

Lead and Asbestos Testing, Abatement and Remediation

Dr. Robert P. Taylor Deputy Superintendent
Mr. Kim Lawson Section Chief, Plant Operations
Brandon Walker, Agency Legal Consultant, SBE

Legislative Authority to Fund Testing and Abatement

- SESSION LAW 2021-180 provided program details
- Appropriated \$150,000,000 DHHS & Division Public Health in nonrecurring funds for 2021-22
- For lead and asbestos remediation and abatement programs to benefit public school units and child care facilities

Lead Paint and Asbestos Abatement in Building Materials

- \$117,187,500 in nonrecurring appropriated
- PSUs & child care facilities required to conduct inspections for lead paint and asbestos hazards
- DHHS & DPI develop mechanism for implementing legislation
- Funding match for PSUs
- The Commission for Public Health, Child Care Commission, and SBE shall adopt rules
- Will begin development of process

Testing & Remediation for Lead in Drinking Water

- \$32,812,500 in nonrecurring to be used to fund a program for the testing and remediation of lead levels in drinking water at public school units and child care facilities.
- Required (to the extent practical) to develop similar program used for testing in child care facilities.

Additional Minimal Components for Water Testing

- DHHS & DPI develop a mechanism for providing funding for the testing and mitigation
 - including the replacement of service lines, pipes, and fixtures, as needed, or
 - the installation of filters at affected faucets within PSUs and child care facilities that test positive
- The Commission for Public Health, Child Care Commission, and State Board of Education shall adopt rules as necessary to implement this subdivision.

Meetings with DHHS

- Met to review entirety of the legislation
- Began discussions on implementation of the water testing
- DHSS/DPH shared components of childcare facility testing
- Discussed public comment period and rules developed by DHHS

Next Step for Water Testing

- How can we effectively and efficiently identify extent of problem?
- System needs to produce accurate, uniform and rapid results over the full range of locations.
- We are discussing the solution with DHHS based on the child care model referenced in the legislation.
- Currently planning to make the sampling and analysis free to all participants.

NEXT STEP FOR LEAD PAINT AND ASBESTOS TESTING

- STUDY EXISTING REPORTS FROM SCHOOLS REQUIRED UNDER FEDERAL LAW
- GATHER SIMILAR EVIDENCE FOR CHILD CARE FACILITIES

Rules

1 10A NCAC 41C .1001 is adopted with changes under temporary procedures as follows:

2
3 **SECTION .1000 – LEAD AND ASBESTOS INSPECTION, TESTING, ABATEMENT, AND**
4 **REMEDICATION IN NORTH CAROLINA PUBLIC SCHOOLS AND LICENSED CHILD CARE**
5 **FACILITIES**
6

7 **10A NCAC 41C .1001 DEFINITIONS**

8 For the purposes of this Section, the following definitions shall apply:

- 9 (1) “Department” means the North Carolina Department of Health and Human Services.
- 10 (2) “Licensed child care facility” means a child care facility as defined at G.S. 110-86(3).
- 11 (3) “Public school” means a public school unit as defined at G.S. 115C-5(7a).
- 12 (4) “Program” means the North Carolina Department of Health and Human Services, Division of
13 Public Health, Environmental Health ~~Section. Section, Health Hazards Control Unit.~~
- 14 (5) “Responsible individual” means the ~~principal~~ superintendent of a public school operated by a local
15 school administrative unit, as defined in G.S. 115C-5(6), or the principal’s superintendent’s
16 designee designee(s); the governing body of any charter school or school operated under Article
17 7A or Article 9C of G.S. 115C or that body’s designee(s); or the operator of a licensed child care
18 facility or the operator’s designee, designee(s), as applicable.

19
20 *History Note: Authority S.L. 2021-180, s. 9G.8;*

21 *Temporary Adoption Eff. _____.*

1 10A NCAC 41C .1002 is adopted with changes under temporary procedures as follows:

2
3 **10A NCAC 41C .1002 FUNDING**

4 (a) Public schools and licensed child care facilities in North Carolina shall be eligible to participate in the funding
5 mechanisms established in accordance with S.L. 2021-180, Sec. 9G.8. to fully or partially offset the cost of conducting
6 testing for lead in water and inspections ~~inspection~~ for asbestos and lead-based paint hazards, when ~~the responsible~~
7 ~~individual conducts the~~ a test for lead in water is conducted within 24 months after the effective date of this Rule or
8 an inspection for lead lead-based paint or asbestos is conducted within 18 months after the effective date of this Rule
9 and the test or inspection is conducted in accordance with the rules of this Section.

