media or public independent to the authorities they are supporting. This is an expectation of any professional organization and is a general expectation of the hazardous materials response community at large. Experience would suggest the inappropriate release of sensitive information would be something that could occur very infrequently due to the professional nature of those who are participating in the program. Finally, it should be made clear that application of these rules only applies to the resources who are deploying as a program resource. The rule does not impact the authority of local and state resources who deploy under their own authorities or agreements.

5. Rule 14B NCAC 03.0505

This rule establishes the standards for administration of program resources. The rule clarifies record requirements for personnel management, timeline for providing documentation for reimbursement of eligible response costs, as well as the requirement for all persons to be always on duty when they are participating in program activities. The rules establish what records must be maintained by program resources to ensure accountability. Records managed as a result of this program will be done through an electronic system maintained by the North Carolina Division of Emergency Management. Most records maintained by a resource would be necessary regardless of their participation in this program. Any additional time would be as a result of ensuring the accuracy of their roster and baseline training records in the electronic database known as the NC Training, Exercise, Response Management System (NCTERMS). Based on experience, it would be reasonable to expect a resource to spend approximately one to two hours a month on records management as a result of participation in this program. As personnel complete specialized training, the NC TERMS system automatically records the training and credentials for personnel into this electronic system of record as well as provides reports to team and program management for analysis of any training or personnel deficiencies. This significantly reduces the administrative burden on all personnel involved.

This rule codifies existing expectations that to participate in program activities you must be affiliated with an organization and participating through that organization. There is an administrative burden on resources to maintain the required documentation under this rule; however, the impact of this rule is minimal as resources are already having to maintain these records as a general expectation within the community for daily response operations outside of this program.

6. Rule 14B NCAC 03.0506

This rule establishes the procedures for the State of North Carolina to recover response costs of program resources through billing the responsible party. In most cases these responses are covered by the responsible party's insurance. We estimate that the average costs of a mission is approximately \$4,224.83, with the average number of missions at 35 per year since the program's inception. History has shown since the beginning of the NCRRT Program approximately 78% of mission costs made up of staff time, fuel, supplies, and equipment usage, are recovered through billing a responsible party. The responsible party is usually but not limited to, a chemical facility or a transportation company that is responsible for shipping hazardous materials between chemical facilities. This leaves approximately \$32,531.23 of unreimbursed mission costs per year. An average response mission last from a few hours to a day total. These costs are estimated by staff experience from previous responses.

Finally, this rule establishes the standards to calculate eligible expenses to be recovered. The Federal Emergency Management Agency's Public Assistance guidelines are a national standard for calculating and reimbursing expenses for emergency protective measures. The purpose of this rule is to codify this as the standard methodology for calculating eligible expenses for this program in rule. The impact of this rule on program resources are minimal as the NC Division of Emergency Management already utilizes the public assistance as the basis for reimbursement eligibility. This rule merely codifies this existing practice within the program.

7. Rule 14B NCAC 03.0507

This rule establishes the standards for eligibility to participate in the program for interested organizations as well as the procedures for organizations to submit a bid as a regional response team. The effect of eligibility is to define what a local unit of government is for the purposes of this program as outlined in the statute. Statute limits participation to local units of government as the purpose of this program is to augment existing capabilities, not to build standalone resources for State use. This methodology has been consistent since the beginning of the regional response team program due to the limited funds to execute the program.

The impact to organizations interested in becoming affiliated with the program is primarily time to complete the program documentation to become a regional hazmat response team. The largest burden will be for regional response teams that could be expected to spend up to 40 hours on developing a bid per 4-year contract period. The work to complete the required documentation for potential program participation would most likely be completed by organizational leadership from the various response organizations seeking to participate in the program. We do not expect the administrative burden on teams would require any contract resources for the purposes of local units of government completing the required documentation. All the time estimates provided are based on staff expertise from management of previous bid processes for response agreements. However, the time invested should return the organization access to specialized training and equipment to help strengthen their local program in addition to the experience gained from responding across the state.

8. Rule 14B NCAC 03.0508

This rule establishes the criteria for evaluating bids for program participation by interested parties as well as what bidding entities must provide as part of their bid package. The rule establishes that bids must be evaluated with a predefined criteria and consistent with 2 CFR Part 200. This practice is also consistent with the state purchasing process and is essential to ensure eligibility of disaster costs during federal disaster declarations.

The primary cost of this rule is time on the part of the bidding entities to prepare a response to a bid opportunity as well as the time for the State to evaluate all completed bid packages. We would expect the State would require approximately 48 hours of collective staff time each 4-year contract period reviewing bids and documentation from parties interested in the program. This time would be a duty of existing personnel at the NC Division of Emergency Management. All the time estimates provided are based on staff expertise from management of previous bid processes for response agreements.

9. Rule 14B NCAC 03.0509

This rule establishes the standards for personnel, training, and equipment for hazmat response teams. The requirements outlined in this section are consistent with national standards and general expectations of a professional regional response team resource. The requirements are consistent with the FEMA Resource Typing documents that are a component of the National Incident Management System (NIMS). Adopting NIMS is a requirement of any agency that wants to receive federal preparedness dollars. In our experience, it is exceedingly rare for organizations to defer eligibility of federal preparedness dollars; as such, response organizations are generally already complying with NIMS. For this reason, we expect the impact of this rule to be minimal.

