

1 10A NCAC 41C .1004 is proposed for amendment as follows:

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3 **10A NCAC 41C .1004 LEAD-BASED PAINT INSPECTIONS AND ABATEMENT IN NORTH**
4 **CAROLINA PUBLIC 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 40 C.F.R. 745.223, and also includes "interim controls" as defined
7 at 40 C.F.R. 745.83. Abatement shall not be considered complete until a final clearance inspection
8 of the public school or licensed child care facility is performed by a certified risk assessor in
9 accordance with the standards set forth at 40 C.F.R. 745.227.
- 10 (2) "Certified Project Designer" means an individual who meets the requirements for a project designer
11 as set forth in G.S. 130A-453.03 and Rule .0802 of this Subchapter.
- 12 (3) "Certified Supervisor" means an individual who meets the requirements for a supervisor as set forth
13 in G.S. 130A-453.03 and Rule .0802 of this Subchapter.
- 14 (4) "Certified Risk Assessor" means an individual who meets the requirements for a risk assessor as set
15 forth in G.S. 130A-453.03 and Rule .1006 of this Section.
- 16 (5) "Inspection" means a risk assessment conducted in accordance with 40 C.F.R. 745.223.
- 17 (6) "Inspection report" means a summary prepared in accordance with Rule .0807(b) of this Subchapter.
- 18 (7) "Lead-based paint hazard" means as defined at G.S. 130A-131.7(6).
- 19 (8) "Lead poisoning hazard" means as defined at G.S. 130A-131.7(7).
- 20 (9) "Occupant protection plan" means as defined at Rule .0801(a)(6) of this Subchapter.

21 (b) Each responsible individual shall ensure that an inspection is conducted for lead-based paint hazards in each public
22 school or licensed child care facility for which he or she is responsible by ~~May 1, 2024~~, June 30, 2027. Inspections
23 for lead-based paint hazards shall be performed by a certified risk assessor and documented in an inspection report.
24 The certified risk assessor shall determine whether a lead-based paint hazard is present in the public school or licensed
25 child care facility based on the inspection, and document the determination in the inspection report. If the certified
26 risk assessor determines that a lead-based paint hazard exists, then an occupant protection plan shall be written by a
27 certified supervisor or certified project designer in accordance with 40 C.F.R. 745.227(e)(5) and Rule .0801(a)(6) of
28 this Subchapter.

29 (c) If the certified risk assessor detects a lead-based paint hazard, then the responsible individual shall restrict access
30 to the identified lead-based paint hazard until abated in accordance with this Rule.

31 (d) A determination by a certified risk assessor that a lead-based paint hazard is present in the public school or licensed
32 child care facility that is documented in the inspection report in accordance with Paragraph (b) of this Rule shall satisfy
33 the requirement of Rule .1002(b)(1) or (d)(2) of this Section, as applicable, that lead is detected that meets the
34 requirements for abatement.

35 (e) Abatement shall be performed by one or more professionals who are certified in accordance with G.S. 130A-
36 453.03 and Rules .0802 or .0902 of this Subchapter and shall be performed in accordance with Rules .0807-.0809 and
37 .0906 of this Subchapter, as applicable.

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

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

5 (g) In accordance with 15A NCAC 18A .2816(a), 10A NCAC 09 .0601(f), and 10A NCAC 09 .1707(2), as applicable,
6 licensed child care facilities shall inspect for lead-based paint hazards in accordance with this Rule to ensure these
7 facilities are free from lead poisoning hazards. The failure of a responsible individual in licensed child care facility to
8 inspect for lead-based paint hazards or to restrict access to or abate identified lead-based paint hazards in accordance
9 with this Rule shall be considered a violation of 15A NCAC 18A .2816(a), 10A NCAC 09 .0601(f), or 10A NCAC
10 09 .1707(2), as applicable.

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

- 12 (1) the public school or licensed child care facility has previously completed a risk assessment of its
- 13 buildings that meets the requirements of 40 C.F.R. 745.223; or
- 14 (2) the responsible individual of a public school or licensed child care facility located in a building that
- 15 was built after February 28, 1978 signs a statement attesting that no lead-based paint was used in
- 16 the building.

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18 *History Note: Authority S.L. 2021-180, s. 9G.8;*
19 *Temporary Adoption Eff. April 29, 2022;*
20 *Eff. April 1, 2023; ~~2023~~.*
21 *Amended Eff. October 1, 2026.*

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