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

- 14 (1) lead or asbestos is detected that meets the requirements under the rules of this Section for abatement
15 or remediation;
- 16 (2) the abatement or remediation, as applicable, is performed in accordance with the rules of this
17 Section; and
- 18 (3) replacement materials used to abate asbestos hazards do not contain more than 1% asbestos and
19 replacement materials used to abate lead-based paint hazards do not contain lead in excess of 90
20 parts per million.

21 (c) Notwithstanding Paragraphs (a) and (b) of this Rule, licensed child care centers conducting testing and remediation
22 of water outlets used for drinking or food preparation ~~in child care centers~~ pursuant to 15A NCAC 18A .2816 shall be
23 eligible to participate in the funding mechanisms established in accordance with S.L. 2021-180, Sec. 9G.8. for testing
24 conducted in accordance with that Rule within ~~18~~24 months after the effective date of this Rule and remediation
25 conducted in accordance with that Rule between 24 months prior to the effective date of this Rule and the date on
26 which funds are no longer available in accordance with S.L. 2021-180, Sec. 9G.8.(d).

27 (d) Notwithstanding Paragraphs (a) and (b) of this Rule, if asbestos or lead-based paint is detected during a capital,
28 renovation, or repair project in a public school or licensed child care facility, the public school or licensed child care
29 facility shall be eligible to participate in the funding mechanisms established in accordance with S.L. 2021-180, Sec.
30 9G.8. as follows:

- 31 (1) to fully or partially offset the cost of conducting an inspection in accordance with Rules .1003(b) or
32 .1004(b) of this Section, as applicable, except that the inspection may be limited to the area in the
33 public school or licensed child care facility where the capital, renovation, or repair project is being
34 conducted; and
- 35 (2) to fully or partially offset the cost of conducting abatement when lead-based paint or asbestos is
36 detected that meets the requirements under the Rules of this Section for abatement and abatement is
37 conducted in accordance with Rules .1003(e) and .1004(e) of this Section and with the limitation on

1 materials set out in Subparagraph (b)(3) of this Rule, except that the abatement may be limited to
2 the area in the public school or licensed child care facility where the capital, renovation, or repair
3 project is being conducted.

4 (e) Inspections and abatements described in Paragraph (d) of this Rule that are limited to the area in the public school
5 or licensed child care facility where the capital, renovation, or repair project is being conducted shall not satisfy the
6 facility-wide inspection requirements for public schools and licensed child care facilities set out in Rules .1003 and
7 .1004 of this Section.

8 (f) Notwithstanding the foregoing, to be eligible to participate in any funding mechanism under this Rule, responsible
9 individuals shall make all records regarding testing, inspection, abatement, and remediation available to the
10 Department upon request, including, but not limited to, itemized expense reports for activities funded under S.L. 2021-
11 180, Sec. 9G.8. ~~this Section.~~

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

14
15 *History Note:* Authority S.L. 2021-180, s. 9G.8;

16 *Temporary Adoption Eff.* _____.

1 10A NCAC 41C .1003 is adopted with changes under temporary procedures as follows:

2
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
7 are carried out to repair, maintain, remove, isolate, or encapsulate asbestos containing material.
8 Abatement shall not be considered complete until a final clearance inspection of the public school
9 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(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)-(6). ~~763.88(b)~~.
- 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
24 school or licensed child care facility for which he or she is responsible ~~their facility~~ within 18 months of the
25 effective date of this Rule. Inspections for asbestos hazards shall be performed by an inspector and documented in
26 an inspection survey report in accordance with the rules of Section .0600 of this Subchapter. A management planner
27 shall review the inspection survey report to determine whether an asbestos hazard has been detected and shall
28 document his or her findings in an asbestos management plan in accordance with Rule 10A NCAC 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 ~~the~~ public school or licensed
32 child care facility that is documented in an asbestos management plan in accordance with Paragraph (b) of this Rule
33 shall satisfy the requirement of Rule .1002(b)(1) or (d)(2) of this Section, as applicable, that asbestos is detected that
34 meets 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 the rules of Section .0600 of this Subchapter.

