

Impact Analysis for Amendments of Rules 10A NCAC 41C .1002-.1005

Agency: North Carolina Commission for Public Health
Department of Health and Human Services
Division of Public Health
Environmental Health Section, Lead and Asbestos Branch

Rule Citations: 10A NCAC 41C .1002-.1005 (Amendments)

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Rulemaking Authority: S.L. 2021-180, s. 9G.8

Impact Summary: State Government: Yes
Local Government: Yes
Private Entities: Yes
Substantial Impact: Yes (benefits)

Introduction and Purpose

Lead and asbestos are well known to be hazardous to human health and particularly the health of children, whose bodies are still developing and who are therefore uniquely vulnerable to the risks posed by lead and asbestos. Although the use of certain materials containing lead and asbestos has been banned in the United States, exposure to both lead and asbestos hazards can still occur in the built environment through things like deteriorating lead-based paint, lead-containing pipes, plumbing, fixtures, and solder that are used to carry drinking water, asbestos ceiling and floor tiles, asbestos insulation, and other products and materials containing lead or asbestos. Exposure to lead and asbestos hazards can be prevented by inspecting facilities and then restricting access to, remediating, or abating any hazards that are identified through the inspection and testing processes.

On November 18, 2021, Session Law 2021-180 passed. Section 9G.8.(a) of Session Law 2021-180 (“the Session Law”) appropriated \$150 million in non-recurring funds, allocated from the American Rescue Plan Act, State Fiscal Recovery Funds (“SFRF”), to establish a program for the inspection, testing, remediation, and abatement of asbestos, lead based paint, and lead in water hazards in public schools and licensed child care facilities (the “Program”). To implement the Program, the Commission for Public Health adopted temporary rules at 10A NCAC 41C .1001-.1007 that were effective April 29, 2022 and permanent rules that were effective April 1, 2023.

Because the funding was initially available on an accelerated timeline, the rules established a May 1, 2024 deadline for completion of required tests and inspections to allow time for abatement and remediation. Session Law 2025-97 (Section 6.9) later allowed for the remaining funding to remain available through June 30, 2027, providing additional time for schools and licensed child care facilities to complete the required work.

Since launching in September 2023, the program has enrolled about 72% of schools and 73% of child care facilities in the state in the lead-based paint and asbestos components (41C .1003 and .1004) and 80% of schools and 76% of child care facilities in the drinking water component (41C .1005). Not all of these facilities have started the process of inspecting/testing for hazards.

Due to several factors, it has taken facilities longer to complete required inspections and tests than anticipated, including navigating the logistics of program enrollment and the fact that there is a limited pool of certified lead risk assessors and accredited asbestos professionals to do the inspection and abatement work statewide. The workforce challenges in particular have limited the speed at which both inspections (on the front end) and abatement (on the back end) can be concluded, and it was not possible to enlist the aid of professionals in Virginia and South Carolina to fill in that need for facilities in NC counties bordering those states due to differing certification/accreditation requirements or lack of reciprocity, even though rule 41C .1006 was designed to bring the requirements for certified risk assessors in this Program more in line with other states’ requirements.

While the Rules do not require abatement of all identified hazards, they do require that the facility restrict access to an identified hazard until the hazard is abated. For facilities that did choose to abate, the Session Law permitted the Program to reimburse up to 2/3 of the cost for public schools and the full cost for licensed child care facilities. The need to provide 1/3 matching funds in schools as well as the need to provide up-front costs has been a barrier for child care facilities and lower-resourced school districts desiring to pursue permanent abatement. Therefore, more facilities have chosen low-cost options, such as restricting access, and fewer facilities have chosen to pursue permanent abatement.

As of March 31, 2026, \$65,624,592 has been paid as part of the Program to manage the inspection and testing processes and to conduct water mitigation and \$4,761,719 has been paid to reimburse facilities for abatement work done because of identified, eligible lead-based paint and asbestos

hazards with an additional \$2,780,928 under review (totaling \$73,167,239). With additional time before the funding appropriated for the Program end, this change in date will give public schools and child care facilities greater opportunity to detect and abate any identified hazards.

