

North Carolina Responses to the Letters dated May 13th and August 19th
from the NRC commenting on adopted and proposed NC rules

The NRC commented on rules adopted by the State of North Carolina in October 2013 in a letter dated May 13th, 2014. During this time the state was in the process of addressing rule making activities required by RATS IDs 2011-1 to 2012-4, and had submitted these proposed rules to NRC for comment. The NRC provided comments to the state on these proposed rules in a letter dated August 18th, 2014.

The comments from both NRC letters are provided in the table, below, in the order these comments appear in the attachments in each letter. Please note the reference for each comment. The date next to the abbreviation (Ref.) in the column headed "NRC Citation 10 CFR ..." refers to the date of the NRC letter, and the item number references the item number of the specific comment listed in the table to each letter noted above. The text of each NRC comment is provided in the table for convenience.

Please note that there has been a change in how rules must be written since the previous rules were adopted by the state and the previous rule submission to NRC. In February, 2015, the agency was informed that North Carolina General Statute 150B prohibits a state rule from repeating the content of an existing rule or regulation. Accordingly, all of the rules addressed in RATS IDs 2011-1 to 2012-4 have been rewritten to this new standard using incorporation by reference.

NRC Citation
10 CFR ...

NC Citation
10A NCAC 15 ...

RATS ID
& Cat.

NRC Comments

NC Comments addressing
NRC Comments

NRC Citation 10 CFR ...	NC Citation 10A NCAC 15 ...	RATS ID & Cat.	NRC Comments	NC Comments addressing NRC Comments
30.34(a), (b), (h) Ref. 5/13/14 Item 1	.0338	2001-1 H&S, C	<p>Terms and conditions of licenses</p> <p>North Carolina has an incorrect reference in 11.0338(c). The reference should be “The notification in Paragraph (b) of this rule shall indicate.”</p> <p>North Carolina deleted the equivalent provision to 10 CFR 30.34(a) and (b). These provisions are Compatibility Category C and the essential objectives of 10 CFR 30.34 (a) and (b) need to be incorporated into 11.0338.</p> <p>North Carolina needs to make the above changes in order to meet the Category H&S designation assigned to 10 CFR 30.34(h) and the Compatibility Category C designation assigned to 10 CFR 30.34(a) and (b).</p>	Incorporated 10 CFR 30.34(a) – (d) and (e)(2) – (j)(4) by reference in 10A NCAC 15 .0338.
31.5 Ref. 5/13/14 Item 2	.0309	2001-1 2007-2 2007-3 2012-1 C	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>North Carolina lists an incorrect reference in 11.0309(b)(2). The reference should be changed to “Subparagraph (c)(9) of this Rule.”</p> <p>North Carolina needs to delete “except that tests for leakage or contamination may be performed by the general licensee using leak test kits provided and analyzed by a specific licensee who is authorized to provide leak test kit services;” from 11.0309(c)(3)(A).</p> <p>North Carolina needs to remove “or dispose of” and “by export as provided by (c)(7) of this Rule, or by transfer” from 11.0309(c)(9).</p> <p>North Carolina needs to make the above changes in order to meet the Compatibility Category C designation assigned to 10 CFR 31.5.</p>	Incorporated 10 CFR 31.5 by reference in 10A NCAC 15 .0309