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

3 (1) Within ~~30~~⁴⁵ calendar days following the date on which an inspection is completed pursuant to this
4 Rule, the management planner shall submit:

- 5 (A) the name, address, email address, and phone number ~~name and contact information~~ of the
6 responsible individual;
- 7 (B) the name, address, email address, phone number, ~~name, contact information,~~ and
8 accreditation number of the management planner;
- 9 (C) the name and address, including county, of the individual school and the public school
10 unit or the licensed child care facility;
- 11 (D) whether the facility for which the responsible individual is submitting the information is a
12 public school or a licensed child care facility;
- 13 (E) whether the inspection identified the presence of an asbestos hazard;
- 14 (F) a description of any identified asbestos hazard; and
- 15 (G) the results of any laboratory testing conducted during the inspection.

16 (2) If the public school or licensed child care facility plans to use a previous inspection or documentation
17 under Paragraph (h) of this Rule, then the responsible individual shall submit a copy of the
18 inspection survey report, reinspection report, or management plan associated with the previous
19 inspection or the documentation within 18 months after the effective date of this Rule in lieu of
20 meeting the requirements in Subparagraph (f)(1) of this Rule.

- 21 ~~(2)~~(3) At least 10 calendar days before abatement conducted pursuant to this Rule begins, the responsible
22 individual shall submit:
- 23 (A) the name, address, email address, and phone number ~~name and contact information~~ of the
24 responsible individual;
- 25 (B) the name and address ~~address, including county~~, of the individual school and the public
26 school unit or the licensed child care facility, as applicable;
- 27 (C) the names, addresses, email addresses, phone numbers, ~~names, contact information~~, and
28 accreditation numbers of the professionals who will conduct the abatement;
- 29 (D) whether the facility for which the responsible individual is submitting the report is a
30 public school or a licensed child care facility;
- 31 ~~(E)~~(D) the dates on which the abatement is scheduled to occur; and
- 32 ~~(F)~~(E) a description of the planned abatement.
- 33 ~~(3)~~(4) Within ~~30~~45 calendar days following the date on which an abatement completed pursuant to this
34 Rule, the responsible individual shall submit:
- 35 (A) the name, address, email address, and phone number ~~name and contact information~~ of the
36 responsible individual;

- 1 (B) the name and address, including county, of the individual school and the public school
2 unit 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
9 hazards that may injure children. The failure of a responsible individual in licensed child care facility to inspect for
10 asbestos hazards or to restrict access to or abate identified asbestos hazards in accordance with this Rule shall be
11 considered a 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 Section .0600 of this Subchapter, provided that building material
15 that was sampled during a previous inspection and reported as trace asbestos or between 0% and
16 10% asbestos content shall be reinspected in accordance with the process established in
17 Paragraphs (b)-(f) of this Rule; or
- 18 (2) documentation is produced in accordance with 40 C.F.R. 763.99(a)(7).

19

20 *History Note: Authority S.L. 2021-180, s. 9G.8;*

21 *Temporary Adoption Eff. _____.*

1 10A NCAC 41C .1004 is adopted with changes under temporary procedures as follows:

2
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. 745.85(b).
- 10 (2) "Certified Project Designer" means an individual who meets the requirements for a project
11 designer as set forth in G.S. 130A-453.03 and Rule .0802 ~~-.0802-~~ of this Subchapter.
- 12 (3) "Certified Supervisor" means ~~and~~ an individual who meets the requirements for a supervisor as set
13 forth 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
15 set 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
18 Subchapter.
- 19 (7) "Lead-based paint hazard" means as defined at G.S. 130A-131.7(6).
- 20 (8) "Lead poisoning hazard" means as defined at G.S. 130A-131.7(7).
- 21 (9) "Occupant protection plan" means as defined at Rule .0801(a)(6) of this Subchapter.