Description of Proposed Rules

It is proposed to change the deadline for testing for lead in water and inspecting for lead-based paint or asbestos in public schools and licensed child care facilities from May 1, 2024 to June 30, 2027, in alignment with the extension of funding. This date appears in four rules: 10A NCAC 41C .1002, .1003, .1004, and .1005. The full text of the rules is available in the Appendix.

No other changes are proposed to these rules. What is required of these facilities is not changing nor is any state process for administering the Program. The change in this date will allow for realization of the benefits projected in the original fiscal note approved by OSBM in October of 2022 (the “2022 Fiscal Note”).¹

Impact Analysis

The proposed change is anticipated to have an economic impact on State Government, Local Government, and the Private Sector that together are expected to amount to a substantial economic impact.² While the costs and benefits outlined in the 2022 Fiscal Note remain valid, the incremental effect of this proposed change is expected to be a benefit because extending the deadline increases the likelihood that public schools and licensed child care facilities will complete testing, inspection, remediation and abatement and therefore fully utilize the Program. The extension is also expected to benefit private laboratories and other private entities that perform testing, inspection, and related work by allowing more reimbursable work to occur. If this rule change is not enacted, much of the funds may not be expendable for the intended purpose because the testing/inspection deadline set in the current rules has passed.

Of the \$150 million in non-recurring funds appropriated by the Session Law, as of March 31, 2027, approximately \$73 million has been spent and approximately \$77 million is unspent. The NC DHHS, Division of Public Health (DPH), Environmental Health Section, Lead and Asbestos Branch, Health Hazards Control Unit (HHCU) manages the Program. HHCU has reimbursed approximately \$4.76 million, representing 125 unique facilities that have requested and received approved reimbursement for lead-based paint or asbestos abatement work as of March 31, 2026. An additional approximately \$2.78 million representing 53 facilities is pending reimbursement.

¹ https://cph.dph.ncdhhs.gov/Rules/EnvHealth/DHHS_2022-10-31.pdf (Accessed April 7, 2026).

² The costs and benefits of these rules are fully accounted for in the 2022 Fiscal Note. No further costs are anticipated by the proposed changes to these rules. The incremental impact of these changes is anticipated to be a substantial benefit. Therefore, the requirements of G.S. 150B-19.4 and 150B-21.3(b) related to aggregate financial cost are not triggered by these proposed rule changes.

DPH has also paid approximately \$65.62 million to a vendor to manage the inspection and testing process and water mitigation. This leaves approximately \$77 million to fund this work.

The vendor's responsibilities include: (1) coordinating participation of child care facilities and schools in these programs to test for/remediate lead in water and inspect for/abate lead-based paint and asbestos hazards, including identifying and scheduling contractors for water testing/remediation and lead-based paint and asbestos inspections; (2) developing and delivering education and training regarding how to enroll in the programs, collect water samples, provide inspection documentation for lead-based paint/asbestos, understand sample results for water and lead-based paint/asbestos, and to access remediation for both programs; (3) maintaining an online presence/website; (4) assisting DPH with meeting reporting requirements to auditors and funders; and (5) developing an integrated system of managing both programs (lead in water and lead-based paint/asbestos) to promote efficiency and avoid duplicative efforts and burden on schools and child care facilities.

For lead-based paint abatement specifically, the vendor manages the process of inspecting for lead-based paint and asbestos in public schools and child care facilities. The inspection process includes confirming the required certification and accreditation status as needed for all functions (risk assessment, management planning, inspection, sample collection, laboratory analysis).

As of February 28,2026, for lead in water testing:

- Approximately 4,203 child care facilities and 2,151 public schools have enrolled in the Program.
- Approximately 0 child care facilities and 30 public schools (30 total facilities) are awaiting lead in water testing.

As of February 28,2026, for lead-based paint inspections:

- Approximately 4,106 child care facilities and 1,944 public schools have enrolled in the Program.
- Approximately 2,238 child care facilities and 620 public schools are exempt from an inspection under criteria set out in the rules.
- Approximately 980 child care facilities and 181 schools have been inspected.
- Approximately 888 child care facilities and 1,143 public schools (2,031 total facilities) are awaiting inspection.

