

**Fiscal Impact Analysis of
Permanent Rule Readoption without Substantial Economic Impact**

Agency Proposing Rule Change

DHHS/Division of Health Service Regulation

Contact Persons

Nadine Pfeiffer, DHSR Rules Review Manager – (919) 855-3811

David Crowley, Interim Section Chief/Radioactive Materials Branch Manager – (919) 814-2303

James Albright, Environmental Programs Consultant – (919) 814-2251 (cell: (919) 604-4037)

Impact Summary

Federal Government:	No Impact
State Government:	No Impact
Local Government:	No Impact
Small Business:	No Impact
Substantial Impact:	No

Titles of Rule Changes

Rule Readoption:

10A NCAC 15. 1301 Well logging, wireline-service operations, and subsurface tracer studies:
requirements for licensees

*See text in Appendix

Authorizing Statutes

G.S. 104E-7

Background

The rules in 10A NCAC 15 regulate the use of radioactive materials in the State of North Carolina pursuant to G.S 104E. Section .1300 of Chapter 15 regulates well logging activities, wireline-service operations, and the use of unsealed radioactive material in tracer studies. Taken together these activities are collectively known as “well logging”. At this time there are no well logging licensees in the state, and no licensees from out-of-state have applied for reciprocal recognition of their out-of-state radioactive materials licenses to conduct well logging in the state.

Under authority of G.S 150B-21.3A, Periodic review and expiration of existing rules, DHHS/DHSR and the Radiation Protection Commission submitted a report to the Rules Review Commission and the Joint Legislative Administrative Procedure Oversight Committee. This report was approved and the readoption schedule set at the July 18, 2019, meeting of the Rules Review Commission. All the rules in Chapter 15

determined to be ‘necessary with substantive public interest’ during the periodic review are required to be readopted.

As mandated by G.S. 150B-19.(4) the agency may not adopt a rule that repeats the content of a law, a rule, or a federal regulation. Prior to this rule making effort, the Rules in Section .1300 repeated the requirements in federal law, namely, those found in 10 CFR 39, with the caveat that references to the US Nuclear Regulatory Commission (USNRC) were revised to refer to the Radiation Protection Section (the agency) along with corresponding changes in address to the agency and not the USNRC. To comply with the prohibition against repeating the content of a federal regulation, the agency and the Radiation Protection Commission is adopting 10 CFR 39 by reference, including subsequent amendments and editions. Furthermore, in the interest of brevity and making compliance easier for the regulated community, the federal regulations are incorporated by reference in a single rule instead of multiple rules. This approach is also mandated by G.S. 150B-19.1.(a) and 150B-21.6. The remainder of the Chapter’s rules currently in Section .1300, rules 10A NCAC 15 .1302 - .1327, will be repealed during the readoption of 10A NCAC 15 .1301.

Rule Summary and Anticipated Fiscal Impact

10A NCAC 15 .1301 Well logging, wireline-service operations, and subsurface tracer studies: requirements for licensees

The agency and the Radiation Protection Commission is proposing to readopt this rule with substantive changes. The statement of purpose and the statement of additional requirements are both removed from the proposed rule. This is followed by insertion of a new text stating that the regulations in 10 CFR 39, with the exception of 10 CFR 39.5, 39.8, 39.101, and 39.103, shall apply to activities authorized by this rule. The regulations in 10 CFR 39 that are noted as excluded in the proposed rule are USNRC and federal government practices that the State does not practice, or are related to violations and criminal penalties that are handled under G.S. 104E, rather than by rule. All the definitions appearing in Rule 10A NCAC 15 .1302, to be repealed, are preserved in the proposed rule. This includes definitions of terms that do not appear in 10 CFR 39 that the agency and the regulated community find useful. A new addition to this rule pertains to the contents of an application form. All applicants for new licenses, and for the renewal or amendment of existing licenses, have been required to use this form since at least the early 1990s. The inclusion of a description of the information required on the form in the proposed rule does not indicate that this is a new practice. Likewise, the agency’s additional requirement that licensees obtain approval from the agency before injecting unsealed radioactive material into the ground for subsurface tracer studies is not new practice, and the requirement shown in Paragraph (d) of this Rule is found in Rule 10A NCAC 15 .1319(b), to be repealed.

The readoption of Rule 10A NCAC 15.1301 as proposed does not create a fiscal impact on federal, state, local government, or small business. The regulatory requirements remain unchanged in the proposed rule, and licensees will continue to be regulated using the same standards as they have been required to meet in previous years.

