

REQUEST FOR TECHNICAL CHANGE

AGENCY: Radiation Protection Commission

RULE CITATION: 10A NCAC 15 .1403

DEADLINE FOR RECEIPT: Monday, April 11, 2017

NOTE WELL: 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In Item (2), line 7, please change "which" to "that"

In Item (3), line 10, should the cross-reference now be Paragraph (i)?

In Item (5), line 13, insert a comma after "requirements"

In Item (7), line 15, define "specifically"

In item (8), line 18, please move the comma after "operator" into the quotation marks.

Also on line 18, delete "but is not limited to," and "such"

In Sub-Item (8)(d), line 24, define "properly"

In Sub-Item (8)(e), what are these "required" records? Are they set forth in another Rule or law?

In Item (9), line 31, please bring the comma after "Person" inside the quotation marks.

On line 31, so that I understand – the reference to "individual" means as defined in Item (4)?

On line 33, "state" should be capitalized

On line 34, please insert a comma after "agent"

In Item (13), Page 2, line 5, please insert a comma after "facials"

In Item (14), line 9, please insert an "and" after "programs,"

In Item (15), line 10, please replace "which" with "that"

Amanda J. Reeder
Commission Counsel

Date submitted to agency: March 28, 2016

On line 11, please insert a comma after "definition"

In the History Note, why are you inserting the reference to SL 2011-145?

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: March 28, 2016

1 10A NCAC 15 .1403 is amended as published in NCR 30:07, pp. 723-727, as follows:

2
3 **10A NCAC 15 .1403 DEFINITIONS**

4 As used in this Section, the following definitions shall apply:

- 5 (1) "Agency" means the North Carolina Department of ~~Environment and Natural Resources~~. Health and
6 Human Services, Division of Health Service Regulation, Radiation Protection Section.
- 7 (2) "Consumer" means any individual who is provided access to a tanning facility which is required to
8 be registered pursuant to provisions of this Section.
- 9 (3) "Formal Operator Training" is a course of study approved by this agency as meeting the
10 requirements in Paragraph (h) of Rule .1418 in this Section.
- 11 (4) "Individual" means any human being.
- 12 (5) "Inspection" means an official examination or observation to determine compliance with the rules
13 in this Section, and orders, requirements and conditions of the agency.
- 14 (6) "Minor" means any individual less than 18 years of age.
- 15 (7) "Medical Lamps" means any lamp that is specifically designed or labeled for medical use only.
- 16 (8) "Operator" means any individual designated by the registrant to operate or to assist and instruct the
17 consumer in the operation and use of the tanning facility or tanning equipment. Under this
18 definition, the term "operator", includes, but is not limited to, any such individual who conducts one
19 or more of the following activities:
- 20 (a) determining consumer's skin type;
- 21 (b) determining the suitability of prospective consumers for tanning equipment use;
- 22 (c) informing the consumer of dangers of ultraviolet radiation exposure including
23 photoallergic reactions and photosensitizing agents;
- 24 (d) assuring that the consumer reads and properly signs all forms as required by the rules in
25 this Section;
- 26 (e) maintaining required consumer exposure records;
- 27 (f) recognizing and reporting consumer injuries or alleged injuries to the registrant;
- 28 (g) determining the consumer's exposure schedule;
- 29 (h) setting timers which control the duration of exposure; and
- 30 (i) instructing the consumer in the proper use of protective eyewear.
- 31 (9) "Person", as defined in G.S. 104E-5(11), means any individual, corporation, partnership, firm,
32 association, trust, estate, public or private institution, group, agency, political subdivision of this
33 state, any other state or political subdivision or agency thereof, and any legal successor,
34 representative, agent or agency of these entities.
- 35 (10) "Registrant" means any person who is registered with the agency as required by provisions of this
36 Section.
- 37 (11) "Registration" means registration with the agency in accordance with provisions of this Section.

