

1 10A NCAC 41C .1003 is proposed for amendment as follows:

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3 **10A NCAC 41C .1003 ASBESTOS INSPECTIONS AND ABATEMENT IN NORTH CAROLINA PUBLIC**
4 **SCHOOLS AND LICENSED CHILD CARE FACILITIES**

5 (a) For the purposes of this Rule, the following definitions shall apply:

- 6 (1) "Abatement" means as defined at G.S. 130A-444(4), and also includes renovation activities that are
7 carried out to repair, maintain, remove, isolate, enclose, replace, or encapsulate asbestos containing
8 material. Abatement shall not be considered complete until a final clearance inspection of the public
9 school or licensed child care facility is performed by an air monitor in accordance with 40 C.F.R.
10 763.90(i).
- 11 (2) "Air monitor" means as defined at G.S. 130A-447 and 10A NCAC 41C .0601(a)(3).
- 12 (3) "Asbestos" means as defined at G.S. 130A-444(2).
- 13 (4) "Asbestos containing material" means as defined at G.S. 130A-444(3).
- 14 (5) "Asbestos hazard" means a condition that results in exposure to asbestos in excess of the standards
15 set forth in 10A NCAC 41C .0607(a) or to a category of asbestos containing material defined at 40
16 C.F.R. 763.88(b)(1)-(4).
- 17 (6) "Inspection" in a licensed child care facility means an examination of the facility for the presence
18 of asbestos hazards that is conducted by an inspector in accordance with the rules of Section .0600
19 of this Subchapter. "Inspection" in a public school means a reinspection conducted in alignment
20 with G.S. 130A-445, 10A NCAC 41C .0604, and 40 C.F.R.763.85(b).
- 21 (7) "Inspector" means as defined at G.S. 130A-447 and 10A NCAC 41C .0601(a)(7).
- 22 (8) "Management Planner" means as defined at G.S. 130A-447 and 10A NCAC 41C .0601(a)(9).

23 (b) Each responsible individual shall ensure that an inspection is conducted for asbestos hazards in each public school
24 or licensed child care facility for which he or she is responsible by ~~May 1, 2024~~. June 30, 2027. Inspections for asbestos
25 hazards shall be performed by an inspector and documented in an inspection report in accordance with 40 C.F.R. 763,
26 Subpart E. A management planner shall review the inspection report to determine whether an asbestos hazard has been
27 detected and shall document his or her findings in an asbestos management plan in accordance with Rule 10A NCAC
28 41C .0604.

29 (c) If the management planner determines that an asbestos hazard has been detected, then the responsible individual
30 shall restrict access to the identified asbestos hazard until it is abated in accordance with this Rule.

31 (d) A determination by a management planner that an asbestos hazard is present in a public school or licensed child
32 care facility that is documented in an asbestos management plan in accordance with Paragraph (b) of this Rule shall
33 satisfy the requirement of Rule .1002(b)(1) or (d)(2) of this Section, as applicable, that asbestos is detected that meets
34 the requirements for abatement.

35 (e) Abatement shall be performed by one or more professionals who are accredited in accordance with 10A NCAC
36 41C .0602 and shall be performed in accordance with Rules .0605-.0607 of this Subchapter.

1 (f) The information listed in this Paragraph shall be submitted to the Program by email to ARPA-
2 Reimbursement@dhhs.nc.gov:

- 3 (1) Within 45 calendar days following the date on which an inspection is completed pursuant to this
4 Rule, the management planner shall report the following on a form provided by the Department:
5 (A) the name, address, email address, and phone number of the responsible individual;
6 (B) the name, address, email address, phone number, and accreditation number of the
7 management planner;
8 (C) the name and address, including county, of the individual school and the public school unit
9 or the licensed child care facility;
10 (D) whether the facility for which the responsible individual is submitting the information is a
11 public school or a licensed child care facility;
12 (E) whether the inspection identified the presence of an asbestos hazard;
13 (F) a description of any identified asbestos hazard; and
14 (G) the results of any laboratory testing conducted during the inspection.
- 15 (2) If the public school or licensed child care facility plans to use a previous inspection or documentation
16 under Paragraph (h) of this Rule, then the responsible individual shall submit a copy of the
17 inspection report, reinspection report, or management plan associated with the previous inspection
18 or the documentation by ~~May 1, 2024~~ June 30, 2027 in lieu of meeting the requirements in
19 Subparagraph (f)(1) of this Rule.
- 20 (3) At least 10 calendar days before abatement conducted pursuant to this Rule begins, the responsible
21 individual shall report the following on a form provided by the Department:
22 (A) the name, address, email address, and phone number of the responsible individual;
23 (B) the name and address, including county, of the individual school and the public school unit
24 or the licensed child care facility, as applicable;
25 (C) the names and accreditation numbers of the professionals who will conduct the abatement
26 and the email address and phone number of the on-site asbestos supervisor who will
27 oversee the abatement;
28 (D) whether the facility for which the responsible individual is submitting the report is a public
29 school or a licensed child care facility;
30 (E) the dates on which the abatement is scheduled to occur; and
31 (F) a description of the planned abatement that contains information on the type of materials
32 to be abated, the location of the abatement, the quantity of material to be abated, and the
33 method of abatement.
- 34 (4) Within 45 calendar days following the date on which an abatement completed pursuant to this Rule,
35 the responsible individual shall report the following:
36 (A) the name, address, email address, and phone number of the responsible individual;

- 1 (B) the name and address, including county, of the individual school and the public school unit
- 2 or the licensed child care facility;
- 3 (C) whether the facility for which the responsible individual is submitting the report is a public
- 4 school or a licensed child care facility;
- 5 (D) the date on which the abatement was completed; and
- 6 (E) a report of the results of the final clearance inspection.

7 (g) In accordance with 10A NCAC 09 .0601 and 10A NCAC 09 .1719, as applicable, licensed child care facilities
8 shall inspect for asbestos hazards in accordance with this Rule to ensure these facilities are safe and free from hazards
9 that may injure children. The failure of a responsible individual in licensed child care facility to inspect for asbestos
10 hazards or to restrict access to or abate identified asbestos hazards in accordance with this Rule shall be considered a
11 violation of 10A NCAC 09 .0601 and 10A NCAC 09 .1719, as applicable.

12 (h) The requirements of Paragraph (b) of this Rule shall be considered met if:

- 13 (1) the public school or licensed child care facility previously completed an inspection of its buildings
- 14 that meets the requirements of 40 C.F.R. 763, Subpart E, provided that building material that was
- 15 sampled during a previous inspection and reported as trace asbestos or less than 10 percent asbestos
- 16 content shall be reinspected in accordance with the process established in Paragraphs (b) - (f) of this
- 17 Rule;
- 18 (2) the public school or licensed child care facility produces documentation in accordance with 40
- 19 C.F.R. 763.99(a)(7); or
- 20 (3) the licensed child care facility produces a property tax record that shows the building occupied by
- 21 the licensed child care facility was built after October 12, 1988.

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23 *History Note: Authority S.L. 2021-180, s. 9G.8;*
24 *Temporary Adoption Eff. April 29, 2022;*
25 *Eff. April 1, 2023; ~~2023~~.*
26 *Amended Eff. October 1, 2026.*
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