As of February 28,2026, for asbestos inspections:

- Approximately 3,926 child care facilities and 1,949 public schools have enrolled in the Program.
- Approximately 1,858 child care facilities and 844 public schools are exempt from an inspection under criteria set out in the rules.
- Approximately 1,357 child care facilities and 57 public schools have been inspected.

- Approximately 711 child care facilities and 1,048 public schools (1,759 total facilities) are awaiting inspection.

To date, lead-based paint hazards have been identified at ~57% of schools and ~25% of child care facilities inspected under the Program, and asbestos hazards have been identified at 6% of both schools and child care facilities inspected under the Program. Without the proposed rule amendments, the facilities awaiting inspection would not meet the inspection deadline and would not be eligible under the rules to participate in the funding mechanism for abatement reimbursement. As a result, those facilities may be more likely to defer or forego the required inspection and any resulting remediation or abatement.

Extending the testing and inspection deadline to June 30, 2027 would allow additional schools and child care facilities that have not yet completed testing or inspection to do so and, where needed, to pursue and be reimbursed for abatement and mitigation. Doing so would help ensure that the remaining Program funds are used as intended to identify and reduce lead and asbestos hazards in public schools and licensed child care facilities, thereby realizing the full range of benefits identified in the 2022 Fiscal Note. Those benefits included not only long-term public health gains for children, but also roughly \$61.6 million to \$64.8 million in quantified benefits over the course of the Program, largely from revenue to laboratories and inspection and remediation professionals, along with additional unquantified benefits from avoided exposure, reduced health care costs, and increased lifetime earnings. Extending the deadline would allow the remaining already appropriated funds to be spent to the maximum extent possible on what the Program was designed to do – identify and remove lead and asbestos hazards, making public schools and child care facilities safer environments for kids to learn and grow.

Importantly, the amendments do not change that underlying purpose or the magnitude of the anticipated public health benefits. Instead, they extend the time available to complete required testing and inspections, making it more likely that schools and child care facilities will be eligible to participate in the funding mechanism for reimbursement of eligible costs. The incremental effect of the deadline extension is therefore expected to have a significant benefit.

Historically, the Program has completed approximately 7 abatement reimbursements per month with additional reimbursement applications in process. Currently there are 53 reimbursement applications under review. It is common for a reimbursement application to take several months as there is down time as the facility responds to questions from the Program and gathers needed documentation. As the deadline for reimbursement approaches, it is anticipated that there will be an increase in facility engagement and an acceleration in reimbursements completed per month. The Program is also in the process of engaging its vendor to conduct reimbursement reviews in order to increase capacity to process reimbursements and accommodate this period of acceleration. Reimbursement amounts have historically ranged from approximately \$18,912 to \$39,847 per job, depending on facility type and media. It is not possible to predict with confidence how many additional abatement reimbursements will be completed per month due to this rule change.

However, it is expected that the increase in time to complete inspections will lead to a greater number of facilities seeking reimbursement for abating hazards leading to an incremental increase in the realizations of the benefits to children, facilities, and the industry that are outlined in the 2022 Fiscal Note.

Alternatives

Since the benefits created by these rules are anticipated to create a substantial economic impact, the following two alternatives were considered.

Alternative #1: Leave the deadline as May 1, 2024

Not amending the rules to extend the May 1, 2024 deadline to June 30, 2027 would likely result in an even greater under-realization of the benefits identified in the 2022 Fiscal Note. Although facilities would remain legally required to complete testing and inspection regardless of reimbursement eligibility, the loss of program funding may create financial barriers for many schools and licensed child care facilities facing competing budget priorities. Without reimbursement, some facilities may delay or forgo inspections and testing despite the legal mandate and choose to restrict access to identified hazards rather than permanently abate them, either due to upfront cash flow constraints or the inability to absorb these costs alongside other critical needs. This practical economic constraint would likely result in fewer hazards being identified and addressed compared to the proposed extension, which would accelerate realization of the program's public health benefits by giving additional time to be eligible for the funding mechanism. For these reasons, this alternative was not selected.