NRC Citation 10 CFR ...	NC Citation 10A NCAC 15 ...	RATS ID & Cat.	NRC Comments	NC Comments addressing NRC Comments
32.51 Ref. 5/13/14 Item 3	.0328	2001-1 B	<p>Byproduct material contained in devices for use under Sec. 31.5; requirements for license to manufacture, or initially transfer</p> <p>North Carolina omits an equivalent regulation to 10 CFR 32.51(a)(4), (5), and (6).</p> <p>North Carolina needs to change the label in 11.0328(a)(3)(C) to read: "Caution Radioactive Material/ (name of manufacturer or initial transferor)."</p> <p>North Carolina needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 32.51.</p>	<p>Incorporated 10 CFR 32.51 in 10A NCAC .0328 through referencing .0317 in the rule. .0317 incorporates Subpart B to 10 CFR Part 32, which includes 32.51</p>
32.51a Ref. 5/13/14 Item 4	.0328	2001-1 B	<p>Same: Conditions of licenses</p> <p>North Carolina needs to add an equivalent regulation to 10 CFR 32.51a(b)(4) "The name or title, address, and phone number of the contact at the NRC or Agreement State regulatory agency from which additional information may be obtained" to 11.0310(6).</p> <p>North Carolina omits equivalent regulations to 10 CFR 32.51a(c) and (e).</p> <p>North Carolina needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 32.51a.</p>	<p>Incorporated 10 CFR 32.51a in 10A NCAC .0328 through referencing .0317 in the rule. .0317 incorporates Subpart B to 10 CFR Part 32, which includes 32.51a.</p>
32.52 Ref. 5/13/14 Item 5	.0328	2001-1 B	<p>Same: Material transfer reports and records</p> <p>North Carolina omits equivalent regulations to 10 CFR 32.52(a)(3), (b)(1)(i), (b)(1)(ii), (b)(1)(iii), (b)(1)(v), and (b)(2)-(7).</p> <p>North Carolina needs to add equivalent regulations to the above sections to 11.0310 in order to meet the Compatibility Category B designation assigned to 10 CFR 32.52.</p>	<p>Incorporated 10 CFR 32.52 in 10A NCAC .0328 through referencing .0317 in the rule. .0317 incorporates Subpart B to 10 CFR Part 32, which includes 32.52</p>

NRC Citation 10 CFR ...	NC Citation 10A NCAC 15 ...	RATS ID & Cat.	NRC Comments	NC Comments addressing NRC Comments
35.2 Ref. 5/13/14 Item 6	Future rulemaking	2002-2 C	<p>Definition: Prescribed dosage</p> <p>North Carolina needs to add “for procedures performed pursuant to 11.0361 as it pertains to uptake, dilution, and excretion studies and imaging and localization studies.”</p> <p>North Carolina needs to make the above change in order to meet the Compatibility Category C designation assigned to 10 CFR 35.2 definition Prescribed dosage.</p>	<p>10A NCAC 15 .0104 (definitions) will be addressed with future rulemaking.</p> <p>There is a NC General Statute that prohibits a rule from repeating the content of another rule or regulation. Due to the complexity of complying with this General Statute and the expanded scope of work required to incorporate all of the affected definitions in 10 CFR Chapter 1 repeated in .0104; this rule making was tabled.</p>
35.2 Ref. 5/13/14 Item 7	Future rulemaking	2002-2 C	<p>Definition: Prescribed dose</p> <p>North Carolina needs to add “manual” in front of the word “brachytherapy” in 11.0104(102)(b).</p> <p>North Carolina needs to make the above change in order to meet the Compatibility Category C designation assigned to 10 CFR 35.2 definition Prescribed dose</p>	<p>10A NCAC 15 .0104 (definitions) will be addressed with future rulemaking.</p> <p>There is a NC General Statute that prohibits a rule from repeating the content of another rule or regulation. Due to the complexity of complying with this General Statute and the expanded scope of work required to incorporate all of the affected definitions in 10 CFR Chapter 1 repeated in .0104; this rule making was tabled.</p>
35.11 Ref. 5/13/14 Item 8	.0317	2002-2 2007-3 C	<p>License required</p> <p>North Carolina omits the word “prepare” from the 11.0318(p)(1).</p> <p>North Carolina needs to make the above change in order to meet the Compatibility Category C designation assigned to 10 CFR 35.11.</p>	<p>Incorporated 10 CFR 35.11 by reference in 10A NCAC 15 .0317(b)(6).</p>