This rule additionally requires resources to ensure personnel are trained and meet the qualifications or good character as outlined in this rule. This again is an existing requirement of any professional response organization. Finally, this rule establishes the required equipment for each regional response team program and that it be maintained in a deployment ready status. The specific equipment is again consistent with federal resource typing standards and the equipment readiness standards are an existing requirement of any professional response resource.

Impact Summary:

Benefits

The North Carolina Regional Response Team Program was established in 1993 in North Carolina in response to hazardous materials incidents that had impacted the State and nation. North Carolina Emergency Management as well as other local and state response partners identified a need for an organized and standardized state regional response team system to augment local response efforts when they need additional response resources. The program is funded through annual receipt funds.

The benefits of a state coordinated regional response team system was made evident quickly in the response to various hazardous material emergencies in North Carolina. Over time this program continued to prove its return on investment through saving lives and property across various events natural and manmade that have impacted the State.

The benefits of a structured, state coordinated regional response team program is to address the gap when local response resources are overwhelmed requiring additional specialized resources to address the disaster or emergency. While difficult to quantify the many benefits of a state coordinated regional response team program, it is reasonable to expect the benefits will be greater than the costs. This is especially true as this is a voluntary program and the long history of local governments participating in this program suggests they have found the benefits to exceed the costs.

We limit participation in this program to seven contract regional response teams across the State. We expect larger organizations may not see as much benefit as smaller organizations as they may already maintain some of the specialized capabilities due to their own risks and local resource requirements. If a local agency has a desire to build specialized response capability, participation in this program could offset some of their own costs in building and maintaining that capability. Most directly, local governments could benefit from the training costs covered as part of this program. While we do not anticipate the program will cover all training costs, we do anticipate course delivery costs will be covered as well as some travel costs for specialized response training. Additionally, contract response teams will receive approximately \$25,000 per year per team to help offset local training costs. We expect the organizations that decide to participate as a sponsoring agency will see benefits to their organization outside of just hazardous materials response as the network of responders will be better positioned to share best practices across all responses in North Carolina. Obviously, these secondary benefits are very difficult to quantify but we believe they exist based on past experiences with this program. The North Carolina Regional Response Team Program has increased responder safety through an increased accessibility of highly specialized training and equipment.

State and local hazardous materials responders benefit from highly specialized training made available through the State Regional Response Team Program. Training delivered to responders is designed to address capability gaps and prepare resources to deploy outside of their jurisdiction at the Technician-level entry capability. The information gained through the highly specialized training also enhances their local capabilities through more advanced training. Furthermore, through the State Regional Response Team Program, agencies can access specialized equipment and personnel to further enhance their response capabilities. The increase in capabilities across the State result in a significant return on investment for addressing the local and State response requirements. Without coordinated regional response team resources the State would have to rely on other state and federal resources on a routine basis to fill response gaps during disasters or emergencies. By having resources organically available to the State that reduces risk to lives and property during large scale disasters or emergencies. Furthermore, as the program builds additional local capability, we would expect the local units of government that are participating to not require outside resources as much as their own local capability would be

enhanced to handle more incidents locally. Additionally, through focusing on regional capability, the program can save significant local funds through reducing the duplication of effort of each jurisdiction building their own specialized response resources as they can access regional resources to address unmet needs when required.

Costs

1. Department of Public Safety / Division of Emergency Management

The Division of Emergency Management incurs a recurring annual cost of \$83,383.25 to maintain one full time employee to administer the program. The primary opportunity costs to the Division are time of personnel in supporting training, purchasing equipment, and administration of the program. The annual receipts of approximately \$1.3 million allows the Division to fund the activities of this program.

2. Training Costs

Local and state response resources do have to absorb some training costs for resources who are participating in the program. The primary State response resources are the funds provided by the Division of Emergency Management to the regional response teams from the annual receipt funds for training⁰²⁵. Additionally, the NC Community College System supports and funds a majority of the certification training of hazardous materials responders based on the existing continuing education programs that are reimbursed by the State. This is not limited to hazardous materials response training and would exist regardless of the regional response team program but is included here for completeness. Local agencies will be responsible for direct training costs such as the travel and overtime costs associated with their responders attending specialized response training in addition to the time it takes to attend training courses. Additionally, agencies will be responsible for some opportunity costs associated with additional time in meeting prerequisite requirements to attend specialized training courses. While many of these courses are available through the NC Office of State Fire Marshal and the NC Community College System, some training may require local responders to attend specialized training that is not paid for by the NC Community College System. The training courses provided by the NC Community College System are generally for most training requirements for public safety resources in the State. This program should not affect those requirements or deliveries by the community college system as they are already providing this service at no cost to the responders or response organizations across the State outside of personnel time. Regional response teams will be provided \$25,000 annually per team from appropriations to these teams to offset local training costs. The program will provide some specialty training at no cost to program resources, but local organizations will still be responsible for anything not covered by the program such as personnel costs. It would be reasonable to estimate based on professional experience that an agency would incur approximately \$100-\$750 per person per day to send personnel to a training course outside of the course delivery costs. These costs are primarily overtime an agency incurs by sending on

duty personnel to train as well as costs to pay that person's replacement for the day. The training required is consistent with national resource standards.