22 (b) Each responsible individual shall ensure that an inspection is conducted for lead-based paint hazards in each
23 public school or licensed child care facility for which he or she is responsible ~~their facility~~ within 18 months of the
24 effective date of this Rule. Inspections for lead-based paint hazards shall be performed by a certified risk assessor
25 and documented in an inspection report. The certified risk assessor shall determine whether a lead-based paint
26 hazard is present in the public school or licensed child care facility based on the inspection, in accordance with the
27 rules of Sections .0800 and .0900 of this Subchapter, and document the determination in the inspection report. If the
28 certified risk assessor determines that a lead-based paint hazard exists, then an occupant protection plan shall be
29 written by a certified supervisor or certified project designer in accordance with 40 C.F.R. 745.227(e)(5) and the
30 rules of Section .0800 of this Subchapter.

31 (c) If the certified risk assessor determines that a lead-based paint hazard has been detected, then the responsible
32 individual shall restrict access to the identified lead-based paint hazard until abated in accordance with this Rule.

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

1 (e) Abatement shall be performed by one or more professionals who are certified in accordance with G.S. 130A-
2 453.03 and Rules .0802 or .0902 of this Subchapter and shall be performed in accordance with the rules of Sections
3 .0800 and .0900 of this Subchapter, as applicable.

4 (f) The information listed in this Paragraph shall be submitted to the Program by email to
5 general.hccu@dhhs.nc.gov:

6 (I) Within ~~30~~45 calendar days following the date on which an inspection is completed pursuant to the
7 Rule, the certified risk assessor shall submit:

- 8 (A) the name, address, email address, and phone number ~~name and contact information~~ of the
9 responsible individual;
- 10 (B) the name, address, email address, phone number, ~~name, contact information~~, and
11 certification number of the certified risk assessor;
- 12 (C) the name and address, including county, of the individual school and the public school
13 unit or the licensed child care facility;
- 14 (D) whether the facility for which the responsible individual is submitting the report is a public
15 school or a licensed child care facility;
- 16 (E) whether the inspection identified the presence of a lead-based paint hazard;
- 17 (F) a description of any identified lead-based paint hazard; and
- 18 (G) the results of any laboratory testing conducted during the inspection.

19 (2) If the public school or licensed child care facility plans to use a previous inspection or a signed
20 attestation under Paragraph (h) of this Rule, then the responsible individual shall submit a copy of
21 the inspection report or occupant protection plan associated with the previous inspection or the
22 signed attestation within 18 months from the effective date of this Rule in lieu of meeting the
23 requirements in Subparagraph (f)(1) of this Rule.

24 ~~(2)~~(3) At least 10 calendar days before abatement conducted pursuant to this Rule begins, the responsible
25 individual shall submit:

26 (A) the name, address, email address, and phone number ~~name and contact information~~ of the
27 responsible individual;

28 (B) the name and ~~address~~ address, including county, of the individual school and the public
29 school unit or the licensed child care facility, as applicable;

30 (C) the names, addresses, email addresses, phone numbers, ~~names, contact information~~, and
31 certification numbers of the professionals who will conduct the abatement;

32 ~~(D)~~ whether the facility for which the responsible individual is submitting the report is a
33 public school or a licensed child care facility;

34 ~~(E)~~(D) the dates on which the abatement is scheduled to occur; and

35 ~~(F)~~(E) a description of the planned abatement.

36 ~~(3)~~(4) Within ~~30~~45 calendar days following the date on which abatement is completed pursuant to this
37 Rule, the responsible individual shall submit:

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

9 (g) In accordance with 15A NCAC 18A .2816(a), 10A NCAC 09 .0601(f), and 10A NCAC 09 .1707(2), as
10 applicable, licensed child care facilities shall inspect for lead-based paint hazards in accordance with this Rule to
11 ensure these facilities are free from lead poisoning hazards. The failure of a responsible individual in licensed child
12 care facility to inspect for lead-based paint hazards or to restrict access to or abate identified lead-based paint
13 hazards in accordance with this Rule shall be considered a violation of 15A NCAC 18A .2816(a), 10A NCAC 09
14 .0601(f), or 10A NCAC 09 .1707(2), as applicable.