NRC Citation 10 CFR ...	NC Citation 10A NCAC 15 ...	RATS ID & Cat.	NRC Comments	NC Comments addressing NRC Comments
35.27 Ref. 5/13/14 Item 9	Future rulemaking	2002-2 H&S	<p>Supervision</p> <p>North Carolina lists an incorrect reference in 11.0318(y). 11.0318(y) should read "A licensee that permits supervised activities under Paragraphs (w) and (x) of this Rule is responsible for the acts and omissions of the supervised individual."</p> <p>North Carolina needs to make the above change in order to meet the Category H&S designation assigned to 10 CFR 35.27.</p>	<p>10A NCAC 15 .0318 will be addressed with future rulemaking.</p> <p>The Radioactive Materials Control Advisory Committee decided to table .0318 for rulemaking until the accelerator rules are opened up by the X-Ray rulemaking group to reduce the chance that two different editions of the same rule will go forward.</p>
35.63 Ref. 5/13/14 Item 10	.0359	2002-2 2007-3 H&S	<p>Determination of dosages of unsealed byproduct material for medical use</p> <p>North Carolina does not adopt the essential health and safety objectives of 10 CFR 35.63(d).</p> <p>North Carolina needs to adopt the essential health and safety objectives of 10 CFR 35.63(d) in order to meet the Category H&S designation assigned to 10 CFR 35.63.</p>	<p>Incorporated 10 CFR 35.63 by reference in 10A NCAC 15 .0359(a).</p>
35.92 Ref. 5/13/14 Item 11	.0362	2002-2 2007-1 H&S	<p>Decay-in-storage</p> <p>North Carolina's regulation is less restrictive than NRC's regulation. North Carolina allows for decay in storage for radioactive material with a physical half-life of less than 275 days. 10 CFR 35.92 only allows for decay in storage for radioactive material with a physical half-life of less than or equal to 120 days.</p> <p>North Carolina needs to change their decay in storage requirement to radioactive material with a half-life of less than or equal to 120 days in order to meet the Category H&S designation assigned to 10 CFR 35.92.</p>	<p>No change to 10A NCAC 15 .0362 made.</p> <p>The Radiation Protection Commission purposefully set this limit at 275 days at the request of our licensees.</p>
30.15 Ref. 5/13/14 Item 12	.0305	2007-2 2007-3 B	<p>Certain items containing byproduct material</p> <p>North Carolina does not have equivalent provisions to 10 CFR 30.15(a)(2)(i) and (ii), 30.15(a)(8)(vi) for the statement "And provided further...," and 30.15(b).</p> <p>North Carolina needs to add the above provisions to 11.0305 in order to meet the Compatibility Category B designation assigned to 10 CFR 30.15.</p>	<p>Incorporated 10 CFR 30.15 by reference in 10A NCAC 15 .0305(a).</p>

NRC Citation 10 CFR ...	NC Citation 10A NCAC 15 ...	RATS ID & Cat.	NRC Comments	NC Comments addressing NRC Comments
30.18 Ref. 5/13/14 Item 13	.0304	2007-2 2007-3 B	<p>Exempt quantities</p> <p>North Carolina omits the words “or transfer” after the words “packaging or repackaging” in 11.0304(b)</p> <p>North Carolina needs to make the above change in order to meet the Compatibility Category B designation assigned to 10 CFR 30.18.</p>	Incorporated 10 CFR 30.18 by reference in 10A NCAC 15 .0304(a).
30.20 Ref. 5/13/14 Item 14	.0305	2007-3 B	<p>Gas and aerosol detectors containing byproduct material</p> <p>North Carolina omits an equivalent regulation to 10 CFR 30.20(b).</p> <p>North Carolina needs to add an equivalent regulation to 10 CFR 30.20(b) to 11.0305 in order to meet the Compatibility Category B designation assigned to 10 CFR 30.20.</p>	Incorporated 10 CFR 30.20 by reference in 10A NCAC 15 .0305(c).
30.32(g) Ref. 5/13/14 Item 15	.0317	2007-3 C	<p>Application for specific licenses</p> <p>North Carolina omits equivalent regulations to 10 CFR 30.32(g)(3) and (4).</p> <p>North Carolina needs to add equivalent regulations to 10 CFR 30.32(g)(3) and (4) to their regulations in order to meet the Compatibility Category C designation assigned to 10 CFR 30.32(g).</p>	Incorporated 10 CFR 30.32(g) by reference in 10A NCAC 15 .0317(a).
30.34(j) Ref. 5/13/14 Item 16	.0338	2007-3 B	<p>Terms and conditions of licenses</p> <p>North Carolina has two incorrect references in 11.0338. The reference in 11.0338(i)(1) should be changed from “in Rule .0318” to “in Rule .0333” and the reference in 11.0338(j) should be changed from “of Rule .0318” to “of Rule .0333.”</p> <p>North Carolina needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 30.34(j).</p>	Incorporated 10 CFR 30.34(j) by reference in 10A NCAC 15 .0338(a).
32.71 Ref. 5/13/14 Item 17	.0331	2007-3 B	<p>Manufacture and distribution of byproduct material for certain in vitro clinical or laboratory testing under general license</p> <p>North Carolina omits an equivalent regulation to 10 CFR 32.71(a)(8).</p> <p>North Carolina needs to add an equivalent regulation to 10 CFR 32.71(a)(8) to 11.0331 in order to meet the Compatibility Category B designation assigned to 10 CFR 32.71.</p>	Incorporated 10 CFR 32.71 in 10A NCAC .0331 by referencing 10A NCAC 15 .0317. .0317 incorporates Subpart B to 10 CFR Part 32, which includes 32.71