3. Equipment Costs

Local agencies will incur some equipment costs as part of participation in this program. Most of these costs would be costs they would incur to some extent because of maintaining baseline local response capability in the specific hazmat response discipline. This cost would vary greatly by team but could range from \$5,000 annually to approximately \$20,000 annually. For the regional response teams approximately \$4,000 annually per team will be provided to offset equipment maintenance costs from the annual Tier II receipt funds. Additionally, program resources would have indirect costs of the time required for personnel to maintain equipment, conduct inventories, and ensure the readiness of the equipment cache.

The Division of Emergency Management will also incur some equipment costs supporting the regional response team program. Primarily the State will be responsible for insurance of state provided equipment as well as equipment required to execute the program. The insurance costs are estimated at \$33,000 annually and will be covered by the annual receipts. Additionally, the State will maintain some equipment directly to ensure standardization across the program. The program is budgeting annually approximately \$7,000 annually to directly pay for services for state issued equipment such as satellite communications equipment as well as mobile data devices used in resource tracking and incident research. These costs will be covered by the annual receipt funds for the regional response team program.

4. Administrative Costs

The contract response teams will likely have some additional administrative costs as a result of participating in this program. We estimate that these costs will be approximately \$140,000 per team per year. These costs will be primarily around administrative support to schedule personnel as well as maintaining program documentation. Additionally, these costs will cover medical monitoring that is required by 29 CFR 1910.120 and 29 CFR 1910.134 as well as help offset workers compensation costs for the Sponsoring Agency. Regional response teams will be eligible to receive up to \$40,000 per year per team to help offset these costs.

5. Uncertainty

It should be noted there is a degree of uncertainty with the above figures as this program is meant to augment local search and rescue capability and does not build capability from the ground up. The focus of this program and the associated appropriations are to building regional all-hazards response capability by building on local organic search and rescue capabilities. Under this construct, local agencies would incur some costs as a condition of maintaining a local response resource as well as some costs for participating in the State program. From a local perspective participation in the program is completely voluntary; however, resources are expected to see significant return on their investment with access to

specialized response training and equipment. How much costs a resource would incur from participation as well as how much benefit they would gain would depend on the specific type of resource they are as well as what organic capability they maintained prior to joining the program.

Volunteers also play a great factor in the uncertainty of program costs. The above assumptions on personnel costs were made in a worst-case scenario that all personnel were paid. This would then mean their overtime and any required backfill personnel during training events were being absorbed by the local agency for participation in the program. Many agencies rely in whole or in part on volunteer responders. These unpaid responders will save considerable costs for a team who utilizes volunteers.

Finally, there is an uncertainty to the number of program responses or what specialized capability might be required in the future to address new or emerging hazards in the state in addition to the uncertainty as to the number of teams. While we expect approximately seven teams to participate in the program based on historical interest of current teams that participate in the program, the exact program participation remains uncertain. Additionally, as time progresses, we expect some costs to increase due to rising materials and personnel costs. Additionally, over time emergency response has seen a significant reduction of volunteers willing to perform emergency response functions. This could further impact the uncertainty of change in future costs.

6. Summary of Expected Costs

Table 1: State Costs

Cost Category	Costs* *All costs are recurring annually and come from Tier II Receipt Funds unless otherwise stated.	Notes
Personnel – salary for 1 FTEs	\$83,383.25	1 FTEs are current positions with NC DEM.
Offset local program equipment cost	\$28,000	Per year total across 7 contract response teams or \$4,000 per team per year.

Offset local program training cost	\$175,000	Per year total across 7 contract response teams or \$25,000 per team per year.
Offset local program administration cost	\$280,000	Per year total across 7 contract response teams or \$40,000 per team per year.
Opportunity cost (time) to review bids	Time	16 hours of work per 4-year contract period by 3 personnel = 48 hours total.
Equipment insurance	\$33,000	Insure state owned equipment.
Services (satellite, cell)	\$7,000	Annual communications services costs.
Unreimbursed Mission Costs*	\$32,531.23	<p>Annual average unreimbursed mission costs where there is no responsible party, and the State must absorb the mission costs.</p> <p>This number was reached using the below equation:</p> <p>The estimate is based on an average of 35 missions per year x average cost of \$4,224 per mission = \$147,840 total costs missions per year. Approximately \$115,338 (78%) is recovered through billing the responsible party. The remaining \$32,531 (22%) is unreimbursed.</p>
Total Annual Costs from Tier II Receipts	\$638,914.48 per year	Additional time will be required by staff to conduct trainings. We did not monetize opportunity cost because the actual cost has already been accounted for as personnel costs.