Appendix

10A NCAC 15 .1301 is proposed for readoption with substantive changes as follows:

SECTION .1300 - REQUIREMENTS FOR WIRELINE-SERVICE OPERATORS AND SUBSURFACE-TRACER STUDIES

Codifier's Note: 10 NCAC 03G .3400 was transferred to 15A NCAC 11 .1300 effective January 4, 1990. Recodification pursuant to G.S. 143B-279.3.

10A NCAC 15 .1301 ~~PURPOSE AND SCOPE~~ WELL LOGGING, WIRELINE-SERVICE OPERATIONS, AND SUBSURFACE TRACER STUDIES: REQUIREMENTS FOR LICENSEES

~~(a) The rules in this Section apply to all licensees who use sources of radiation for wireline service operations including mineral logging, radioactive markers, or subsurface tracer studies.~~

~~(b) The requirements of this Section are in addition to, and not in substitution for, the requirements of Sections .0100, .0300, .0900, .1000, .1100 and .1600 of this Chapter.~~

(a) Persons using sources of radiation for well logging, wireline-service operations including mineral logging, radioactive markers, or subsurface tracer studies shall comply with the provisions of 10 CFR Part 39, except that 10 CFR 39.5, 39.8, 39.101, and 39.103 shall not apply. Persons conducting subsurface tracer studies shall meet the additional requirement listed in Paragraph (d) of this Rule.

(b) In addition to the terms defined in 10 CFR 39.2, the following definitions shall also apply to this Section:

- (1) "Mineral logging" means any logging performed for the purpose of mineral exploration other than oil or gas;
- (2) "Well-bore" means a drilled hole in which wireline-service operations and subsurface-tracer studies are performed;
- (3) "Wireline" means a cable containing one or more electrical conductors that is used to lower and raise logging tools in the well-bore; and
- (4) "Wireline-service operations" means any evaluation or mechanical service that is performed in the well-bore using devices on a wireline.

(c) Applications required by 10 CFR 39.11 shall be made on forms provided by the agency, and the payment of fees required by 10 CFR Part 170 shall not apply. Applications and supporting material shall be submitted to the agency at the address shown in Rule 15 .0111 of this Chapter in lieu of the NRC:

- (1) Persons applying for new radioactive materials licenses, or for the renewal of existing radioactive materials licenses, shall submit an Application for Radioactive Materials License. The instructions for completing the application printed on the application form shall be followed. The following information shall appear on the application:

- (A) legal business name and mailing address;
 - (B) physical address(es) where radioactive material shall be used or possessed. The application shall indicate if radioactive materials shall be used at temporary jobsites;
 - (C) the name, telephone number, and e-mail address of the Radiation Safety Officer;
 - (D) the name, telephone number, and e-mail address of the individual to be contacted about the application. If this individual is same as the Radiation Safety Officer, the application may so state;
 - (E) the application shall indicate if the application is for a new license, or for the renewal of an existing license, by marking the corresponding check box;
 - (F) if the application is for the renewal of an existing license, the license number shall be provided on the application;
 - (G) applicants shall indicate the type and category of license as shown on the form by marking the corresponding check box; and
 - (H) the printed name, title, and signature of the certifying official. The certifying official shall be an individual employed by the business or licensee, who is authorized by the licensee to sign license applications on behalf of the business or licensee.
- (2) Persons applying for an amendment to an existing license shall submit an Application for Amendment of Radioactive Materials and Accelerator Licenses. The instructions for completing the application printed on the application form shall be followed. The following information shall appear on the application:
- (A) the license number;
 - (B) amendment number of the current license;
 - (C) expiration date of the license;
 - (D) licensee name as it currently appears on the license;
 - (E) the name, telephone number, and e-mail address of the Radiation Safety Officer;
 - (F) the name, telephone number, and e-mail address of the individual to be contacted about the application. If this individual is same as the Radiation Safety Officer, item 5b on the application may be left blank;
 - (G) applicants shall provide a description of the action requested by marking the corresponding checkbox in item 6a. If the check box next to "Other" is marked in item 6a, provide a brief description of the action requested in the space provided in item 6b;
 - (H) explanation of the action requested; and
 - (I) the printed name, title, and signature of the certifying official. The certifying official shall be an individual employed by the business or licensee who is authorized by the licensee to sign license applications on behalf of the business or licensee.
- (3) Applications specified in this Rule are available at:
[www.ncradiation.net/rms/rmsforms2.htm\(Rev01\).htm](http://www.ncradiation.net/rms/rmsforms2.htm(Rev01).htm)

(d) Persons conducting subsurface tracer studies using unsealed sources of radiation shall obtain agency approval prior to injecting licensed material into the subsurface.