NRC Citation 10 CFR ...	NC Citation 10A NCAC 15 ...	RATS ID & Cat.	NRC Comments	NC Comments addressing NRC Comments
19.13 Ref. 5/13/14 Item 18	.1004	2008-1 C	<p>Notification and reports to individuals</p> <p>North Carolina omits an equivalent regulation to 10 CFR 19.13(e).</p> <p>North Carolina needs to add an equivalent regulation to 10 CFR 19.13(e) to 11.1004 in order to meet the Compatibility Category C designation assigned to 10 CFR 19.13.</p>	Incorporated 10 CFR 19.13 by reference in 10A NCAC 15 .1004(a).
20.1404 Ref. 8/19/14 Item 1	.1653	2011-1 C	<p>Alternate criteria for license termination.</p> <p>NC needs to change 11.1653(d)(2) to read “The use of alternative criteria to terminate a license requires the approval of the Agency after consideration of any comments provided by ...”</p> <p>NC needs to make the above change in order to meet the Compatibility Category C designation assigned to 10 CFR 20.1404.</p>	Incorporated 10 CFR 20.1404 in by reference 10A NCAC 15 .1653(a). .1653(a) references Subpart E to 10 CFR Part 20 which includes 20.1404.
30.35(e) Ref. 8/19/14 Item 2	.0353	2011-1 H&S	<p>Financial assurance and recordkeeping for decommissioning.</p> <p>NC lists an incorrect reference in 11.0353(a). NC needs to change “...Appendix C to 10 CFR 20.1001 – 20.2401,...” to “... Appendix B to 10 CFR 30,...”</p> <p>NC needs to make the above change in order to meet the Category H&S determination assigned to 10 CFR 30.35(a), (b), (e), and (g).</p>	Incorporated 10 CFR 30.35(e) by reference in 10A NCAC 15 .0353(a)(1).
70.25(e) Ref. 8/19/14 Item 3	.0353	2011-1 H&S	<p>Financial assurance and recordkeeping for decommissioning.</p> <p>NC lists an incorrect reference in 11.0353(a). NC needs to change “...Appendix C to 10 CFR 20.1001 – 20.2401,...” to “... Appendix B to 10 CFR 30,...”</p> <p>NC needs to make the above change in order to meet the Category H&S determination assigned to 10 CFR 70.25(a)(2), (b), (e), and (g).</p>	Incorporated 10 CFR 70.25(e) by reference in 10A NCAC 15 .0353(a)(3).