Table 2: Local government costs

<p>Cost Category</p>	<p>Costs* *All costs are recurring annually and come from Tier II Receipts Funds unless otherwise stated.</p>	<p>Notes</p>
<p>Administrative costs</p>	<p>Approximately \$140,000 per year per team x 7 teams = \$980,000 total cost; of this amount, \$40,000 per year per team (total \$280,000) would be reimbursed from the receipt funds.</p>	<p>This cost would primarily be in personnel costs for administrative functions specific to this program as well as maintaining space for specialty response equipment. Additional costs would include medical monitoring costs for personnel per requirements in 29 CFR 1910.134.</p> <p>Regional Response Teams would receive \$40,000 per team per year to offset administrative costs as part of the contract.</p> <p>Teams would be required to conduct inventory of state-owned equipment, complete and update personnel rosters. These requirements and costs would be specific to participation in this program.</p>
<p>Equipment maintenance costs</p>	<p>Approximately \$5,000-\$25,000 per team per year x 7 teams = \$35,000 to \$175,000 total cost; of this amount, \$4,000 per year per team (total \$28,000) would be reimbursed from the Contract.</p>	<p>Costs for Regional Response Teams would be in annual preventative maintenance and repair of required equipment.</p> <p>Regional Response Teams would receive \$4,000 per team per year to offset equipment maintenance costs as part of the contract.</p>

Specialized Response Training	Approximately \$33,600 to \$252,000 per year per team x 7 teams = \$235,200 to \$1,764,000 total cost, of this amount, up to \$25,000 per year per team (total \$175,000) is reimbursed by the State.	Assume: - 12 training days per year for regional response teams; regional response teams: \$100-\$750 per day range per person; 28 people on each team attend training each year.
Total Local Government Costs	Regional Response Teams: \$1,250,200 to \$2,919,000 total (\$178,600 to \$417,000 per team) , Of these costs, \$483,000 total would be reimbursed from the hazardous materials filing fee receipts (\$69,000 per team).	

7. Alternatives to the Proposed Rules

Alternative 1 – Alternative program construct using block grants. This alternative would likely rely on block grants to hazardous materials response organizations in the State to provide some capability without direct support or oversight of the resources. While this would still accomplish distribution of receipt funds, it would do so without the coordination between the various partner agencies at the local, State, and federal level. Block grants could impact program efficiencies by not allowing for variation of funding year to year on various aspects of the program based on the most pressing needs across the entirety of the Regional Response Team Program. Additionally, there could be a loss in the equitable delivery of services because of the limited oversight of grant recipients. Furthermore, this construct would come at the cost of program standardization that ensures during large responses resources can come together with similar training and equipment. This alternative was rejected due to the lack of efficiency in program management that could significantly impact the quality of service statewide based on the

lack of direct program management. This lack of direct program management would have significant impacts to the delivery of services from the direct management of a State coordinated Regional Response Team Program. This alternative was rejected as we believe block grants will not allow for equitable management of the program to ensure statewide coverage of specialized regional response team resources that maintain interoperability across the program.

Alternative 2 – Alternative program construct limiting program scope. This alternative would rely on a state managed regional response team program but would limit the scope of the program to a fewer number of regional response teams. This would further limit the impact to state and local organizations by limiting the overall scope of the state regional response team program. This alternative would come at the cost of ensuring a timely response to hazardous materials incidents in North Carolina. History has demonstrated that specialized regional response teams play a critical role in emergency response preparedness in the State and that seven regional response teams are sufficient to cover all the specialized hazardous materials response requirements across the State. While limiting the impact of the program we would also be significantly limiting the response capability required to effectively respond to hazards across the State. This alternative was rejected as we believe the current regional response team program that incorporates seven regional teams better support historical needs and leverage efficiencies through coordination and collaboration across a broader group of stakeholders.

8. Summary of Impacts

The total estimated quantified impact of the proposed rules to the State is \$638,914.48 per year for personnel, insurance, equipment maintenance, services, and to offset local government costs for equipment, training, and administration. These costs will be covered by annual hazardous materials filing fee receipt funds.

The estimated quantified impact to local governments is between \$1,250,200 to \$2,919,000 per year for the 7 Regional Response Teams. Regional Response Teams will be reimbursed by the State \$483,000 per year (\$69,000 per Team) to help offset local program costs.

We also estimated an opportunity cost (time) to the State of up to 5 staff days to prepare and review bids. Additional time will be required by staff to support administrative requirements. We did not monetize opportunity cost because the actual cost has already been accounted for as personnel costs.

There are expected to be significant benefits in the form of saved lives and protection of property from having a state coordinated Regional Response Team Program. The program will address a gap when local response resources are overwhelmed and could

benefit from specialized hazardous materials response resources. While difficult to quantify the many benefits of a state coordinated Regional Response Team Program, it is reasonable to expect the benefits will be greater than the costs. This is especially true as this is a voluntary program and the long history of local governments participating in this program suggests they have found the benefits to exceed the costs.

1 14B NCAC 03 .0501 is proposed for adoption as follows:

2 **CHAPTER 03 – EMERGENCY MANAGEMENT**

3

4 **14B NCAC 03 .0501 PURPOSE**

5 (a) The purpose of this section is to prescribe requirements pertaining to the North Carolina Department of Public
6 Safety’s Division of Emergency Management administered North Carolina Hazardous Materials Regional Response
7 Team Program.

8 (b) This section applies to all persons or entities of the North Carolina Hazardous Materials Regional Response
9 Team Program made parties pursuant to G.S. 166A-22.

