

1 Article 2.

2 Hazardous Materials Emergency Response.

3 **§ 166A-20. Title, purpose.**

4 (a) This Article may be cited as the "North Carolina Hazardous Materials Emergency
5 Response Act."

6 (b) The purpose of this Article is to establish a system of regional response to hazardous
7 materials emergencies and terrorist incidents in the State to protect the health and safety of its
8 citizens. (1993 (Reg. Sess., 1994), c. 769, s. 22.4(b); 2002-179, s. 21(a).)

9
10 **§ 166A-21. Definitions.**

11 As used in this Article:

- 12 (1) "Hazardous materials emergency response team" or "hazmat team" means an
13 organized group of persons specially trained and equipped to respond to and
14 control actual or potential leaks or spills of hazardous materials.
- 15 (2) "Hazardous material" means any material defined as a hazardous substance
16 under 29 Code of Federal Regulations § 1910.120(a)(3).
- 17 (3) "Hazardous materials incident" or "hazardous materials emergency" means
18 an uncontrolled release or threatened release of a hazardous substance
19 requiring outside assistance by a local fire department or hazmat team to
20 contain and control.
- 21 (4) "Regional response team" means a hazmat team under contract with the
22 State to provide response to hazardous materials emergencies occurring
23 outside the hazmat team's local jurisdiction at the direction of the
24 Department of Public Safety, Division of Emergency Management.
- 25 (5) "Secretary" means the Secretary of the Department of Public Safety.
- 26 (6) "Technician-level entry capability" means the capacity of a hazmat team, in
27 terms of training and equipment as specified in 29 Code of Federal
28 Regulations § 1910.120, to respond to a hazardous materials incident
29 requiring affirmative measures, such as patching, plugging, or other action
30 necessary to stop and contain the release of a hazardous substance at its
31 source.
- 32 (7) "Terrorist incident" means activities that occur within the territorial
33 jurisdiction of the United States, involve acts dangerous to human life that
34 are a violation of the criminal laws of the United States or of any state, and
35 are intended to do one of the following:
- 36 a. Intimidate or coerce a civilian population.
- 37 b. Influence the policy of a government by intimidation or coercion.
- 38 c. Affect the conduct of a government by mass destruction,
39 assassination, or kidnapping. (1993 (Reg. Sess., 1994), c. 769, s.
40 22.4(b); 1997-456, s. 27; 2002-179, s. 21(b); 2011-145, s. 19.1(g).)

41
42 **§ 166A-22. Hazardous materials emergency response program.**

43 (a) The Secretary shall adopt rules establishing a regional response program for
44 hazardous materials emergencies and terrorist incidents, to be administered by the Division of
45 Emergency Management. To the extent possible, the regional response program shall be
46 coordinated with other emergency planning activities of the State. The regional response
47 program shall include at least six hazmat teams located strategically across the State that are
48 available to provide regional response to hazardous materials or terrorist incidents requiring
49 technician-level entry capability and 24-hour dispatch and communications capability at the
50 Division of Emergency Management Operations Center. The rules for the program shall
51 include:

- 1 (1) Standards, including training, equipment, and personnel standards required
2 to operate a regional response team with technician-level entry capability.
- 3 (2) Guidelines for the dispatch of a regional response team to a hazardous
4 materials or terrorist incident.
- 5 (3) Guidelines for the on-site operations of a regional response team.
- 6 (4) Standards for administration of a regional response team, including
7 procedures for reimbursement of response costs.
- 8 (5) Refresher and specialist training for members of regional response teams.
- 9 (6) Procedures for recovering the costs of a response to a hazardous materials or
10 terrorist incident from persons determined to be responsible for the
11 emergency.
- 12 (7) Procedures for bidding and contracting for the provision of a hazmat team
13 for the regional response program.
- 14 (8) Criteria for evaluating bids for the provision of a hazmat team for regional
15 response.
- 16 (9) Delineation of the roles of the regional response team, local fire department
17 and local public safety personnel, the Division of Emergency Management's
18 area coordinator, and other State agency personnel responding to the scene
19 of a hazardous materials or terrorist incident.

20 (b) In developing the program and adopting rules, the Secretary shall consult with the
21 Regional Response Team Advisory Committee established pursuant to G.S. 166A-24. (1993
22 (Reg. Sess., 1994), c. 769, s. 22.4(b); 2002-179, s. 21(c).)

23
24 **§ 166A-23. Contracts; equipment loans.**

25 (a) The Secretary may contract with any unit or units of local government for the
26 provision of a regional response team to implement the regional response program. Contracts
27 are to be let consistent with the bidding and contract standards and procedures adopted pursuant
28 to G.S. 166A-22(a)(7) and (8). In entering into contracts with units of local government, the
29 Secretary may agree to provide:

- 30 (1) A loan of equipment, including a hazmat vehicle, necessary for the provision
31 technician-level entry capability;
- 32 (2) Reimbursement of personnel costs when a regional response team is
33 authorized by the Department to respond to a hazmat or terrorist incident,
34 including the cost of call-back personnel;
- 35 (3) Reimbursement for use of equipment and vehicles owned by the regional
36 response team;
- 37 (4) Replacement of disposable materials and damaged equipment;
- 38 (5) Costs of medical surveillance for members of the regional response team,
39 including baseline, maintenance, and exit physicals;
- 40 (6) Training expenses; and
- 41 (7) Other provisions agreed to by the Secretary and the regional response team.

42 (b) The Secretary shall not agree to provide reimbursement for:

- 43 (1) Costs of clean-up activities, after a spill or leak has been contained;
- 44 (2) Local response not requiring technician-level entry capability; or
- 45 (3) Standby time.