- 1 (12) "Tanning components" means any constituent tanning equipment part, to include ballasts, starters,
2 lamps, reflectors, acrylic shields, timers, and airflow cooling systems.
- 3 (13) "Tanning equipment" means ultraviolet or other lamps and equipment containing such lamps
4 intended to induce skin tanning through the irradiation of any part of the living human body with
5 ultraviolet radiation, e.g., beds, booths, facials and wands.
- 6 (14) "Tanning equipment services" means the installation, sales and servicing of tanning equipment and
7 associated tanning components; calibration of equipment used in surveys to measure radiation and
8 timer accuracy; tanning health physics consulting, e.g. radiation output measurements, design of
9 safety programs, training seminars for tanning operators and service personnel.
- 10 (15) "Tanning facility" means any location, place, area, structure or business which provides consumers
11 access to tanning equipment. For the purpose of this definition tanning equipment registered to
12 different persons at the same location and tanning equipment registered to the same person, but at
13 separate locations, shall constitute separate tanning facilities.
- 14 (16) "Ultraviolet radiation" means electromagnetic radiation with wavelengths in air between 200
15 nanometers and 400 nanometers.

16
17 *History Note:* Authority G.S. 104E-7(a)(7); S.L. 2011-145, s.13.3(e);
18 Eff. June 1, 1989;
19 Amended Eff. August 1, 2002; May 1, 1993; May 1, 1992;
20 Transferred and Recodified from 15A NCAC 11 .1403 Eff. February 1, 2015; 2015;
21 Amended Eff. May 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Radiation Protection Commission

RULE CITATION: 10A NCAC 15 .1414

DEADLINE FOR RECEIPT: Monday, April 11, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), lines 5 and 6, typically terms such as “easily” and “clearly” are too ambiguous for rules, but since it is clear that this is connected to the use of the consumer, I think this is fine.

In (b), line 8, I assume you need to retain “at least”?

In (b), lines 23, 24, and 26, and Page 2, lines 1 and 2, the use of “must” and “should” are typically terms that are not used in rules; however, since the use here is not a mandate but a warning sign for consumers, I think the use of the terms is fine.

On Page 2, line 1, will “agency” be defined on the warning or should it state “report to the Department...”

On line 4, please delete the blank line space.

In Paragraph (c), complaints can only be made in writing, not by phone or email?

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: March 28, 2016

1 10A NCAC 15 .1414 is amended as published in NCR 30:07, pp. 723-727, as follows:

3 **10A NCAC 15 .1414 WARNING SIGNS REQUIRED**

4 (a) The registrant shall post the warning sign described in Paragraph (b) of this Rule within one meter of each tanning
5 station and in such a manner that the sign is clearly ~~visible,~~ visible to consumers; not obstructed by any barrier,
6 ~~equipment~~ equipment, or other ~~object,~~ object; and ~~can~~ may be easily viewed by the consumer before the tanning
7 equipment is energized.

8 (b) The warning sign in Paragraph (a) of this Rule shall use upper and lower case letters ~~which~~ that are at least seven
9 millimeters and three and one-half millimeters in height, respectively, and shall ~~have the following wording:~~ state:

11 DANGER - ULTRAVIOLET RADIATION

12 UV – emitting tanning devices have been classified as “carcinogenic to humans.”

13 ATTENTION: THIS DEVICE SHALL NOT BE USED BY PERSONS UNDER 18 YEARS OF AGE.

14 - Follow instruction.

15 - Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic
16 reactions. REPEATED EXPOSURE MAY CAUSE PREMATURE AGING OF THE SKIN AND SKIN
17 CANCER.

18 - Wear protective eyewear.

19
20 FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR LONG-TERM
21 INJURY TO THE EYES.

22
23 Contraindications: This sunlamp product must not be used if skin lesions or open wounds are present.

24 Warning: This sunlamp product should not be used on individuals who have had skin cancer or have a family
25 history of skin cancer.

26 Warning: Persons repeatedly exposed to ultraviolet sunlamp products should be regularly evaluated for skin
27 cancer.

28
29 - Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician
30 before using sunlamp or tanning equipment if you are using medication or have a history of skin problems
31 or believe yourself to be especially sensitive to sunlight. Consult your certified tanning operator for a list
32 of cosmetics and products known to create sensitivity to light.