10

11 *History Note: Authority GS 166A-22*

12 *Eff. [Date]*

1 14B NCAC 03 .0502 is proposed for adoption as follows:

2 **CHAPTER 03 – EMERGENCY MANAGEMENT**

3
4 **14B NCAC 03 .0502 ABBREVIATIONS AND DEFINITIONS**

5 As used in this section, the following abbreviations and terms mean:

- 6 (1) “Activation” means the status of a program resource placed at the direction, control, and funding of
7 NCEM as part of the NC RRT Program.
- 8 (2) “All-hazards Disaster Response Model” means a response methodology where program resources
9 provide all applicable capability to respond to any threat or hazard that is impacting the state or is
10 forecasted to impact the State as determined by the NCEM Director.
- 11 (3) “Authority Having Jurisdiction” (AHJ) means those local, State, tribal or federal entities having a
12 duty to act over a specific aspect of hazardous materials in a specific geographic area.
- 13 (4) “County to County Mutual Aid” means public safety resource sharing under the conditions of the
14 NC Statewide Mutual Aid Agreement or another similar agreement between political subdivisions.
- 15 (5) “Federal Emergency Management Agency” (FEMA) means is an agency of the United States
16 Department of Homeland Security with the responsibility to coordinate the federal response to a
17 Presidentially-declared disaster that has occurred in the United States and that overwhelms the
18 resources of local and State authorities.
- 19 (6) “FEMA Public Assistance Program” means a federal reimbursement grant program that provides
20 federal funding to help communities respond to and recover from disasters.
- 21 (7) “Functionally equivalent” means an item or group of items that can be used in the same basic manner
22 as another item or items to perform a task to the same standard.
- 23 (8) “Incident Commander” (IC) means the individual responsible for all incident activities, including
24 the development of strategies and tactics and the ordering and release of resources. The IC has
25 overall authority and responsibility for conducting incident operations and is responsible for the
26 management of all incident operations at the incident site.
- 27 (9) “Local Emergency Management Coordinator” (LEMC) means the County Emergency Management
28 Coordinator as defined in G.S. 166A-19.15 who is responsible for all local disaster preparedness,
29 response, and recovery activities in a specific geographic area. county.
- 30 (10) “North Carolina Hazardous Materials Regional Response Team Technical Advisory Committee”
31 (NC RRT TAC) means an advisory committee established in Article 2 of Chapter 166A of the North
32 Carolina General Statutes to advise the Secretary of the North Carolina Department of Public Safety
33 and the North Carolina Division of Emergency Management on the management of hazardous
34 materials emergencies.
- 35 (11) “North Carolina Division of Emergency Management” (NCEM) means a division of the North
36 Carolina Department of Public Safety established in G.S. 143B-1000 with the responsibility to
37 coordinate the mitigation, planning, preparedness, response, and recovery to a disaster or emergency
38 that has or is forecasted to occur in the State as determined by the NCEM Director.

- 1 (12) “North Carolina Emergency Management Operations Chief” (NCEM OSC) means the Assistant
2 Director of Operations for the North Carolina Division of Emergency Management.
- 3 (13) “North Carolina Emergency Management Director” (NCEM Director) means the Director of the
4 North Carolina Division of Emergency Management.
- 5 (14) “National Incident Management System” (NIMS) means a federal policy that provides a systematic,
6 proactive approach guiding government agencies at all levels, nongovernmental organizations, and
7 the private sector to work to prevent, protect against, respond to, recover from, and mitigate the
8 effects of incidents, regardless of cause, size, location, or complexity, to reduce the loss of life or
9 property and harm to the environment.
- 10 (15) “On-duty” means when a person is acting functioning, paid or unpaid, as an agent of their
11 Sponsoring Agency or of the NC Division of Emergency Management as part of the NC RRT
12 Program.
- 13 (16) “Program agreements” means contracts, memoranda of agreements, or memoranda of understanding
14 between NCEM and regional response teams for the purposes of establishing and maintaining the
15 NC RRT Program.
- 16 (17) “Program costs” means training, equipment, personnel, or administrative expenses incurred by a
17 Sponsoring Agency during activities of the NC RRT Program.
- 18 (18) “Program personnel” means human resources from a regional response team with an active program
19 agreement with the Division of Emergency Management for hazardous materials response or human
20 resources employed on a full-time or part-time basis by the Division of Emergency Management
21 with a responsibility for hazardous materials response.
- 22 (19) “Program resource” means personnel or equipment from a regional response team that is
23 participating in the NC RRT Program with an active program agreement with the North Carolina
24 Division of Emergency Management for hazardous materials response.
- 25 (20) “Qualified personnel” means an individual that meets the training and medical monitoring
26 requirements established by 29 CFR 1910.120(a)(3) which are adopted and are incorporated by
27 reference with subsequent changes or amendments pursuant to G.S. 150B-21.6 and can be found at
28 no cost at: <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.120>; National
29 Fire Protection Association Standard 470 as it relates to Hazardous Materials Technicians which are
30 adopted and are incorporated by reference with subsequent changes or amendments pursuant to G.S.
31 150B-21.6 and can be found for \$90 at: [https://www.nfpa.org/codes-and-standards/all-codes-and-](https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=470)
32 standards/list-of-codes-and-standards/detail?code=470; and 29 CFR 1910.134 which are adopted
33 and are incorporated by reference with subsequent changes or amendments pursuant to G.S. 150B-
34 21.6 and can be found at no cost at:
35 <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.134>
- 36 (21) “Resource typing” means a document defining and categorizing, by capability, the program
37 resources requested, deployed, and used in incidents.