NRC Citation 10 CFR ...	NC Citation 10A NCAC 15 ...	RATS ID & Cat.	NRC Comments	NC Comments addressing NRC Comments
30.4 Ref. 8/19/14 Item 4	Future rulemaking	2011-2 NRC	<p>Definition: Commencement of construction, Paragraph 2.</p> <p>NC incorporates this definition by reference. Since paragraph 2 is a Compatibility Category NRC NC should not incorporate it by reference in 11.0117(a)(2)(B).</p> <p>NC needs to not incorporate by reference paragraph 2 of the definition Commencement of construction in order to meet the Compatibility Category NRC designation assigned to 10 CFR 30.4 Definition: Commencement of construction, Paragraph 2.</p>	The Radioactive Materials Control Advisory Committee decided to table rulemaking for 10A NCAC 15 .0117.
30.4 Ref. 8/19/14 Item 5	Future rulemaking	2011-2 NRC	<p>Definition: Construction, Paragraph 9(ii).</p> <p>NC incorporates this definition by reference. Since paragraph 9(ii) is a Compatibility Category NRC, NC should not incorporate it by reference in 11.0117(a)(2)(B).</p> <p>NC needs to not incorporate by reference paragraph 9(ii) of the definition Construction in order to meet the Compatibility Category NRC designation assigned to 10 CFR 30.4 Definition: Construction, Paragraph 9(ii).</p>	The Radioactive Materials Control Advisory Committee decided to table rulemaking for 10A NCAC 15 .0117.
36.2 Ref. 8/19/14 Item 6	Future rulemaking	2011-2 NRC	<p>Definition: Commencement of construction, Paragraph 2.</p> <p>NC incorporates this definition by reference. Since paragraph 2 is a Compatibility Category NRC, NC should not incorporate it by reference in 11.0117(a)(2)(F).</p> <p>NC needs to not incorporate by reference paragraph 2 of the definition Commencement of construction in order to meet the Compatibility Category NRC designation assigned to 10 CFR 36.2 Definition: Commencement of construction, Paragraph 2.</p>	The Radioactive Materials Control Advisory Committee decided to table rulemaking for 10A NCAC 15 .0117.
36.2 Ref. 8/19/14 Item 7	Future rulemaking	2011-2 NRC	<p>Definition: Construction, Paragraph 9(ii).</p> <p>NC incorporates this definition by reference. Since paragraph 9(ii) is a Compatibility Category NRC, NC should not incorporate it by reference in 11.0117(a)(2)(F).</p> <p>NC needs to not incorporate by reference paragraph 9(ii) of the definition Construction in order to meet the Compatibility Category NRC designation assigned to 10 CFR 36.2 Definition Construction, Paragraph 9(ii).</p>	The Radioactive Materials Control Advisory Committee decided to table rulemaking for 10A NCAC 15 .0117.

NRC Citation 10 CFR ...	NC Citation 10A NCAC 15 ...	RATS ID & Cat.	NRC Comments	NC Comments addressing NRC Comments
39.13 Ref. 8/19/14 Item 8	.0337	2011-2 H&S	<p>Specific licenses for well logging</p> <p>NC does not adopt the health and safety requirements of 10 CFR 39.13(b)-(f).</p> <p>NC needs to adopt rule text that address the health and safety component of 10 CFR 39.13(b)-(f) in order to meet the Category H&S designation assigned to 10 CFR 39.13.</p>	Incorporated 10 CFR 39.13 by reference in 10A NCAC 15 .0337(a)(8).
40.4 Ref. 8/19/14 Item 9	Future rulemaking	2011-2 NRC	<p>Definition Commencement of construction, Paragraph 2</p> <p>NC incorporates this definition by reference. Since paragraph 2 is a Compatibility Category NRC, NC should not incorporate it by reference in 11.0117(a)(2)(G). NC needs to not incorporate by reference paragraph 2 of the definition Commencement of construction in order to meet the Compatibility Category NRC designation assigned to 10 CFR 40.4 Definition Commencement of construction, Paragraph 2.</p>	The Radioactive Materials Control Advisory Committee decided to table rulemaking for 10A NCAC 15 .0117.
40.4 Ref. 8/19/14 Item 10	Future rulemaking	2011-2 NRC	<p>Definition: Construction, Paragraph 9(ii).</p> <p>NC incorporates this definition by reference. Since paragraph 9(ii) is a Compatibility Category NRC, NC should not incorporate it by reference in 11.0117(a)(2)(G).</p> <p>NC needs to not incorporate by reference paragraph 9(ii) of the definition Construction in order to meet the Compatibility Category NRC designation assigned to 10 CFR 40.4 Definition: Construction, Paragraph 9(ii).</p>	The Radioactive Materials Control Advisory Committee decided to table rulemaking for 10A NCAC 15 .0117.
70.4 Ref. 8/19/14 Item 11	Future rulemaking	2011-2 NRC	<p>Definition: Commencement of construction, Paragraph 2.</p> <p>NC incorporates this definition by reference. Since paragraph 2 is a Compatibility Category NRC, NC should not incorporate it by reference in 11.0117(a)(2)(I).</p> <p>NC needs to not incorporate by reference paragraph 2 of the definition Commencement of construction in order to meet the Compatibility Category NRC designation assigned to 10 CFR 70.4 Definition: Commencement of construction, Paragraph 2.</p>	The Radioactive Materials Control Advisory Committee decided to table rulemaking for 10A NCAC 15 .0117.