33
34 - If you do not tan in the sun, you are unlikely to tan from the use of this product.
35

1 - Consumers should report to the agency any injury for which medical attention is sought or obtained resulting
2 from the use of registered tanning equipment. This report should be made within five working days after the
3 occurrence.

4
5 (c) Warning signs shall include the current address of the ~~agency~~. agency: Department of Health and Human Services,
6 Division of Health Service Regulation, Radiation Protection Section, 1645 Mail Service Center, Raleigh, NC 27699-
7 1600.

8
9 *History Note: Authority G.S. 104E-7(a)(7); 104E-9.1;*
10 *Eff. June 1, 1989;*
11 *Amended Eff. August 1, 2002; June 1, 1993;*
12 *Transferred and Recodified from 15A NCAC 11 .1403 Eff. February 1, ~~2015~~, 2015;*
13 *Amended Eff. May 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Radiation Protection Commission

RULE CITATION: 10A NCAC 15 .1415

DEADLINE FOR RECEIPT: Monday, April 11, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), lines 5 and 6, why are you giving the name of the CFR cited?

If you wish to do so, the full name of 21 CFR Part 878.4635 on line 6 is "Sunlamp products and ultraviolet lamps intended for use in sunlamp products."

On line 6, please bring the period after the name of the CFR inside the quotation marks.

On lines 5 and 8, you have already incorporated these standards by reference by Rule 10A NCAC 15 .0117. However, you have not incorporated the standard on line 6 by reference pursuant to G.S. 150B-21.6. Do you want to include subsequent amendments and editions here?

On line 8, replace "which" with "that"

On line 9, please move the period after "age" to within the quotation marks.

In Paragraph (c), line 11, replace "which" with "that"

In Paragraph (e), why are you including these references that are already set forth in Paragraph (a) again?

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: March 28, 2016

1 10A NCAC 15 .1415 is amended as published in NCR 30:07, pp. 723-727, as follows:

2
3 **10A NCAC 15 .1415 EQUIPMENT AND CONSTRUCTION REQUIREMENTS**

4 (a) The registrant shall use only tanning equipment manufactured in accordance with the specifications set forth in
5 21 Code of Federal Regulations (CFR) Part 1040, Section 1040.20, "Sunlamp products and ultraviolet lamps intended
6 for use in sunlamp ~~products~~," products," and with 21 CFR Part 878.4635 "Sunlamp Products". The standard of
7 compliance shall be the standards in effect at the time of manufacture as shown on the equipment identification label
8 required by 21 CFR Part 1010, Section 1010.3. The registrant shall place an additional label on the bed which states
9 "North Carolina state law prohibits the use of this device by persons under 18 years of age".

10 (b) Each assembly of tanning equipment shall be designed for use by only one consumer at a time.

11 (c) Each assembly of tanning equipment shall be equipped with a timer which complies with the requirements of 21
12 CFR Part 1040, Section 1040.20(c)(2). The maximum timer interval shall not exceed the manufacturer's maximum
13 recommended exposure time. No timer interval shall have an error exceeding plus or minus 10 percent of the
14 maximum timer interval for the product.

15 (d) Tanning equipment shall include physical barriers to protect consumers from injury induced by touching or
16 breaking the lamps.

17 (e) All tanning equipment labeling required in Paragraph (a) of this Rule by 21 CFR 1010, Section 1010.3 and 21
18 CFR Part 878.4635 shall be legible and accessible to view; easily read by the consumer while in the proximity of the
19 tanning bed.

20 (f) The timer intervals shall be numerically indicated on the face of the timer.

21 (g) The timer shall not automatically reset and cause radiation emission to resume for a period greater than the unused
22 portion of the timer ~~eyele~~, cycle when emission from the tanning device has been interrupted.

23 (h) Each assembly of tanning equipment shall be provided with a control on the equipment to enable the consumer to
24 manually terminate radiation emission from the equipment at any time without disconnecting the electrical plug or
25 removing any ultraviolet lamp.

