



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**
Division of Health Service Regulation

ROY COOPER • Governor
MANDY COHEN, MD, MPH • Secretary
MARK PAYNE • Director

MEMORANDUM

***Revised June 29, 2020**

DATE: May 15, 2020
TO: Interested Parties
FROM: Nadine Pfeiffer, Rule Review Manager *NP*
RE: Proposed Readoption of Radiation Protection Rules – 10A NCAC 15

GS 150B-21.2 requires a rule-making body to notify certain individuals of its intent to adopt a rule. It also requires notification of the date, time and location of the public hearing on the rule and any fiscal analysis that has been prepared in connection with the proposed rule. As a result of the periodic review of rules in Subchapter 10A NCAC 15, 257 rules determined as “Necessary With Substantive Public Interest” are required to be readopted. At this time, one rule is being proposed for readoption that pertains to tanning facilities.

The North Carolina Radiation Protection Commission has submitted form OAH 0300 to the Codifier of Rules, Office of Administrative Hearings, indicating its intent to readopt the following rule:

10A NCAC 15 .1418 Records: Reports and Operating Requirements

In accordance with G.S. 150B-21.3A(d)(2), a fiscal analysis was prepared for this rule with substantive change. Approval of the fiscal analysis for this rule was obtained from the Office of State Budget and Management on October 30, 2019 in accordance with G.S. 150B-21.4.

The proposed rule text is attached to this memo. The rule was published in today’s May 15, 2020 edition of the N.C. Register that can be found on the Office of Administrative Hearings web site at <https://www.oah.nc.gov/documents/nc-register>.

A public hearing is scheduled for July 13, 2020 at 10:00 a.m. *In the abundance of caution, to address protective measures to help prevent the spread of COVID-19, rather than in an in-person meeting, the public hearing will be conducted by teleconference. If you would like to participate in the public hearing, please use the following conference telephone number: 1-877-848-7030 and access code: 5133201. Ms. Nadine Pfeiffer, DHSR Rule-Review Manager, is accepting public comments on this rule and fiscal analysis from May 15, 2020 – July 14, 2020. *Comments will also be accepted via teleconference at the public hearing. The proposed effective date of this rule is October 1, 2020.

A copy of the proposed rule, fiscal analysis, and instructions for submitting comment can be found at the Division of Health Service Regulation web site at <https://info.ncdhhs.gov/dhsr/ruleactions.html>.

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION

OFFICE OF THE DIRECTOR

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Please feel free to contact the Radiation Protection Section at (919) 814-2250, should you have questions related to this memorandum or the proposed rule and fiscal note.

Enclosures

cc: Mark Payne, Director, Health Service Regulation
Emery Milliken, Deputy Director, DHSR
Joel Johnson, Assistant General Counsel, DHHS
Lee Cox, Chief, Radiation Protection Section
Catherine Rosfjord, Radiation Protection Section
Dr. Carmine Plott, PhD, CHP, Chair, N.C. Radiation Protection Commission

1 10A NCAC 15 .1418 is proposed for readoption with substantive changes as follows:

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

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

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

10 (c) The registrant shall determine each consumer's skin type using a method that distinguishes between six skin types
11 and record the skin type on the client tan record.

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

14 The report shall include:

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

20 ~~(e)~~ (e) The registrant shall not allow individuals under the age of 18 to use tanning equipment.

21 ~~(f)~~ (f) The registrant shall verify by checking legal identification that includes a driver's license, a passport, or military
22 identification, each consumer is 18 years of age or older.

23 ~~(g)~~ (g) The registrant shall not allow minors to remain in the tanning room while the tanning equipment is in operation.

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

27 ~~(i)~~ (i) The registrant shall replace ultraviolet lamps and bulbs that are not otherwise defective or damaged at such
28 frequency or after such duration of use as is recommended by the manufacturer of such lamps and bulbs.

29 (j) The registrant shall document the number of hours that ultraviolet lamps and bulbs are used.

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

- 31 (1) the requirements of this Section;
32 (2) procedures for correct operation of the tanning facility and tanning equipment;
33 (3) recognition of injury or overexposure to ultraviolet radiation;
34 (4) the tanning equipment manufacturer's procedures for operation and maintenance of the tanning
35 equipment;
36 (5) the determination of skin type of customers and determination of duration of exposure to registered
37 tanning equipment; and

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

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

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

7 ~~(h)~~ (n) No registrant shall possess, use, operate, or transfer tanning equipment or their ultraviolet radiation sources in
8 such a manner as to cause any individual under 18 years of age to be exposed to radiation emissions from such
9 equipment.

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

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

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14 *History Note: Authority G.S. 104E-7(a)(7); 104E-9; 104E-9.1; 104E-12;*
 15 *Eff. June 1, 1989;*
 16 *Amended Eff. August 1, 2002; May 1, 1993; May 1, 1992;*
 17 *Transferred and Recodified from 15A NCAC 11 .1418 Eff. February 1, 2015;*
 18 *Amended Eff. May 1, ~~2016~~; 2016;*
 19 *Readopted Eff. October 1, 2020.*