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

- 16 (1) the public school or licensed child care facility has previously completed an inspection of its
17 buildings that meets the requirements of Sections .0800 and .0900 of this Subchapter; or
- 18 (2) the responsible individual of a public school or licensed child care facility located in a building
19 that was built after February 28, 1978 signs a statement attesting that no lead-based paint was used
20 in the building.

21

22 *History Note: Authority S.L. 2021-180, s. 9G.8;*

23 *Temporary Adoption Eff. _____.*

1 10A NCAC 41C .1005 is adopted with changes under temporary procedures as follows:

2
3 **10A NCAC 41C .1005 LEAD POISONING HAZARDS IN DRINKING WATER IN NORTH CAROLINA**
4 **PUBLIC SCHOOLS**

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

- 6 (1) “Lead poisoning hazard” means as defined at G.S. 130A-131.7(7)(g).
7 (2) “Testing” means the process described in Subparagraphs (b)(1)-(4) of this Rule.
8 (3) “Remediation” means as defined at G.S. 130A-131.7(15).

9 (b) The following actions shall be taken to ensure that drinking water in public schools are free of identified lead
10 poisoning hazards:

- 11 (1) Responsible individuals at public schools shall complete a one-time test of all water outlets used for
12 drinking or food preparation. The responsible individual shall provide documentation of testing
13 results for review by the Department during routine sanitation inspections under Rule 15A NCAC
14 18A .2402(a).
15 (2) Initial water samples shall be collected by the responsible individual and tested in accordance with
16 Subparagraph (b)(3) of this Rule within 24~~18~~ months after the effective date of this Rule.

- 17 (3) The responsible individual shall collect samples and submit them for testing in accordance with
18 guidance specified by the United States Environmental Protection Agency in its publication, 3Ts
19 for Reducing Lead in Drinking Water in Schools and Child Care Facilities, which is hereby
20 incorporated by reference, including any subsequent editions or amendments, and available free of
21 charge at: [https://www.epa.gov/ground-water-and-drinking-water/3ts-reducing-lead-drinking-](https://www.epa.gov/ground-water-and-drinking-water/3ts-reducing-lead-drinking-water)
22 [water. https://www.epa.gov/dwreginfo/3ts-reducing-lead-drinking-water-schools-and-child-care-](https://www.epa.gov/dwreginfo/3ts-reducing-lead-drinking-water-schools-and-child-care-facilities)
23 [facilities](https://www.epa.gov/dwreginfo/3ts-reducing-lead-drinking-water-schools-and-child-care-facilities). Notwithstanding the foregoing guidance, samples may be collected with a stagnation
24 period of up to 72 hours. Samples shall be analyzed by a laboratory certified by the North Carolina
25 State Laboratory of Public Health to analyze for lead in drinking water.
- 26 (4) When a water sample is analyzed for lead content by a laboratory under this Rule, the laboratory
27 shall notify the Department of the test results by electronic submission in alignment with the
28 requirements of G.S. 130A-131.8.
- 29 (5) When a public school receives test results from a laboratory indicating that a water sample collected
30 by the responsible individual contains a lead concentration at or above the lead poisoning hazard
31 level, the responsible individual shall:
- 32 (A) restrict access to any water outlet(s) used for drinking or food preparation that have lead
33 concentrations at or above the lead poisoning hazard level; ~~and~~
- 34 (B) ensure that all students and staff have access to water free of cost that does not contain lead
35 concentrations at or above the lead poisoning hazard level for drinking and food
36 ~~preparation.~~ preparation; and

1 (C) continue to follow Subparagraphs (b)(5)(A)-(B) of this Rule until the Department
2 determines in accordance with Paragraph (b)(10) of this Rule that the water outlet(s) are
3 not producing water lead levels at or above the lead poisoning hazard level and notifies the
4 responsible individual and the Department of Public Instruction in writing of this
5 determination.