46 (c) Any contract entered into between the Secretary and a unit of local government for
47 the provision of a regional response team shall specify that the members of the regional
48 response team, when performing their duties under the contract, shall not be employees of the
49 State and shall not be entitled to benefits under the Teachers' and State Employees' Retirement
50 System or for the payment by the State of federal social security, employment insurance, or
51 workers' compensation.

1 (d) Regional response teams that have the use of a State hazmat vehicle may use the
2 vehicle for local purposes. Where a State vehicle is used for purposes other than authorized
3 regional response to a hazardous materials or terrorist incident, the regional response team shall
4 be liable for repairs or replacements directly attributable to the nonauthorized response. (1993
5 (Reg. Sess., 1994), c. 769, s. 22.4(b); 2002-179, s. 21(d).)
6

7 **§ 166A-24. Immunity of Regional Response Team Personnel.**

8 Members of a regional response team shall be protected from liability under the provisions
9 of G.S. 166A-14(a) while responding to a hazardous materials or terrorist incident pursuant to
10 authorization from the Division of Emergency Management. (1993 (Reg. Sess., 1994), c. 769,
11 s. 22.4(b); 2002-179, s. 21(e).)
12

13 **§ 166A-25. Right of entry.**

14 A regional response team, when authorized to respond to a release or threatened release of
15 hazardous materials or when authorized to respond to a terrorist or threatened or imminent
16 terrorist incident, may enter onto any private or public property on which the release or terrorist
17 incident has occurred or on which there is an imminent threat of such release or terrorist
18 incident. A regional response team may also enter, under such circumstances, any adjacent or
19 surrounding property in order to respond to the release or threatened release of hazardous
20 material or to monitor, control, and contain the release or perform any other action in
21 mitigation of a hazardous materials or terrorist incident. (1993 (Reg. Sess., 1994), c. 769, s.
22 22.4(b); 2002-179, s. 21(f).)
23

24 **§ 166A-26. Regional Response Team Advisory Committee.**

25 (a) The Regional Response Team Advisory Committee is created. The Secretary shall
26 appoint the members of the Committee and shall designate the chair. In making appointments,
27 the Secretary shall take into consideration the expertise of the appointees in the management of
28 hazardous materials emergencies. The Secretary shall appoint one representative from:

- 29 (1) The Division of Emergency Management;
- 30 (2) The North Carolina Highway Patrol;
- 31 (3) The State Fire and Rescue Commission of the Department of Insurance;
- 32 (4) The Department of Environment and Natural Resources;
- 33 (5) The Department of Transportation;
- 34 (6) The Department of Agriculture and Consumer Services;
- 35 (7) The Chemical Industry Council of North Carolina;
- 36 (8) The N.C. Association of Hazardous Materials Responders;
- 37 (9) Each regional response team;
- 38 (10) The State Bureau of Investigation.

39 In addition to the persons listed above, the Secretary shall appoint to the Advisory
40 Committee three persons designated jointly by the North Carolina Fire Chiefs Association and
41 the North Carolina State Firemen's Association.

42 (b) The Advisory Committee shall meet on the call of the chair, or at the request of the
43 Secretary; provided that the Committee shall meet no less than once every three months. The
44 Department of Public Safety shall provide space for the Advisory Committee to meet. The
45 Department also shall provide the Advisory Committee with necessary support staff and
46 supplies to enable the Committee to carry out its duties in an effective manner.

47 (c) Members of the Advisory Committee shall serve without pay, but shall receive
48 travel allowance, lodging, subsistence, and per diem as provided by G.S. 138-5.

49 (d) The Regional Response Team Advisory Committee shall advise the Secretary on the
50 establishment of the program for regional response to hazardous materials emergencies in the
51 State. The Committee shall also evaluate and advise the Secretary of the need for additional

1 regional response teams to serve the State. (1993 (Reg. Sess., 1994), c. 769, s. 22.4(b);
2 1997-261, s. 108; 1997-443, s. 11A.123; 2002-179, s. 21(g); 2011-145, s. 19.1(g).)

3
4 **§ 166A-27. Action for the recovery of costs of hazardous materials emergency response.**

5 (a) A person who causes the release of a hazardous material requiring the activation of
6 a regional response team shall be liable for all reasonable costs incurred by the regional
7 response team in responding to and mitigating the incident. The Secretary shall invoice the
8 person liable for the hazardous materials release, and, in the event of nonpayment, may institute
9 an action to recover those costs in the superior court of the county in which the release
10 occurred.

11 (b) A person who causes the release of a hazardous material that results in the activation
12 of one or more State Medical Assistance Teams (SMATs) or the Epidemiology Section of the
13 Division of Public Health of the Department of Health and Human Services shall be liable for
14 all reasonable costs incurred by each team or the Epidemiology Section that responds to or
15 mitigates the incident. The Secretary of Health and Human Services shall invoice the person
16 liable for the hazardous materials release and, in the event of nonpayment, may institute an
17 action to recover those costs in the superior court of the county in which the release occurred.
18 (1993 (Reg. Sess., 1994), c. 769, s. 22.4(b); 2007-107, s. 3.1(a).)

19
20 **§ 166A-28. Hazardous Materials Emergency Response Fund.**

21 There is established in the Department of Public Safety a fund for those monies collected
22 pursuant to G.S. 166A-27. The Fund is also authorized to accept any gift, grant, or donation of
23 money or property to facilitate the establishment and operation of the regional response system.
24 (1993 (Reg. Sess., 1994), c. 769, s. 22.4(b); 2011-145, s. 19.1(g).)

25
26 **§ 166A-29. Reserved for future codification purposes.**