1 (22) “Responsible Party” means the entity whose actions or inactions caused an event as determined by
2 the authority having jurisdiction requiring program resources to respond and incur costs.

3 (23) “Sensitive information” means any information, to include but not limited to audio recordings,
4 images, and video recordings obtained during an activation that has not been released to the public
5 by the AHJ.

6 (24) “Sponsoring Agency” means a local or tribal unit of government or a corporation with an active
7 response agreement with a local unit of government that organizes and coordinates a regional
8 response team in the NC RRT Program.

9 (25) “State Emergency Operations Plan” (SEOP) means a document maintained under the authority of
10 G.S. 166A-19.12(2) that details how the State of North Carolina will respond to a disaster or
11 emergency requiring State assistance utilizing an established comprehensive, all-hazards approach
12 All-Hazards Disaster Response Model.

13 (26) “State Mission Assignment” (State Mission) means a NCEM approved request for assistance to
14 deploy program resources at the request of a local unit of government.

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16 History Note: Authority G.S. 166A-22; 166A-23; 166A-25; 166A-26; 166A-27

17 Eff. [Date]

1 14B NCAC 03 .0503 is proposed for adoption as follows:

2 **CHAPTER 03 – EMERGENCY MANAGEMENT**

3
4 **14B NCAC 03 .0503 DISPATCH OF A REGIONAL RESPONSE TEAM**

- 5 (a) Program resources shall employ the All-Hazards Response Model.
- 6 (b) NCEM shall maintain direction and control of any deployed program resources that have been deployed
7 through action of NCEM until a time that they have been demobilized or the program resource is needed by
8 the Sponsoring Agency.
- 9 (c) Any resource of the NC RRT Program remains a local resource when not deployed by NCEM and may
10 deploy within their county under their local authorities or agreements, notwithstanding any action by the
11 State. Participation in the NC RRT Program shall not limit or supersede their local authorities,
12 responsibilities, or agreements when the program resource is deploying under those authorities or
13 agreements.
- 14 (d) Program resources shall be deployed by the State using a State Mission Assignment.
- 15 (e) The IC, LEMC, an NCEM official, Secretary of Public Safety, and the Governor shall have the authority to
16 request program resources. The IC may be from local law enforcement agencies, fire departments, rescue
17 squads, and any other local, state, or federal authority having jurisdiction.

18
19 *History Note: Authority G.S. 166A-22; 166A-23*
20 *Eff. [Date]*

1 14B NCAC 03 .0504 is proposed for adoption as follows:

2 **CHAPTER 03 – EMERGENCY MANAGEMENT**

3
4 **14B NCAC 03 .0504 ON-SITE OPERATIONS OF A PROGRAM RESOURCE**

5 All NC RRT Program resources shall operate in accordance with the following standards of response:

6 (a) FEMA NIMS standards which are adopted and are incorporated by reference with subsequent
7 changes or amendments pursuant to G.S. 150B-21.6; 150B-21.6 and can be found at no cost at:
8 https://www.fema.gov/sites/default/files/2020-07/fema_nims_doctrine-2017.pdf;

9 (b) following all direction from NCEM personnel acting pursuant to G.S. 166A-19.12(1) when
10 deploying as a program resource;

11 (c) when responding in support of law enforcement operations, program resources shall coordinate
12 activities with the law enforcement authorities to ensure their actions support any potential criminal
13 investigation; and

14 (d) program resources shall not release any sensitive information to the public or media during
15 operations without the consent of the local, State, or federal authority having jurisdiction consistent with
16 Chapter 132 of the North Carolina General Statutes.

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18 *History Note: Authority G.S. 166A-22*

19 *Eff. [Date]*

1 14B NCAC 03 .0505 is proposed for adoption as follows:

2 **CHAPTER 03 – EMERGENCY MANAGEMENT**

3
4 **14B NCAC 03 .0505 STANDARDS FOR ADMINISTRATION OF A REGIONAL RESPONSE TEAM,**
5 **INCLUDING PROCEDURES FOR REIMBURSEMENT OF RESPONSE COSTS.**