Alternative #2: Amend the May 1, 2024 deadline to December 31, 2026.

Rather than extending the testing and inspection deadline to June 30, 2027, the deadline could be extended to an earlier date, such as December 31, 2026. In theory, an earlier deadline could encourage some facilities to complete testing and inspections more quickly to preserve reimbursement eligibility. However, that effect is likely limited because facilities would still face the same workforce, scheduling constraints, and upfront cash flow challenges that have delayed program completion to date. An earlier deadline would therefore provide less time for schools and licensed child care facilities to complete required work and secure reimbursement before losing eligibility for the funding mechanism, increasing the likelihood that some facilities would either delay the work or forgo permanent abatement due to financial constraints. This would likely result in fewer hazards being identified and addressed compared to the proposed June 30, 2027 deadline, which better aligns with both practical realities and the extended availability of program funds. For these reasons, this alternative was not selected.

Appendix: Proposed Rule Text

10A NCAC 41C .1002 is proposed for amendment as follows:

10A NCAC 41C .1002 FUNDING

(a) Public schools and licensed child care facilities in North Carolina shall be eligible to participate in the funding mechanisms established in accordance with S.L. 2021-180, s. 9G.8. to fully or partially offset the cost of conducting testing for lead in water and inspections for asbestos and lead-based paint hazards, when a test for lead in water is conducted by ~~May 1, 2024~~ June 30, 2027 or an inspection for lead-based paint or asbestos is conducted by ~~May 1, 2024~~ June 30, 2027 and the test or inspection is conducted in accordance with the rules of this Section.

(b) Public schools and licensed child care facilities that are eligible to participate under Paragraph (a) of this Rule shall also be eligible to participate in the funding mechanisms established in accordance with S.L. 2021-180, s. 9G.8. to fully or partially offset the cost of conducting remediation of lead in water and abatement of asbestos and lead-based paint hazards identified under this Section when the following requirements are met:

- (1) lead or asbestos is detected that meets the requirements under the rules of this Section for abatement or remediation;
- (2) the abatement or remediation, as applicable, is performed in accordance with the rules of this Section; and
- (3) replacement materials used to abate asbestos hazards do not contain more than 1 percent asbestos and replacement materials used to abate lead-based paint hazards do not contain lead in excess of 90 parts per million as confirmed by a safety data sheet, letter from the manufacturer, or laboratory test results.

(c) Notwithstanding Paragraphs (a) and (b) of this Rule, licensed child care centers conducting testing and remediation of water outlets used for drinking or food preparation pursuant to 15A NCAC 18A .2816 shall be eligible to participate in the funding mechanisms established in accordance with S.L. 2021-180, s. 9G.8. for testing conducted in accordance with that Rule by ~~May 1, 2024~~ June 30, 2027 and remediation conducted in accordance with that Rule between May 1, 2020 and the date on which funds are no longer available in accordance with S.L. 2021-180, s. 9G.8.(d).

(d) Notwithstanding Paragraphs (a) and (b) of this Rule, if asbestos or lead-based paint is detected during a capital, renovation, or repair project in a public school or licensed child care facility, the public school or licensed child care facility shall be eligible to participate in the funding mechanisms established in accordance with S.L. 2021-180, s. 9G.8. as follows:

- (1) to fully or partially offset the cost of conducting an inspection in accordance with Rules .1003(b) or .1004(b) of this Section, as applicable, except that the inspection may be limited to the area in the public school or licensed child care facility where the capital, renovation, or repair project is being conducted; and

(2) to fully or partially offset the cost of conducting abatement when lead-based paint or asbestos is detected that meets the requirements under the Rules of this Section for abatement and abatement is conducted in accordance with Rules .1003(e) and .1004(e) of this Section and with the limitation on materials set out in Subparagraph (b)(3) of this Rule, except that the abatement may be limited to the area in the public school or licensed child care facility where the capital, renovation, or repair project is being conducted.