NRC Citation 10 CFR ...	NC Citation 10A NCAC 15 ...	RATS ID & Cat.	NRC Comments	NC Comments addressing NRC Comments
70.4 Ref. 8/19/14 Item 12	Future rulemaking	2011-2 NRC	<p>Definition Construction: Paragraph 9(ii).</p> <p>NC incorporates this definition by reference. Since paragraph 9(ii) is a Compatibility Category NRC, NC should not incorporate it by reference in 11.0117(a)(2)(l).</p> <p>NC needs to not incorporate by reference paragraph 9(ii) of the definition Construction in order to meet the Compatibility Category NRC designation assigned to 10 CFR 70.4 Definition: Construction, Paragraph 9(ii).</p>	The Radioactive Materials Control Advisory Committee decided to table rulemaking for 10A NCAC 15 .0117.
31.5 Ref. 8/19/14 Item 13	.0309	2012 C	<p>Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere</p> <p>Carolina lists an incorrect reference in 11.0309(b)(2). The reference should be changed to "Subparagraph (c)(9) of this Rule."</p> <p>North Carolina needs to delete "except that tests for leakage or contamination may be performed by the general licensee using leak test kits provided and analyzed by a specific licensee who is authorized to provide leak test kit services;" from 11.0309(c)(3)(A).</p> <p>North Carolina needs to remove "or dispose of" and "by export as provided by (c)(7) of this Rule, or by transfer" from 11.0309(c)(9).</p> <p>North Carolina needs to make the above changes in order to meet the Compatibility Category C designation assigned to 10 CFR 31.5.</p>	Incorporated 10 CFR 31.5 by reference in 10A NCAC 15 .0309(a).
34.20 Ref. 8/19/14 Item 14	.0521	2012-3 B	<p>Performance requirements for industrial radiography equipment</p> <p>NC needs to change 11.0521 to read "All radiographic exposure devices and associated equipment in use after January 10, 1996, must comply with the requirements of this Rule."</p> <p>NC omits an equivalent regulation to 10 CFR 34.20(e) from 11.0521.</p> <p>NC needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 34.20.</p>	<p>Incorporated 10 CFR 34.20 by reference in 10A NCAC 15 .0521(a).</p> <p>Not certain why 10A NCAC 15 .0117 was cited by NRC in this letter. No part of 10 CFR 34.20 is adopted by reference in .0117.</p>

NRC Citation 10 CFR ...	NC Citation 10A NCAC 15 ...	RATS ID & Cat.	NRC Comments	NC Comments addressing NRC Comments
<p>30.15</p> <p>Ref. 8/19/14 Item 15</p>	<p>.0305</p>	<p>2012-4 B</p>	<p>Certain items containing byproduct material</p> <p>NC needs to remove the “and” at the end of 11.0305(b)(5)(F).</p> <p>NC is missing equivalent text to a portion of 10 CFR 30.15(a)(9)(ii).</p> <p>NC needs to add “For purposes of Subparagraph (b)(6), an instrument’s source(s) may contain either one type or different types of radionuclides and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in .0304(f) provided that the sum of such fractions shall not exceed unity.”</p> <p>NC needs to change the reference in 11.0305(c) from “Subparagraph (b)(5)” to “Subparagraph (b)(6).”</p> <p>NC needs to change the references in 11.0305(c)(3) from “(b)(8)” to “(b)(6)” and from “.0304” to “.0304(f).”</p> <p>NC omits an equivalent regulation to 10 CFR 30.15(b). NC needs to add equivalent text to 11.0305.</p> <p>NC needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 30.15.</p>	<p>Incorporated 10 CFR 30.15 by reference in 10A NCAC 15 .0305(a).</p>
<p>30.19</p> <p>Ref. 8/19/14 Item 16</p>	<p>.0305</p>	<p>2012-4 B</p>	<p>Self-luminous products containing tritium, krypton 85, or promethium 147</p> <p>NC omits “or initially transfer for sale or distribution” after the word “produce” in 11.0305(d)(1).</p> <p>NC needs to remove the word “imported” and add the word “initially” before “transferred in accordance with” in 11.0305(d)(1).</p> <p>NC needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 30.19.</p>	<p>Incorporated 10 CFR 30.19 by reference in 10A NCAC 15 .0305(b).</p>

