

## CHAPTER 41 — EPIDEMIOLOGY HEALTH

### SUBCHAPTER 41A — COMMUNICABLE DISEASE CONTROL

#### SECTION .0100 — COMMUNICABLE DISEASE CONTROL

##### 10A NCAC 41A .0101 REPORTABLE DISEASES AND CONDITIONS

(a) The following is a list of communicable diseases and communicable conditions which shall be reported within the time period specified after the disease or condition is reasonably suspected to exist pursuant to Article 6 of Chapter 130A of the North Carolina General Statutes and this Subchapter:

- (1) acquired immune deficiency syndrome (AIDS) — 24 hours;
- (2) acute flaccid myelitis — 7 days;
- (3) anaplasmosis — 7 days;
- (4) anthrax — immediately;
- (5) arboviral infection, neuroinvasive — 7 days;
- (6) babesiosis — 7 days;
- (7) botulism — immediately;
- (8) brucellosis — 7 days;
- (9) campylobacter infection — 24 hours;
- (10) *Candida auris* — 24 hours;
- (11) Carbapenemase—producing organisms (CPO) — 24 hours;
- (12) chancroid — 24 hours;
- (13) chikungunya virus infection — 24 hours;
- (14) chlamydial infection (laboratory confirmed) — 7 days;
- (15) cholera — 24 hours;
- (16) Creutzfeldt Jakob disease — 7 days;
- (17) *Cronobacter* infection, invasive, in individuals less than 12 months of age — 24 hours;
- (18) cryptosporidiosis — 24 hours;
- (19) cyclosporiasis — 24 hours;
- (20) dengue — 7 days;
- (21) diphtheria — 24 hours;
- (22) *Escherichia coli*, shiga toxin—producing infection — 24 hours;
- (23) ehrlichiosis — 7 days;
- (24) foodborne disease, including *Clostridium perfringens*, staphylococcal, *Bacillus cereus*, and other and unknown causes — 24 hours;
- (25) gonorrhea — 24 hours;
- (26) granuloma inguinale — 24 hours;
- (27) *Haemophilus influenzae*, invasive disease — 24 hours;
- (28) Hantavirus infection — 7 days;
- (29) Hemolytic—uremic syndrome — 24 hours;
- (30) Hemorrhagic fever virus infection — immediately;
- (31) hepatitis A — 24 hours;
- (32) hepatitis B — 24 hours;
- (33) hepatitis B carriage — 7 days;
- (34) hepatitis C, acute — 7 days;
- (35) human immunodeficiency virus (HIV) infection confirmed — 24 hours;
- (36) influenza virus infection causing death — 24 hours;
- (37) legionellosis — 7 days;
- (38) leprosy — 7 days;
- (39) leptospirosis — 7 days;
- (40) listeriosis — 24 hours;
- (41) Lyme disease — 7 days;
- (42) Lymphogranuloma venereum — 7 days;
- (43) malaria — 7 days;
- (44) measles (rubeola) — immediately;
- (45) meningitis, pneumococcal — 7 days;

- (46) meningococcal disease — 24 hours;
- (47) Middle East respiratory syndrome (MERS) — 24 hours;
- (48) mpox — 24 hours;
- (49) mumps — 7 days;
- (50) nongonococcal urethritis — 7 days;
- (51) novel coronavirus infection causing death — 24 hours;
- (52) novel coronavirus infection — immediately;
- (53) novel influenza virus infection — immediately;
- (54) plague — immediately;
- (55) paralytic poliomyelitis — 24 hours;
- (56) pelvic inflammatory disease — 7 days;
- (57) psittacosis — 7 days;
- (58) Q fever — 7 days;
- (59) rabies, human — 24 hours;
- (60) rubella — 24 hours;
- (61) rubella congenital syndrome — 7 days;
- (62) salmonellosis — 24 hours;
- (63) salmonella typhi infection — 24 hours;
- (64) salmonella paratyphi infection — 24 hours;
- (65) severe acute respiratory syndrome (SARS) — 24 hours;
- (66) shigellosis — 24 hours;
- (67) smallpox — immediately;
- (68) spotted fever rickettsiosis — 7 days;
- (69) *Staphylococcus aureus* with reduced susceptibility to vancomycin — 24 hours;
- (70) streptococcal infection, Group A, invasive disease — 7 days;
- (71) syphilis — 24 hours;
- (72) tetanus — 7 days;
- (73) toxic shock syndrome — 7 days;
- (74) trichinosis — 7 days;
- (75) tuberculosis — 24 hours;
- (76) tularemia — immediately;
- (77) typhus, epidemic (louse—borne) — 7 days;
- (78) vaccinia — 24 hours;
- (79) varicella — 24 hours;
- (80) vibrio infection (other than cholera) — 24 hours;
- (81) whooping cough — 24 hours;
- (82) yellow fever — 7 days; and
- (83) zika virus — 24 hours.