(e) Inspections and abatements described in Paragraph (d) of this Rule that are limited to the area in the public school or licensed child care facility where the capital, renovation, or repair project is being conducted shall not satisfy the facility-wide inspection requirements for public schools and licensed child care facilities set out in Rules .1003 and .1004 of this Section.

(f) Notwithstanding the foregoing, to be eligible to participate in any funding mechanism under this Rule, responsible individuals shall make all records regarding testing, inspection, abatement, and remediation available to the Department upon request, including, but not limited to, itemized expense reports for activities funded under S.L. 2021-180, s. 9G.8.

(g) Nothing in this Rule shall require the Department to provide funding if the Department determines there are not sufficient funds available in accordance with S.L. 2021-180, s. 9G.8.(d).

*History Note: Authority S.L. 2021-180, s. 9G.8;
Temporary Adoption Eff. April 29, 2022;
Eff. April 1, 2023.*

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

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

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

- (1) "Abatement" means as defined at G.S. 130A-444(4), and also includes renovation activities that are carried out to repair, maintain, remove, isolate, enclose, replace, or encapsulate asbestos containing material. Abatement shall not be considered complete until a final clearance inspection of the public school or licensed child care facility is performed by an air monitor in accordance with 40 C.F.R. 763.90(i).
- (2) "Air monitor" means as defined at G.S. 130A-447 and 10A NCAC 41C .0601(a)(3).
- (3) "Asbestos" means as defined at G.S. 130A-444(2).
- (4) "Asbestos containing material" means as defined at G.S. 130A-444(3).
- (5) "Asbestos hazard" means a condition that results in exposure to asbestos in excess of the standards set forth in 10A NCAC 41C .0607(a) or to a category of asbestos containing material defined at 40 C.F.R. 763.88(b)(1)-(4).

- (6) "Inspection" in a licensed child care facility means an examination of the facility for the presence of asbestos hazards that is conducted by an inspector in accordance with the rules of Section .0600 of this Subchapter. "Inspection" in a public school means a reinspection conducted in alignment with G.S. 130A-445, 10A NCAC 41C .0604, and 40 C.F.R.763.85(b).
- (7) "Inspector" means as defined at G.S. 130A-447 and 10A NCAC 41C .0601(a)(7).
- (8) "Management Planner" means as defined at G.S. 130A-447 and 10A NCAC 41C .0601(a)(9).

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

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

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

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

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

- (1) Within 45 calendar days following the date on which an inspection is completed pursuant to this Rule, the management planner shall report the following on a form provided by the Department:
 - (A) the name, address, email address, and phone number of the responsible individual;
 - (B) the name, address, email address, phone number, and accreditation number of the management planner;
 - (C) the name and address, including county, of the individual school and the public school unit or the licensed child care facility;
 - (D) whether the facility for which the responsible individual is submitting the information is a public school or a licensed child care facility;
 - (E) whether the inspection identified the presence of an asbestos hazard;
 - (F) a description of any identified asbestos hazard; and
 - (G) the results of any laboratory testing conducted during the inspection.
- (2) If the public school or licensed child care facility plans to use a previous inspection or documentation under Paragraph (h) of this Rule, then the responsible individual shall submit a copy of the inspection report, reinspection report, or management plan associated with the previous inspection

or the documentation by ~~May 1, 2024~~ June 30, 2027 in lieu of meeting the requirements in Subparagraph (f)(1) of this Rule.

- (3) At least 10 calendar days before abatement conducted pursuant to this Rule begins, the responsible individual shall report the following on a form provided by the Department:
 - (A) the name, address, email address, and phone number of the responsible individual;
 - (B) the name and address, including county, of the individual school and the public school unit or the licensed child care facility, as applicable;
 - (C) the names and accreditation numbers of the professionals who will conduct the abatement and the email address and phone number of the on-site asbestos supervisor who will oversee the abatement;
 - (D) whether the facility for which the responsible individual is submitting the report is a public school or a licensed child care facility;
 - (E) the dates on which the abatement is scheduled to occur; and
 - (F) a description of the planned abatement that contains information on the type of materials to be abated, the location of the abatement, the quantity of material to be abated, and the method of abatement.
- (4) Within 45 calendar days following the date on which an abatement completed pursuant to this Rule, the responsible individual shall report the following:
 - (A) the name, address, email address, and phone number of the responsible individual;
 - (B) the name and address, including county, of the individual school and the public school unit or the licensed child care facility;
 - (C) whether the facility for which the responsible individual is submitting the report is a public school or a licensed child care facility;
 - (D) the date on which the abatement was completed; and
 - (E) a report of the results of the final clearance inspection.