26 (i) The timer for the tanning devices shall be remotely located outside the room where the tanning equipment is
27 located. The remote timer shall be set by a certified tanning operator. ~~Effective August 1, 2004, all tanning facilities~~
28 ~~shall be equipped with remote timers.~~

29 (j) The registrant shall ensure that timer tests are performed annually on each assembly of tanning equipment and
30 documented in writing for agency review during inspections to ensure the timer is accurate to within 10 percent as
31 specified in Paragraph (c) of this Rule .1415 of this Section and the consumer is able to terminate the radiation
32 manually in accordance with Paragraph (h) of this Rule.

33 (k) Medical lamps shall not be used for commercial cosmetic tanning purposes.

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35 *History Note: Authority G.S. 104E-7(a)(7); 104E-9.1;*
36 *Eff. June 1, 1989;*
37 *Amended Eff. August 1, 2002; June 1, 1993;*

1 *Transferred and Recodified from 15A NCAC 11 .1415 Eff. February 1, ~~2015~~ 2015;*
2 *Amended Eff. May 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Radiation Protection Commission

RULE CITATION: 10A NCAC 15 .1418

DEADLINE FOR RECEIPT: Monday, April 11, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 4, do you want to delete "facility" since G.S. 104E-9.1(c)(3) includes the term "tanning facility"?

Also on line 4, is a "tanning operator" the registrant referred to throughout the rest of the Rule?

On line 6, you do not mean that illiterate or visually impaired persons cannot sign their name, but that they cannot read the statement, correct? I understand that you may also be trying to include those who cannot read and cannot sign their names. Change the language to reflect what you intend.

In (b), since recordkeeping is required by G.S. 104E-9 and 104E-12, I take it your regulated public knows how long to retain them?

On line 9, please insert a comma after "visits"

In (c), line 12, I recommend replacing "working" with "business"

Also on line 12, how does the facility know? Per Rule 15 NCAC .1414, the consumer reports to the Department directly. Or is this when it occurs onsite and the facility does know?

In (c)(4), line 17, is "relevant" being defined here by the language on lines 17 and 18?

On line 17, I recommend replacing "to include" with "including"

On line 18, will the facility have this documentation? Or is this "as applicable"?

In (e), line 22, does your regulated public know what "legal identification" is?

In (h), line 29, delete the comma after "damaged"

In (i), line 31, I take it you need to retain "at least"?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: March 28, 2016

In (j), Page 2, line 5, define “successfully”

Also on line 5, you refer to “formal training” and I see in G.S. 104E-9(b) that the Division of Health Service Regulation of the Department shall develop a training program for tanning equipment operators that meets the training rules adopted by the Commission. Are these standards governed by another Rule?

Paragraph (k) seems to repeat and expand upon Paragraphs (d) and (f). Do you need Paragraphs (d) and (f)?

In (m), line 12, what do you mean by “current”?

In (m)(2), line 14, to what documents are you referring to? Parts of the registration or the CFRs earlier incorporated?

In the History Note, line 16, you do not need to restate “G.S.” However, as the citations to 104E-9, 104E-9.1, and 104E-12 are new, they need to be underlined. Since you published the citations, you do not need to highlight them. Simply underline them.

Also in the History Note, separate the serial citations by semicolons and do not use “and” so it will be:

Authority G.S. 104E-7(a)(7); 104E-9; 104E-9.1; 104E-12;

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: March 28, 2016

1 10A NCAC 15 .1418 is amended as published in NCR 30:07, pp. 723-727, as follows:

2
3 **10A NCAC 15 .1418 RECORDS: REPORTS AND OPERATING REQUIREMENTS**

4 (a) Prior to initial exposure, the tanning ~~facility~~ operator shall provide each consumer the opportunity to read a copy
5 of the warning specified in Rule .1414(b) of this Section and ~~request that~~ have the consumer sign a statement that the
6 information has been read and understood. For illiterate or visually impaired persons unable to sign their name, the
7 warning statement shall be read aloud by the ~~operator,~~ operator to that individual, in the presence of a witness, and the
8 witness and the operator shall sign the statement.

