

N.C.P.I.—Crim. 222.26

TRESPASS—ENERGY FACILITIES AND CERTAIN OTHER FACILITIES—(BASIC OFFENSE). FELONY.

GENERAL CRIMINAL VOLUME

REPLACEMENT DECEMBER 2023

N.C. Gen. Stat. § 14-159.12 (a) and (c)

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The defendant has been charged with the crime of trespass on the property of an [energy facility] [describe other facility].

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt:

First, that the defendant without authorization [entered into] [remained [in] [on]] [[the building of another] [the lands of the Eastern Band of Cherokee Indians] [the premises of another so [enclosed] [secured] as to demonstrate clearly an intent to keep out intruders] [after having been excluded by a resolution passed by the Eastern Band of Cherokee Indian Tribal Council]];

Second, that the premises were:

- a) [[a facility¹ [used] [available] for use in the [collection] [treatment] [testing] storing] [pumping] [distribution] of water for a public water system];
- b) [a facility [used] [operated] for agricultural² activities];
- c) [an energy facility³];
- d) [a facility owned by [a public utility⁴] [a unit of local government] used for the treatment of wastewater, including [sewage] [industrial waste] [other wastes of a liquid nature]];

And Third, that the defendant actually [entered a building] [climbed over] [went under] [(otherwise) surmounted a [fence] [*describe other barrier*]] to reach the facility].

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant without authorization [entered into]

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[remained [in] [on]] [[the building of another] [the lands of the Eastern Band of Cherokee Indians] [the premises of another so [enclosed] [secured] as to demonstrate clearly an intent to keep out intruders] [after having been excluded by a resolution passed by the Eastern Band of Cherokee Indian Tribal Council]], that the premises were:

- a) [[a facility [used] [available] for use in the [collection] [treatment] [testing] [storing] [pumping] [distribution] of water for a public water system];
- b) [a facility [used] [operated] for agricultural activities];
- c) [an energy facility],
- d) [a facility owned by [a public utility] [a unit of local government] used for the treatment of wastewater, including [sewage] [industrial waste] [other wastes of a liquid nature]],

it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, then it would be your duty to return a verdict of not guilty.⁵

1. N.C. Gen. Stat. § 14-159.12 (e) states “as used in subsections (c) and (d) of this section, the term ‘facility’ shall mean a building or other infrastructure.”

2. For a definition of agriculture, see N.C. Gen. Stat. § 106-581.1.

3. For a definition of energy facility, see N.C. Gen. Stat. § 14-150.2(a).

4. For a definition of public utility, see N.C. Gen. Stat. § 62-3(23).

5. If there is to be an instruction on lesser included offenses, the last phrase should be: “. . . you will not return a verdict of guilty of trespassing on the property of an electric power supplier, but will consider whether the defendant is guilty of misdemeanor trespass.” See N.C.P.I.—Crim. 214.31 (N.C. Gen. Stat. § 14.159.12 (a)).