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

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

- (1) the public school or licensed child care facility previously completed an inspection of its buildings that meets the requirements of 40 C.F.R. 763, Subpart E, provided that building material that was sampled during a previous inspection and reported as trace asbestos or less than 10 percent asbestos content shall be reinspected in accordance with the process established in Paragraphs (b) - (f) of this Rule;

- (2) the public school or licensed child care facility produces documentation in accordance with 40 C.F.R. 763.99(a)(7); or
- (3) the licensed child care facility produces a property tax record that shows the building occupied by the licensed child care facility was built after October 12, 1988.

*History Note: Authority S.L. 2021-180, s. 9G.8;
Temporary Adoption Eff. April 29, 2022;
Eff. April 1, 2023.*

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

10A NCAC 41C .1004 LEAD-BASED PAINT INSPECTIONS AND ABATEMENT IN NORTH CAROLINA PUBLIC SCHOOLS AND LICENSED CHILD CARE FACILITIES

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

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

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

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

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

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

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

- (1) Within 45 calendar days following the date on which an inspection is completed pursuant to the Rule, the certified risk assessor shall report the following on a form provided by the Department:
 - (A) the name, address, email address, and phone number of the responsible individual;
 - (B) the name, address, email address, phone number, and certification number of the certified risk assessor;
 - (C) the name and address, including county, of the individual school and the public school unit or the licensed child care facility;
 - (D) whether the facility for which the responsible individual is submitting the report is a public school or a licensed child care facility;
 - (E) whether the inspection identified the presence of a lead-based paint hazard;
 - (F) a description of any identified lead-based paint hazard; and
 - (G) the results of any laboratory testing conducted during the inspection.
- (2) If the public school or licensed child care facility plans to use a previous inspection or a signed attestation under Paragraph (h) of this Rule, then the responsible individual shall submit a copy of the inspection report associated with the previous inspection or the signed attestation ~~by May 1, 2024~~ June 30, 2027 in lieu of meeting the requirements in Subparagraph (f)(1) of this Rule.
- (3) At least 10 calendar days before abatement conducted pursuant to this Rule begins, the responsible individual shall report the following on a form provided by the Department:
 - (A) the name, address, email address, and phone number of the responsible individual;
 - (B) the name and address, including county, of the individual school and the public school unit or the licensed child care facility, as applicable;
 - (C) the names and certification numbers of the professionals who will conduct the abatement and the email address and phone number of the on-site lead supervisor who will oversee the abatement;
 - (D) whether the facility for which the responsible individual is submitting the report is a public school or a licensed child care facility;

- (E) the dates on which the abatement is scheduled to occur; and
 - (F) a description of the planned abatement that contains information on the type of materials to be abated, the location of the abatement, the quantity to be abated, and the method of abatement.
- (4) Within 45 calendar days following the date on which abatement is completed pursuant to this Rule, the responsible individual shall report the following:
- (A) the name, address, email address, and phone number of the responsible individual;
 - (B) the name and address, including county, of the individual school and the public school unit or the licensed child care facility;
 - (C) whether the facility for which the responsible individual is submitting the report is a public school or a licensed child care facility;
 - (D) the date on which the abatement was completed; and
 - (E) a report of the results of the final clearance inspection.

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

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

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

*History Note: Authority S.L. 2021-180, s. 9G.8;
Temporary Adoption Eff. April 29, 2022;
Eff. April 1, 2023.*

10A NCAC 41C .1005 is proposed for amendment as follows:

10A NCAC 41C .1005 LEAD POISONING HAZARDS IN DRINKING WATER IN NORTH CAROLINA PUBLIC SCHOOLS

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

- (1) "Lead poisoning hazard" means as defined at G.S. 130A-131.7(7)g.
- (2) "Testing" means the process described in Subparagraphs (b)(1)-(4) of this Rule.