(b) For purposes of reporting, "confirmed human immunodeficiency virus (HIV) infection" is defined as a positive virus culture, repeatedly reactive EIA antibody test confirmed by western blot or indirect immunofluorescent antibody test, positive nucleic acid detection (NAT) test, or other confirmed testing method approved by the Director of the State Public Health Laboratory conducted on or after February 1, 1990. In selecting additional tests for approval, the Director of the State Public Health Laboratory shall consider whether such tests have been approved by the federal Food and Drug Administration, recommended by the federal Centers for Disease Control and Prevention, and endorsed by the Association of Public Health Laboratories.

(c) In addition to the laboratory reports for *Mycobacterium tuberculosis*, *Neisseria gonorrhoeae*, and syphilis specified in G.S. 130A—139, laboratories shall report the following in accordance with Rule .0102(d) of this Subchapter:

- (1) Isolation or other specific identification of the following organisms or their products from human clinical specimens:
  - (A) *Anaplasma* spp., the causes of anaplasmosis.
  - (B) Any hantavirus.
  - (C) Any hemorrhagic fever virus.
  - (D) Arthropod—borne virus (any type).
  - (E) *Babesia* spp., the cause of babesiosis.
  - (F) *Bacillus anthracis*, the cause of anthrax.

- (G) *Bordetella pertussis*, the cause of whooping cough (pertussis).
  - (H) *Borrelia burgdorferi*, the cause of Lyme disease (confirmed tests).
  - (I) *Brucella* spp., the causes of brucellosis.
  - (J) *Campylobacter* spp., the causes of campylobacteriosis.
  - (K) *Candida auris*.
  - (L) Carbapenemase—producing organisms (CPO).
  - (M) *Chlamydia trachomatis*, the cause of genital chlamydial infection, conjunctivitis (adult and newborn) and pneumonia of newborns.
  - (N) *Clostridium botulinum*, a cause of botulism.
  - (O) *Clostridium tetani*, the cause of tetanus.
  - (P) Coronavirus, novel human strain.
  - (Q) *Corynebacterium diphtheriae*, the cause of diphtheria.
  - (R) *Coxiella burnetii*, the cause of Q fever.
  - (S) *Cryptosporidium* spp., the cause of human cryptosporidiosis.
  - (T) *Cyclospora cayentanensis*, the cause of cyclosporiasis.
  - (U) Dengue virus.
  - (V) *Ehrlichia* spp., the causes of ehrlichiosis.
  - (W) Shiga toxin—producing *Escherichia coli*, a cause of hemorrhagic colitis, hemolytic uremic syndrome, and thrombotic thrombocytopenic purpura.
  - (X) *Francisella tularensis*, the cause of tularemia.
  - (Y) Hepatitis A virus.
  - (Z) Hepatitis B virus or any component thereof, such as hepatitis B surface antigen.
  - (AA) Human Immunodeficiency Virus, the cause of AIDS.
  - (BB) *Legionella* spp., the causes of legionellosis.
  - (CC) *Leptospira* spp., the causes of leptospirosis.
  - (DD) *Listeria monocytogenes*, the cause of listeriosis.
  - (EE) Measles virus.
  - (FF) Middle East respiratory syndrome virus.
  - (GG) Mpox.
  - (HH) Mumps virus.
  - (II) *Mycobacterium leprae*, the cause of leprosy.
  - (JJ) *Plasmodium falciparum*, *P. malariae*, *P. ovale*, and *P. vivax*, the causes of malaria in humans.
  - (KK) Poliovirus (any), the cause of poliomyelitis.
  - (LL) Rabies virus.
  - (MM) *Rickettsia* spp., the cause of spotted fever rickettsiosis.
  - (NN) Rubella virus.
  - (OO) *Salmonella* spp., the causes of salmonellosis, *s. typhi* infection, and *s. paratyphi* infection.
  - (PP) *Shigella* spp., the causes of shigellosis.
  - (QQ) Smallpox virus, the cause of smallpox.
  - (RR) *Staphylococcus aureus* with reduced susceptibility to vancomycin.
  - (SS) *Trichinella spiralis*, the cause of trichinosis.
  - (TT) Vaccinia virus.
  - (UU) Varicella virus.
  - (VV) *Vibrio* spp., the causes of cholera and other vibrioses.
  - (WW) Yellow fever virus.
  - (XX) *Yersinia pestis*, the cause of plague.
  - (YY) Zika virus.
- (2) Isolation or other specific identification of the following organisms from normally sterile human body sites:
- (A) *Cronobacter* spp., if isolated or identified from individuals less than 12 months of age.
  - (B) Group A *Streptococcus pyogenes* (group A streptococci).
  - (C) *Haemophilus influenzae*, serotype b.
  - (D) *Neisseria meningitidis*, the cause of meningococcal disease.
- (3) Positive serologic test results, as specified, for the following infections:
- (A) Fourfold or greater changes or equivalent changes in serum antibody titers to:

- (i) Any arthropod—borne virus associated with neuroinvasive disease.
  - (ii) *Anaplasma* spp., the cause of anaplasmosis.
  - (iii) Any hantavirus or hemorrhagic fever virus.
  - (iv) *Chlamydia psittaci*, the cause of psittacosis.
  - (v) Chikungunya virus.
  - (vi) *Coxiella burnetii*, the cause of Q fever.
  - (vii) Dengue virus.
  - (viii) *Ehrlichia* spp., the causes of ehrlichiosis.
  - (ix) Measles (rubeola) virus.
  - (x) Mumps virus.
  - (xi) *Rickettsia rickettsii*, the cause of Rocky Mountain spotted fever.
  - (xii) Rubella virus.
  - (xiii) Varicella virus.
  - (xiv) Yellow fever virus.
- (B) The presence of IgM serum antibodies to:
- (i) Any arthropod—borne virus associated with neuroinvasive disease.
  - (ii) Chikungunya virus.
  - (iii) *Chlamydia psittaci*.
  - (iv) Dengue virus.
  - (v) Hepatitis A virus.
  - (vi) Hepatitis B virus core antigen.
  - (vii) Mumps virus.
  - (viii) Rubella virus.
  - (ix) Rubeola (measles) virus.
  - (x) Yellow fever virus.
- (4) Laboratory results from tests to determine the absolute and relative counts for the T—helper (CD4) subset of lymphocytes and all results from tests to determine HIV viral load.
- (5) Identification of CPO from a clinical specimen associated with either infection or colonization, including all susceptibility results and all phenotypic or molecular test results.
- (d) Laboratories utilizing electronic laboratory reporting (ELR) shall report in addition to those listed under Paragraph (c) of this Rule:
- (1) All positive laboratory results from tests used to diagnosis chronic Hepatitis C Infection, including the following:
    - (A) Hepatitis C virus antibody tests (including the test specific signal to cut—off (s/c) ratio);
    - (B) Hepatitis C nucleic acid tests;
    - (C) Hepatitis C antigen(s) tests; and
    - (D) Hepatitis C genotypic tests.
  - (2) All HIV genotypic test results, including when available:
    - (A) The entire nucleotide sequence; or
    - (B) The pol region sequence (including all regions: protease (PR)/reverse transcriptase (RT) and integrase (INI) genes, if available).
  - (3) All test results for Interferon Gamma Release Assays.