- 6 (a) Program resources shall maintain the following personnel records and have them available for audit:
7 (1) Responder medical history; and
8 (2) Emergency contact information.
9 (b) Program personnel shall be in an on-duty status as an emergency management worker as defined in G.S.
10 166A-19.60(e).
11 (c) Program resources shall maintain a current team roster.
12 (d) Program resources shall maintain all program personnel training, certification, and credentials as outlined
13 in Rule .0509 in this Section.
14 (e) Program resources shall maintain all inventory and maintenance records for deployable equipment.
15 (f) Program resource records must be available for review by NCEM officials to ensure compliance.
16 (g) Within 45 days of demobilization from a state mission, system resources shall submit documentation
17 receipts, expense reports, and supporting documentation of actual costs to NCEM for reimbursement
18 consistent with the FEMA Public Assistance Program and Policy Guide which is adopted and incorporated
19 by reference with subsequent changes or amendments pursuant to G.S. 150B-21.6. 150B-21.6 and is
20 available at no cost at: [https://www.fema.gov/sites/default/files/documents/fema_pappg-v4-updated-](https://www.fema.gov/sites/default/files/documents/fema_pappg-v4-updated-links_policy_6-1-2020.pdf)
21 [links_policy_6-1-2020.pdf.](https://www.fema.gov/sites/default/files/documents/fema_pappg-v4-updated-links_policy_6-1-2020.pdf)
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23 History Note: Authority GS 166A-22; 166A-23; 166A-19.60; 42 U.S.C.5121 et seq; 44 CFR Part 206

24 Eff. [Date]

1 14B NCAC 03 .0506 is proposed for adoption as follows:

2 **CHAPTER 03 - EMERGENCY MANAGEMENT**

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4 **14B NCAC 03 .0506 RECOVERING THE COSTS OF A REGIONAL RESPONSE TEAM**

5 NCEM shall seek reimbursement from the responsible party for system response costs.

- 6 (1) NCEM shall determine who the responsible party is for all State Missions in coordination with
7 the authority having jurisdiction. Determination as the responsible party shall not be a
8 determination of contributory negligence or other potential liabilities of any third parties for
9 some aspect of the incident.
10 (2) NCEM shall bill responsible parties' response costs to include personnel and equipment costs
11 payable to NCEM for reimbursement consistent with FEMA Public Assistance Program and
12 Policy Guide.
13 (3) Responsible parties shall remit payment to NCEM within 30 days of receipt of the invoice via
14 certified mail.
15

16 History Note: Authority GS 166A-22; 166A-27

17 Eff. [Date]

18

Proposed Adoption for Publication in the Register

1 14B NCAC 03 .0507 is proposed for adoption as follows:

2 **CHAPTER 03 – EMERGENCY MANAGEMENT**

3
4 **14B NCAC 03 .0507 PROCEDURES FOR BIDDING AND CONTRACTING FOR REGIONAL**
5 **RESPONSE TEAM.**

- 6 (a) Eligibility for participation as a Sponsoring Agency as a regional response team:
7 (1) be a local unit of government, tribal government, or a corporation with an active response agreement
8 with a local or tribal unit of government;
9 (2) maintain participation in the statewide mutual aid agreement; and
10 (3) ensure all personnel possess the qualifications as outlined in Rule .0509 of this Section.
11 (b) Regional response teams – Within 18 months of a new contract period, NCEM shall electronically distribute
12 a bid announcement via electronic mail to all program resources and local emergency management
13 coordinators for interested parties to return a letter of interest. NCEM shall distribute an electronic bid
14 package to all interested parties that shall be returned to NCEM.
15 (1) Regional response teams shall be limited to seven regionally based teams. Each team will be
16 assigned a primary response region in the state.
17 (2) The bidding agency agencies shall be in that specified response region.
18 (3) The NCEM Director or designee shall establish a review committee. This committee will open all
19 completed sealed bid packages and evaluate them based on an agreed-upon criteria as outlined in
20 Rule .0508 of this Section at a date to be set by the NCEM Director or designee.
21 (4) The committee shall develop a bid package review summary that includes their recommendations
22 for selections that will be sent to the NCEM Operations Chief for concurrence before being reviewed
23 and approved by the NCEM Director.
24 (5) Agencies that are successful in the bid process will be notified and program agreements shall be
25 drafted and executed.
26 (6) NCEM shall draft, execute, and maintain a program agreement with the Sponsoring Agency for the
27 program resource to maintain participation in the program.
28 (A) NCEM shall execute and maintain a program agreement with the Sponsoring Agency
29 that outlines the scope of work that the team shall follow to enable reimbursement of
30 eligible training, equipment, administrative, and personnel costs associated with
31 maintaining and deploying a regional response team. The program agreement shall be
32 limited to the four-year contract period with an optional one-year extension.
33 (B) Funds reimbursed through this agreement shall go directly to cover program costs and
34 be utilized by the Sponsoring Agency for the purposes of this program.
35 (C) The Sponsoring Agency shall maintain all records of any program spending and shall
36 not comingle funds or use program funding for any other purpose other than for the
37 purposes of this program.
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39 *History Note: Authority GS 166A-22, 166A-23*

40 *Eff. [Date]*

1 14B NCAC 03 .0508 is proposed for adoption as follows:

2 **CHAPTER 03 – EMERGENCY MANAGEMENT**

3
4 **14B NCAC 03 .0508 CRITERIA FOR EVALUATING BIDS FOR CONTRACT RESPONSE TEAM**

5 (a) Bidding agency shall:

- 6 (1) be submitted via courier, United States Mail, or hand delivered by an authorized representative of a
7 local unit of government, tribal government, or corporation that maintains an active response
8 agreement with a local or tribal unit of government;
9 (2) provide a plan for the bidding entity to deploy the required personnel;
10 (3) provide a plan for the bidding entity to maintain the required number of personnel trained per Rule
11 .0509 of this Section; and
12 (4) ensure all participating members possess the qualifications outlined in Rule 0509 of this Section.