NRC Citation 10 CFR ...	NC Citation 10A NCAC 15 ...	RATS ID & Cat.	NRC Comments	NC Comments addressing NRC Comments
<p>30.20</p> <p>Ref. 8/19/14 Item 17</p>	<p>.0305</p>	<p>2012-4 B</p>	<p>Gas and aerosol detectors containing byproduct material</p> <p>NC needs to add the word “initial” before “transfer of the detectors” in 11.0305(e)(1).</p> <p>NC needs to remove “provided that the devices are labeled in accordance with a specific license authorizing distribution of the general licensed device and providing further that the devices meet the requirements of Rule .0327 of this Section” from 11.0305(e)(2).</p> <p>NC needs to add “under comparable provisions to Section 32.26 of 10 CFR 32” between “agreement state” and “are exempt” in 11.0305(e)(2).</p> <p>NC needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 30.20.</p>	<p>Incorporated 10 CFR 30.20 by reference in 10A NCAC 15 .0305(c).</p>
<p>30.22</p> <p>Ref. 8/19/14 Item 18</p>	<p>11.0305</p>	<p>2012-4 B</p>	<p>Certain industrial devices</p> <p>NC needs to change 11.0305(g)(2) to read “...should apply to the U.S. Nuclear Regulatory Commission for a license under 10 CFR 32.30 of 10 CFR Part 32 and to the Agency for a certificate of registration in accordance with 10 CFR 32.210 of 10 CFR 32.”</p> <p>NC needs to make the above change in order to meet the Compatibility Category B designation assigned to 10 CFR 30.22.</p>	<p>Incorporated 10 CFR 30.22 by reference in 10A NCAC 15 .0305(e).</p>
<p>30.32(g)</p> <p>Ref. 8/19/14 Item 19</p>	<p>.0317</p>	<p>2012-4 C</p>	<p>Application for specific licenses</p> <p>NC needs to rewrite 11.0317(e)(1) and (2) to read “(1) ... as registered with the Agency, the U.S. Nuclear Regulatory Commission, with an Agreement State, or for a source or device containing radium-226 or accelerator produced radioactive material with a State under provisions comparable to 10 CFR 32.210; or (2) contain the information identified in 10 CFR 10 CFR 32.210(c). (3) For sources...”</p> <p>NC needs to add “the Agency” between “with” and “the U.S.” in 11.0317(e)(3).</p> <p>NC needs to make the above changes in order to meet the Compatibility Category C designation assigned to 10 CFR 30.32(g).</p>	<p>Incorporated 10 CFR 30.32(g) by reference in 10A NCAC 15 .0317(a) as 30.32.</p>