6 ~~(6) When notified of a water lead level at or above the lead poisoning hazard level, the Department shall~~
7 ~~conduct sampling at the water outlet identified to have a water lead level at or above the lead~~
8 ~~poisoning hazard level within 20 business days of notification.~~

9 ~~(7)(6)~~ If a water sample collected by the Department responsible individual reveals a water lead level at
10 or above the lead poisoning hazard level: level then

11 (A) the requirement of Rule .1002(b)(1) of this Section shall be considered ~~met~~; met.

12 (B) ~~notice shall be given in accordance with Rule 15A-NCAC 18A .2402(e); and~~

13 (C) ~~the responsible individual shall continue to follow Subparagraph (b)(5) of this Rule until~~
14 ~~the Department determines the water outlet(s) are not producing water lead levels at or~~
15 ~~above the lead poisoning hazard level and notifies the responsible individual, the local~~
16 ~~superintendent, and the Department of Public Instruction in writing of this determination.~~

- 17 ~~(8)~~(7) Within five business days of receiving the test results of ~~a the Department's~~ water analysis that
18 shows a water lead level at or above the lead poisoning hazard level, the responsible individual shall
19 provide written notification of the test results to the parents or legal guardians of the children
20 attending the public school and the staff of the public school in accordance with the United States
21 Environmental Protection Agency guidance specified in Subparagraph (b)(3) of this Rule.
- 22 ~~(9)~~(8) Within five business days of receiving the test results of ~~a the Department's~~ water analysis that
23 shows a water lead level at or above the lead poisoning hazard level, the public school shall make
24 the test results available to the public, free of charge. The responsible individual may post test results
25 to the public school's website to satisfy the requirement to make the test results available to the
26 public.
- 27 ~~(10)~~(9) Remediation of water outlet(s) producing water lead levels at or above the lead poisoning hazard
28 level shall ensure that water produced is below the lead poisoning hazard level and may include
29 replacement of service lines, pipes, and fixtures and the installation of filters at affected faucets.
30 Within 30 business days from the date on which remediation is conducted under this Rule, the
31 responsible individual shall submit the following information to the Program:
- 32 (A) the name and contact information of the responsible individual;
 - 33 (B) the name and address, including county, of the public school;
 - 34 (C) the steps taken to remediate the lead poisoning hazard; and
 - 35 (D) the date on which the remediation was completed.
- 36 (10) Remediation shall not be considered complete until the Department conducts sampling at the water
37 outlet identified to have a water lead level at or above the lead poisoning hazard level to confirm

1 that the remediated water outlet is no longer producing water lead levels at or above the lead
2 poisoning hazard level.

3
4 *History Note:* *Authority S.L. 2021-180, s. 9G.8;*
5 *Temporary Adoption Eff. ____.*

1 10A NCAC 41C .1006 is adopted with changes under temporary procedures as follows:

2

3 **10A NCAC 41C .1006 CERTIFIED RISK ASSESSORS**

4 (a) For the purposes of this Section, a certified risk assessor is defined as an individual who meets the requirements
5 of Rule .0802 of this Subchapter, except that the individual shall be required to complete an accredited refresher course
6 for risk assessors every 36 months from the date of completion of initial training or last training instead of every 24
7 months as set forth in 10A NCAC 41C .0802(b).

8 (b) A certified risk assessor who is certified under Paragraph (a) of this Rule shall be considered a certified risk
9 assessor solely for the purposes of conducting inspections and determinations about the existence of lead-based paint
10 hazards in public schools and licensed child care facilities under Rule .1004 of this Section.

11

12 *History Note:* G.S. 130A-453.03; 130A-453.05; S.L. 2021-180, s. 9G.8;

13 *Temporary Adoption Eff.* _____.

1 10A NCAC 41C .1007 is adopted under temporary procedures as follows:

2

3 **10A NCAC 41C. 1007 INCORPORATION BY REFERENCE**

4 For the purposes of this Section, 40 C.F.R. 763, Subpart E and 40 C.F.R. 745, Subparts L and E are hereby incorporated
5 by reference, including any subsequent amendments or editions, and available free of charge at www.ecfr.gov/.

6

7 *History Note: Authority S.L. 2021-180, s. 9G.8;*

8 *Temporary Adoption Eff. _____.*

QUESTIONS