9 (b) The registrant shall maintain a record of each consumer's total number of tanning visits including dates and
10 durations of tanning exposures.

11 (c) The registrant shall submit ~~to the agency~~ a written report of injury for which medical attention was sought or
12 obtained from the use of registered tanning equipment to the Radiation Protection Section within five working days
13 after occurrence. The report shall include:

- 14 (1) the name of the affected individual;
15 (2) the name and location of the tanning facility involved;
16 (3) the nature of the actual or alleged injury; and
17 (4) any other information relevant to the actual or alleged injury, to include the date and duration of
18 exposure and any documentation of medical attention sought or obtained.

19 (d) The registrant shall not allow individuals under the age of 18 to use tanning equipment. ~~equipment unless the~~
20 ~~individual provides a consent form and a statement, described in Paragraph (a) of this Rule, signed by that individual's~~
21 ~~parent or legal guardian.~~

22 (e) The registrant shall verify by checking legal identification that each consumer is 18 years of age or older.

23 ~~(f)~~ (f) The registrant shall not allow minors to remain in the tanning room while the tanning equipment is in ~~operation~~
24 ~~except as provided for in this Rule.~~ operation.

25 ~~(g)~~ (g) The registrant shall replace defective or burned out lamps, ~~bulbs~~ bulbs, or filters with a type intended for use
26 in the affected tanning equipment as specified by the manufacturer's product label and having the same spectral
27 distribution (certified equivalent lamp).

28 ~~(g)~~ (h) The registrant shall replace ultraviolet lamps and ~~bulbs, which~~ bulbs that are not otherwise defective or
29 damaged, at such frequency or after such duration of use as ~~may be~~ is recommended by the manufacturer of such
30 lamps and bulbs.

31 ~~(h)~~ (i) The registrant shall certify that all tanning equipment operators are trained in at least the following:

- 32 (1) the requirements of this Section;
33 (2) procedures for correct operation of the tanning facility and tanning equipment;
34 (3) recognition of injury or overexposure to ultraviolet radiation;
35 (4) the tanning equipment manufacturer's procedures for operation and maintenance of the tanning
36 equipment;

1 (5) the determination of skin type of customers and ~~appropriate~~ determination of duration of exposure
2 to registered tanning equipment; and

3 (6) emergency procedures to be followed in case of injury.

4 ~~(j)~~ (i) The registrant shall allow operation of tanning equipment only by and in the physical presence of persons who
5 have successfully completed formal training courses ~~which~~ that meet the requirements of Subparagraphs ~~(h)(4)~~ (i)(1)
6 to (6) of this Rule.

7 ~~(j)~~ (k) The registrant shall maintain a record of operator training required in Paragraphs ~~(h) and (i)~~ (i) and (j) of this
8 Rule for inspection by authorized representatives of the agency.

9 ~~(l)~~ (l) No registrant shall possess, use, ~~operate~~ operate, or transfer tanning equipment or their ultraviolet radiation
10 sources in such a manner as to cause any individual under 18 years of age to be exposed to radiation emissions from
11 such ~~equipment except in accordance with Paragraph (d) of this Rule.~~ equipment.

12 ~~(m)~~ (m) Each registrant shall make available to all employees current copies of the following documents:

- 13 (1) the facility's certificate of ~~registration;~~ registration with the Radiation Protection Section; and
- 14 (2) conditions or documents incorporated into the registration by reference and amendments thereto.

15
16 *History Note: Authority G.S. 104E-7(a)(7); G.S. 104E-9, G.S. 104E-9.1, and G.S. 104E-12;*
17 *Eff. June 1, 1989;*
18 *Amended Eff. August 1, 2002; May 1, 1993; May 1, 1992;*
19 *Transferred and Recodified from 15A NCAC 11 .1418 Eff. February 1, ~~2015.~~ 2015.*
20 *Amended Eff. May 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Radiation Protection Commission

RULE CITATION: 10A NCAC 15 .1419

DEADLINE FOR RECEIPT: Monday, April 11, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

This is simply an inquiry – since you accept hand delivery at the office, does your regulated public know your office hours?