13 (b) Bids shall be evaluated on:

- 14 (1) geographic location of team base;
15 (2) ability to maintain the required number of trained personnel to ensure response readiness
16 (3) ability to maintain and care for any program-provided equipment;
17 availability of local equipment to support response activities;
18 (4) availability to maintain dedicated administrative staff to ensure management of administrative
19 duties, training, and logistical requirements;
20 (5) experience responding to hazardous materials incidents as a technician-level entry capability;
21 (6) consistent with federal procurement rules as outlined in 2 CFR Part 200 which is adopted and
22 incorporated by reference with subsequent changes or amendments pursuant to G.S. 150B-21.6.
23 150B-21.6 and can be found at no cost at: [https://www.ecfr.gov/current/title-2/subtitle-A/chapter-](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200)
24 II/part-200; and
25 (7) consistent with State procurement rules as outlined in Chapter 5 of North Carolina Administrative
26 Code which is adopted and incorporated by reference with subsequent changes or amendments
27 pursuant to G.S. 150B-21.6 and can be found at no cost at:
28 [http://reports.oah.state.nc.us/ncac.asp?folderName=Title%2001%20-](http://reports.oah.state.nc.us/ncac.asp?folderName=Title%2001%20-%20Administration%20Chapter%2005%20-%20Purchase%20and%20Contract)
29 [%20Administration%20Chapter%2005%20-%20Purchase%20and%20Contract.](http://reports.oah.state.nc.us/ncac.asp?folderName=Title%2001%20-%20Administration%20Chapter%2005%20-%20Purchase%20and%20Contract)
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31 *History Note: Authority GS 166A-22, GS 166A-23*

32 *Eff. [Date]*

1 14B NCAC 03 .0509 is proposed for adoption as follows:

2 **CHAPTER 03 – EMERGENCY MANAGEMENT**

3
4 **14B NCAC 03 .0509 PERSONNEL, TRAINING, AND EQUIPMENT STANDARDS FOR REGIONAL**

5 **RESPONSE TEAM REQUIREMENTS FOR ALL PROGRAM PERSONNEL:**

- 6 (1) Qualified personnel shall be no less than 18 years of age;
7 (2) Qualified personnel shall be an employee of a Sponsoring Agency or an employee of the North
8 Carolina Division of Emergency Management. By participating in this program, program
9 personnel remain employees of their Sponsoring Agency and at no time become State employees
10 entitled to State benefits unless they are an employee of NCEM;
11 (3) Qualified personnel shall maintain no less than 48 hours of hazardous material training annually;
12 (4) while participating in any program activity personnel shall be considered emergency management
13 workers as defined in G.S. 166A-19.60, and;
14 (5) Qualified personnel shall possess the qualifications of character and general fitness requisite for a
15 public servant and be of good moral character and entitled to the high regard and confidence of the
16 public as evidenced by not having been convicted by a local, state, federal, or military court of:
17 (A) a felony;
18 (B) a crime or unlawful act defined as a Class 1A, Class 1, or Class 2 misdemeanor within
19 the five-years prior or four or more crimes or unlawful acts as defined as a Class 1A,
20 Class 1, or Class 2 misdemeanor regardless of the date of conviction;
21 (C) not having been convicted of an offense that would prohibit the possession of a firearm
22 or ammunition, under 18 U.S.C. 922, which is hereby incorporated by reference with
23 subsequent amendments and editions under G.S. 150B-21.6 can be found at no cost
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- 1 (2) Regional Response Teams shall maintain any additional support personnel as required for a
2 technician-level entry team. These personnel must additionally meet the requirements of 29 CFR
3 1910.120 to operate on a hazardous materials incident scene but are not required to be qualified to
4 make entry into a hazardous or potentially hazardous environments.
5 (3) NCEM shall be responsible to provide any additional technical specialists required to support
6 Regional Response Team operations;
7 (4) Regional Response Teams shall respond with qualified personnel who are capable of providing a
8 regional response to hazardous materials incidents requiring technician-level entry capability as that
9 term is and as defined in N.C.G.S. 166A-21; and
10 (5) Regional Response Teams shall limit its hazardous materials response team activity to that within
11 the safety and training levels specified by 29 CFR 1910.120.
12 (d) Regional Response Team Equipment Requirements
13 (1) Regional response teams shall maintain a functionally equivalent cache of equipment required in
14 the FEMA Resource Typing Document for a Type II Hazardous Materials Response Team, which
15 is adopted and incorporated by reference with subsequent changes or amendments under G.S. 150B-
16 21.6. as outlined in the latest published standard by FEMA and can be found at:
17 <https://rtlt.preptoolkit.fema.gov/Public/Resource/View/4-508-1248?q=hazardous%20materials> at
18 no cost.
19 (2) Equipment shall be maintained in a state of readiness and with a means to transport all required
20 equipment.
21

22 *History Note: Authority GS 166A-21, 22, 23*

23 *Eff. [Date]*