- (3) "Remediation" means as defined at G.S. 130A-131.7(15).
- (b) The following actions shall be taken to ensure that drinking water in public schools are free of identified lead poisoning hazards:
- (1) Responsible individuals at public schools shall complete a one-time test of all water outlets used for drinking or food preparation. The responsible individual shall provide documentation of testing results for review by the Department during routine sanitation inspections under Rule 15A NCAC 18A .2402(a).
 - (2) Initial water samples shall be collected by the responsible individual and tested in accordance with Subparagraph (b)(3) of this Rule by ~~May 1, 2024~~. June 30, 2027.
 - (3) The responsible individual shall collect samples and submit them for testing in accordance with guidance specified by the United States Environmental Protection Agency in its publication, 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, which is hereby incorporated by reference, including any subsequent editions or amendments, and available free of charge at: <https://www.epa.gov/ground-water-and-drinking-water/3ts-reducing-lead-drinking-water>. Notwithstanding the foregoing guidance, samples may be collected with a stagnation period of up to 72 hours. Samples shall be analyzed by a laboratory certified by the North Carolina State Laboratory of Public Health to analyze for lead in drinking water.
 - (4) When a water sample is analyzed for lead content by a laboratory under this Rule, the laboratory shall notify the Department of the test results by electronic submission of the elements set out in G.S. 130A-131.8.
 - (5) When a public school receives test results from a laboratory indicating that a water sample collected by the responsible individual contains a lead concentration at or above the lead poisoning hazard level, the responsible individual shall:
 - (A) restrict access to any water outlet(s) used for drinking or food preparation that have lead concentrations at or above the lead poisoning hazard level;
 - (B) ensure that all students and staff have access to water free of cost that does not contain lead concentrations at or above the lead poisoning hazard level for drinking and food preparation; and
 - (C) continue to follow Parts (b)(5)(A) - (B) of this Rule until the Department determines in accordance with Subparagraph (b)(10) of this Rule that the water outlet(s) are not producing water lead levels at or above the lead poisoning hazard level and notifies the responsible individual and the Department of Public Instruction in writing of this determination.
 - (6) If a water sample collected by the responsible individual reveals a water lead level at or above the lead poisoning hazard level then the requirement of Rule .1002(b)(1) of this Section shall be considered met.

- (7) Within five business days of receiving the test results of a water analysis that shows a water lead level at or above the lead poisoning hazard level, the responsible individual shall provide written notification of the test results to the parents or legal guardians of the children attending the public school and the staff of the public school in accordance with the United States Environmental Protection Agency guidance specified in Subparagraph (b)(3) of this Rule.
- (8) Within five business days of receiving the test results of a water analysis that shows a water lead level at or above the lead poisoning hazard level, the public school shall make the test results available to the public, free of charge. The responsible individual may post test results to the public school's website to satisfy the requirement to make the test results available to the public.
- (9) Remediation of water outlet(s) producing water lead levels at or above the lead poisoning hazard level shall ensure that water produced is below the lead poisoning hazard level and may include replacement of service lines, pipes, and fixtures and the installation of filters at affected faucets. Within 30 business days from the date on which remediation is conducted under this Rule, the responsible individual shall submit the following information to the Program:
 - (A) the name and contact information of the responsible individual;
 - (B) the name and address, including county, of the public school;
 - (C) the steps taken to remediate the lead poisoning hazard; and
 - (D) the date on which the remediation was completed.
- (10) Remediation shall not be considered complete until the Department conducts sampling at the water outlet identified to have a water lead level at or above the lead poisoning hazard level to confirm that the remediated water outlet is no longer producing water lead levels at or above the lead poisoning hazard level.

*History Note: Authority S.L. 2021-180, s. 9G.8;
Temporary Adoption Eff. April 29, 2022;
Eff. April 1, 2023.*