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: March 28, 2016

1 10A NCAC 15 .1419 is amended as published in NCR 30:07, pp. 723-727, as follows:

2

3 **10A NCAC 15 .1419 COMMUNICATIONS WITH THE AGENCY: AGENCY ADDRESS**

4 Applications for registration, reports, ~~notifications~~ notifications, and other communications required by this Section
5 shall be mailed to the ~~Division of Radiation Protection, Protection Section~~, 1645 Mail Service Center, Raleigh, North
6 Carolina ~~27699-1645~~ 27699-1600 or delivered to the agency at its office located at ~~3825 Barrett Drive, Raleigh, North~~
7 ~~Carolina 27609-7221~~. 5505 Creedmoor Road, Suite 100, Raleigh, North Carolina 27612.

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9 *History Note: Authority G.S. 104E-7(a)(7);*

10 *Eff. June 1, 1989;*

11 *Amended Eff. August 1, 2002; May 1, 1992;*

12 *Transferred and Recodified from 15A NCAC 11 .1419 Eff. February 1, ~~2015~~, 2015;*

13 *Amended Eff. May 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Radiation Protection Commission

RULE CITATION: 10A NCAC 15 .1423

DEADLINE FOR RECEIPT: Monday, April 11, 2017

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In Paragraph (b), you are replacing "agency" with "Radiation Protection Section" but retaining "agency" elsewhere. Are you relying upon the definition in Rule 10A NCAC 15 .0104(6) for the term "agency" here?

10A NCAC 15 .0104 DEFINITIONS

As used in these Rules, the following definitions apply.

- (6) "Agency" means the, North Carolina Department of Health and Human Services, Division of Health Service Regulation, Radiation Protection Section.

In Subparagraph (d)(1), this is simply an inquiry – since you accept hand delivery at the office, does your regulated public know your office hours?

In (d)(2), I have another inquiry – why are appointments necessary for cash, but not checks?

In (f), line 26, please delete the comma after "delinquent"

In Paragraph (h), line 32, since the agency "may" institute action, when will it not? Please insert factors here. Or, do you mean "shall"?

In Paragraph (i), what is the authority for the fee for the tanning equipment in the second part of the table? What is the fee for? G.S. 104E-19 states:

§ 104E-19. Fees.

- (a) An annual fee in the amount set by the Department is imposed on a person who is required to be registered or licensed under this Chapter. The Department must set the fees at amounts that provide revenue to offset its costs in performing its duties under this Chapter.
- (b) Repealed by Session Laws 1987, c. 850, s. 13.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: March 28, 2016

(c) The annual fees under subsection (a) of this section shall not exceed the maximum amounts as follows:

(1) For tanning facilities: two hundred dollars (\$200.00) for the first piece of tanning equipment and thirty dollars (\$30.00) for each additional piece of tanning equipment.

(2) For the following categories of facilities registered to use X-ray tubes or X-ray equipment: clinics, chiropractors, dentists, educational, government, podiatrists, industrial, physicians, veterinarians, and other; two hundred dollars (\$200.00) for the first X-ray tube or piece of X-ray equipment and thirty dollars (\$30.00) for each additional X-ray tube or piece of X-ray equipment.

(3) For the following categories of facilities registered to use X-ray tubes or X-ray equipment: industrial medical, health departments, and service; three hundred dollars (\$300.00) for the first X-ray tube or piece of X-ray equipment and forty dollars (\$40.00) for each additional X-ray tube or piece of X-ray equipment.

(4) For the following categories of facilities registered to use X-ray tubes or X-ray equipment: hospitals and industrial radiography; four hundred dollars (\$400.00) for the first X-ray tube or piece of X-ray equipment and fifty dollars (\$50.00) for each additional X-ray tube or piece of X-ray equipment. (1975, c. 718, s. 1; 1981, c. 704, s. 13; 1987, c. 633, s. 9; c. 850, s. 13; 1987 (Reg. Sess., 1988), c. 993, s. 26; 2001-474, s. 5; 2009-451, s. 13.3(a).)