(e) Notifications, authorization requests, and reports required by 10 CFR 39.77 shall be made to the agency at the address shown in Rule 15 .0111 of this Chapter in lieu of the NRC.

(f) Applications for exemptions to this Rule shall be submitted to the agency at the address shown in Rule 15 .0111 of this Chapter in lieu of the NRC.

(g) The regulations cited in this Rule from 10 CFR Part 39 are hereby incorporated by reference, including subsequent amendments and editions. Copies of these regulations are available free of charge at <https://www.nrc.gov/reading-rm/doc-collections/cfr/part039/>.

History Note: Authority G.S. 104E-7;

Eff. June 1, 1989;

Amended Eff. January 1, 1994;

Transferred and Recodified from 15A NCAC 11 .1301 Eff. February 1, ~~2015~~ 2015;

Readopted Eff. October 1, 2022.

10A NCAC 15 .1302 - .1325 are proposed for readoption as a repeal as follows:

10A NCAC 15 .1302	DEFINITIONS
10A NCAC 15 .1303	WRITTEN AGREEMENTS REQUIRED
10A NCAC 15 .1304	LIMITS ON LEVELS OF RADIATION
10A NCAC 15 .1305	STORAGE PRECAUTIONS
10A NCAC 15 .1306	TRANSPORT PRECAUTIONS
10A NCAC 15 .1307	RADIATION SURVEY INSTRUMENTS
10A NCAC 15 .1308	LEAK TESTING OF SEALED SOURCES
10A NCAC 15 .1309	QUARTERLY INVENTORY
10A NCAC 15 .1310	UTILIZATION RECORDS
10A NCAC 15 .1311	DESIGN: PERFORMANCE: AND CERTIFICATION CRITERIA
10A NCAC 15 .1312	LABELING
10A NCAC 15 .1313	INSPECTION AND MAINTENANCE
10A NCAC 15 .1314	TRAINING REQUIREMENTS
10A NCAC 15 .1315	OPERATING AND EMERGENCY PROCEDURES
10A NCAC 15 .1316	PERSONNEL MONITORING
10A NCAC 15 .1317	SECURITY
10A NCAC 15 .1318	HANDLING TOOLS
10A NCAC 15 .1319	SUBSURFACE-TRACER STUDIES
10A NCAC 15 .1320	PARTICLE ACCELERATORS

- 10A NCAC 15 .1321 RADIATION SURVEYS**
10A NCAC 15 .1322 DOCUMENTS AND RECORDS REQUIRED AT FIELD STATIONS
10A NCAC 15 .1323 DOCUMENTS AND RECORDS REQUIRED AT TEMPORARY JOBSITES
10A NCAC 15 .1324 NOTIFICATION OF INCIDENTS: ABANDONMENT: AND LOST SOURCES
10A NCAC 15 .1325 SUBJECTS IN TRAINING COURSES FOR LOGGING SUPERVISORS

*History Note: Authority G.S. 20-167.1; 104E-7; 104E-10(b); 104E-12(a); 104E-12(a)(1); 104E-12(a)(2); 104E-15(a); 10 C.F.R. Chapter 1, Commission Notices, Policy Statements, Agreement States, 46 F.R. 7540;
Eff. June 1, 1989;
Amended Eff. January 1, 2005; January 1, 1994; May 1, 1993; May 1, 1992; November 1, 1989;
Transferred and Recodified from 15A NCAC 11 .1302 - .1325 Eff. February 1, ~~2015~~ 2015;
Repealed Eff. October 1, 2022.*

10A NCAC 15 .1326 - .1327 are proposed for readoption as a repeal as follows:

- 10A NCAC 15 .1326 ENERGY COMPENSATION SOURCES**
10A NCAC 15 .1327 TRITIUM NEUTRON GENERATOR TARGET SOURCES

*History Note: Authority G.S. 104E-7;
Eff. January 1, 2005;
Transferred and Recodified from 15A NCAC 11 .1326 - .1327 Eff. February 1, ~~2015~~ 2015;
Repealed Eff. October 1, 2022.*