NRC Citation 10 CFR ...	NC Citation 10A NCAC 15 ...	RATS ID & Cat.	NRC Comments	NC Comments addressing NRC Comments
32.51 Ref. 8/19/14 Item 20	.0328	2012-4 B	<p>Byproduct material contained in devices for use under § 31.5; requirements for license to manufacture, or initially transfer</p> <p>NC needs to delete “distribute” from 11.0328(a) and replace it with “initially transfer.”</p> <p>NC needs to delete “distributor” from 11.0328(a)(3)(C) and replace it with “initial transferor.”</p> <p>NC omits equivalent regulations to 10 CFR 32.51(a)(4) and (5). NC needs to add equivalent text to 11.0328.</p> <p>NC needs to make the above changes in order to meet the Compatibility Category B designation assigned to 10 CFR 32.51.</p>	10A NCAC 15 .0328 references 10A NCAC 15 .0317. .0317(b)(2) incorporates Subpart B to 10 CFR Part 32 by reference, which includes 32.51.
32.74 Ref. 8/19/14 Item 21	.0317	2012-4 B	<p>Manufacture and distribution of sources or devices containing byproduct material for medical use</p> <p>NC states in their cross walk that this section is incorporated by reference in 11.0117, however 10 CFR 32.74 is not listed in 11.0117(a)(2)(D).</p> <p>NC needs to either adopt equivalent rule text to 10 CFR 32.74 or adopt 10 CFR 32.74 by reference in order to meet the Compatibility Category B designation assigned to 10 CFR 32.74.</p>	Incorporated 10 CFR 32.74 by reference in 10A NCAC 15 .0317 as Subpart C to 10 CFR 32. 10 CFR 32.74 is found in Subpart C to 10 CFR 32.
32.211 Ref. 8/19/14 Item 22	.0317	2012-4 B	<p>Inactivation of certificates of registration of sealed sources and devices</p> <p>NC states in their cross walk that they incorporate 10 CFR 32.211 by reference in 11.0117; however this is not the case in their submitted proposed rule text.</p> <p>NC needs to adopt 10 CFR 32.211 by reference in 11.0117(a)(2)(D) in order to meet the Compatibility Category B designation assigned to 10 CFR 32.211.</p>	Incorporated 10 CFR 32.211 by reference in 10A NCAC 15 .0317 as Subpart D to 10 CFR 32. 10 CFR 32.211 is found in Subpart D to 10 CFR 32.

NRC Citation 10 CFR ...	NC Citation 10A NCAC 15 ...	RATS ID & Cat.	NRC Comments	NC Comments addressing NRC Comments
<p>Multiple</p> <p>Ref. 8/19/14 Item 23</p>	<p>Future rulemaking</p>	<p>N/A Multiple</p>	<p>Adoption by reference</p> <p>NC needs to change 11.0117(a)(2)(G) to read “Part 40, except 40.4 Definitions: Commencement of Construction Paragraph 2, Construction Paragraph 9ii, Foreign Obligations, and Reconciliation, 40.12(b), 40.13(c)(5)(iv), 40.23, 40.27, 40.28, 40.31 (j through m), 40.32(d) and portions of (e) pertaining to uranium enrichment, 40.32(g), 40.33, 40.38, 40.41(d), 40.41(e)(1), 40.41(e)(3), 40.41(g), 40.41(h), 40.51(b)(6), 40.52, 40.53, 40.56, 40.64, 40.66, 40.67, Appendix A.III. Site and Byproduct Material Ownership to 10 CFR Part 40, Appendix A.IV. Long-term Site Surveillance;”</p> <p>NC needs to change 11.0117(a)(2)(I) to read “...70.14, 70.20a, 70.20b, 70.21(a)(1), (c), (f through h), ...”</p> <p>NC needs to remove “71.20” from 11.0117(a)(2)(J).</p> <p>NC needs to add a section to 11.0117 that addresses when items need to be directed to the Agency instead of the NRC. For example the section could read “To reconcile differences between this administrative regulation and the incorporated sections of Federal regulations and to effectuate their joint enforcement, the following words and phrases shall be substituted for the language of the Federal regulations: (1) A reference to "NRC" or "Commission" means Agency. (2) A reference to "NRC or agreement state" means Agency, U.S. Nuclear Regulatory Commission, or agreement state. (3) Notifications, reports and correspondence referenced in the incorporated part(s) shall be directed to the Agency as per [list NC regulation].”</p> <p>NC needs to make the above changes in order to meet the various Compatibility Category designations assigned to the reference sections.</p>	<p>The Radioactive Materials Control Advisory Committee decided to table rulemaking for 10A NCAC 15 .0117.</p>