What are "tanning equipment services"? I note that G.S. 104E-9.1(c)(3) defines "tanning facility."

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: March 28, 2016

1 10A NCAC 15 .1423 is amended with changes as published in NCR 30:07, pp. 723-727, as follows:

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10A NCAC 15 .1423 FEES AND PAYMENT

~~(a)~~ This Rule establishes fees for persons registered pursuant to the provisions of this Section to cover the anticipated costs of tanning equipment inspection and enforcement activities of the agency.

~~(b)~~ (a) Annual fees established in this Rule ~~are~~ shall be due on the first day of July of each year.

~~(c)~~ (b) Notwithstanding Paragraph ~~(b)~~ (a) of this Rule, when a new registration is issued by the ~~agency~~ Radiation Protection Section after the first day of July of any year, the initial fee is due on the date of issuance of the registration.

~~(d)~~ (c) The initial fee in Paragraph ~~(c)~~ (b) of this Rule shall be computed as follows:

- (1) When any new registration is issued before the first day of January of any year, the initial fee is the full amount specified in this Rule; and
- (2) When any new registration is issued on or after the first day of January of any year, the initial fee is one-half of the amount specified in this Rule.

~~(e)~~ All fees received by the agency pursuant to provisions of this Rule are nonrefundable.

~~(f)~~ (d) Each registrant may pay all fees by cash, ~~check~~ check, or money order ~~provided~~ as follows:

- (1) Checks or money orders shall be made payable to "Radiation Protection ~~Section~~, Section," and mailed to 1645 Mail Service Center, Raleigh, NC ~~27699-1645~~ 27699-1600 or delivered to the agency office at ~~3825 Barrett Drive, Raleigh, NC 27609-7221~~; and 5505 Creedmoor Road, Suite 100, Raleigh, NC 27612; and
- (2) Cash payments shall be made only by appointment by calling the agency at ~~919/571-4141~~ 919/814-2250 and delivered to the agency office at ~~3825 Barrett Drive, Raleigh, NC 27609-7221~~. 5505 Creedmoor Road, Suite 100, Raleigh, NC 27612.

~~(g)~~ (e) Within five days after the due dates established in Paragraphs ~~(b)~~ and (c) ~~(a)~~ and (b) of this Rule, the agency shall mail to each ~~registrant~~, registrant who has not already submitted ~~payment~~, payment a notice ~~which that~~ which indicates the due date, the amount of fees due, and the delinquent date.

~~(h)~~ (f) Payment of fees established in this Rule ~~is~~ shall be delinquent, if not received by the agency within 60 days after the due date specified in Paragraphs ~~(b)~~ and (c) ~~(a)~~ and (b) of this Rule.

~~(i)~~ (g) If a registrant remits a fee in the form of a check or other instrument ~~which that~~ which is uncollectible from the paying institution, the agency shall notify the registrant by certified mail and allow the registrant 15 days to correct the matter, ~~which includes~~ including payment of any fee charged to the agency by a banking institution.

~~(j)~~ (h) If payment of fees is uncollectible from the paying institution or not submitted to the agency by the delinquent date, the agency may institute legal action to collect.

~~(k)~~ (i) Annual fees for persons registered pursuant to provisions of this Section are as listed in the following table:

Type of registered facility	Letters appearing in registration number	Facility plus first piece of tanning equipment	Each additional piece of tanning equipment
Tanning Facility	B	\$200.00	\$30.00

Tanning Equipment Services	F	\$200.00	NA
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*History Note: Authority G.S. [~~104E-7(a)(4)~~] 104E-9(a)(8); 104E-19(a);
Eff. July 1, 1994;
Amended Eff. July 1, 2011; August 1, 2007; August 1, 2002;
Transferred and Recodified from 15A NCAC 11 .1423 Eff. February 1, ~~2015~~; 2015;
Amended Eff. May 1, 2016.*