*History Note: Authority G.S. 130A—134; 130A—135; 130A—139; 130A—141; Amended Eff. October 1, 1994; February 1, 1990; Temporary Amendment Eff. July 1, 1997; Amended Eff. August 1, 1998; Temporary Amendment Eff. February 13, 2003; October 1, 2002; February 18, 2002; June 1, 2001; Amended Eff. April 1, 2003; Temporary Amendment Eff. November 1, 2003; May 16, 2003; Amended Eff. January 1, 2005; April 1, 2004; Temporary Amendment Eff. June 1, 2006; Amended Eff. April 1, 2008; November 1, 2007; October 1, 2006; Temporary Amendment Eff. January 1, 2010; Temporary Amendment Expired September 11, 2011;*

*Amended Eff. July 1, 2013;*  
*Temporary Amendment Eff. December 2, 2014;*  
*Amended Eff. October 1, 2015;*  
*Emergency Amendment Eff. March 1, 2016;*  
*Temporary Amendment Eff. July 1, 2016;*  
*Amended Eff. January 1, 2018; October 1, 2016;*  
*Pursuant to G.S. 150B—21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*  
*Amended Eff. October 1, 2018;*  
*Emergency Amendment Eff. February 17, 2020;*  
*Temporary Amendment Eff. April 24, 2020;*  
*Amended Eff. April 1, 2021; July 1, 2020;*  
*Amended Eff. November 1, 2024.*

#### **10A NCAC 41A .0102 METHOD OF REPORTING**

(a) When a report of a disease or condition is required to be made pursuant to G.S. 130A-135 through 139 and 10A NCAC 41A .0101, with the exception of laboratories, which shall proceed as in Subparagraph (d), the report shall be made to the local health director as follows:

- (1) For diseases and conditions required to be reported within 24 hours, the initial report shall be made by telephone, and the report required by Subparagraph (2) of this Paragraph shall be made within seven days.
- (2) In addition to the requirements of Subparagraph (1) of this Paragraph, the report shall be made on the communicable disease report card or in an electronic format provided by the Division of Public Health and shall include the name and address of the patient, the name and address of the parent or guardian if the patient is a minor, and epidemiologic information.
- (3) In addition to the requirements of Subparagraphs (1) and (2) of this Paragraph, forms or electronic formats provided by the Division of Public Health for collection of information necessary for disease control and documentation of clinical and epidemiologic information about the cases shall be completed and submitted for the following reportable diseases and conditions identified in 10A NCAC 41A .0101(a):
  - (A) acquired immune deficiency syndrome (AIDS);
  - (B) brucellosis;
  - (C) cholera;
  - (D) cryptosporidiosis;
  - (E) cyclosporiasis;
  - (F) *E. coli* 0157:H7 infection;
  - (G) ehrlichiosis;
  - (H) *Haemophilus influenzae*, invasive disease;
  - (I) Hemolytic-uremic syndrome/thrombotic thrombocytopenic purpura;
  - (J) hepatitis A;
  - (K) hepatitis B;
  - (L) hepatitis B carriage;
  - (M) hepatitis C;
  - (N) human immunodeficiency virus (HIV) confirmed;
  - (O) legionellosis;
  - (P) leptospirosis;
  - (Q) Lyme disease;
  - (R) malaria;
  - (S) measles (rubeola);
  - (T) meningitis, pneumococcal;
  - (U) meningococcal disease;
  - (V) mumps;
  - (W) paralytic poliomyelitis;
  - (X) psittacosis;
  - (Y) Rocky Mountain spotted fever;
  - (Z) rubella;

- (AA) rubella congenital syndrome;
- (BB) tetanus;
- (CC) toxic shock syndrome;
- (DD) trichinosis;
- (EE) tuberculosis;
- (FF) tularemia;
- (GG) typhoid;
- (HH) typhoid carriage (*Salmonella typhi*);
- (II) vibrio infection (other than cholera); and
- (JJ) whooping cough.

Communicable disease report cards, surveillance forms, and electronic formats are available from the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27699-1915, and from local health departments.

(b) Notwithstanding the time frames established in 10A NCAC 41A .0101, a restaurant or other food or drink establishment shall report all outbreaks or suspected outbreaks of foodborne illness in its customers or employees and all suspected cases of foodborne disease or foodborne condition in food-handlers at the establishment by telephone to the local health department within 24 hours in accordance with Subparagraph (a)(1) of this Rule. However, the establishment is not required to submit a report card or surveillance form pursuant to Subparagraph (a)(2) of this Rule.

(c) For the purposes of reporting by restaurants and other food or drink establishments pursuant to G.S.130A-138, the following diseases and conditions listed in 10A NCAC 41A .0101(a) shall be reported:

- (1) anthrax;
- (2) botulism;
- (3) brucellosis;
- (4) campylobacter infection;
- (5) cholera;
- (6) cryptosporidiosis;
- (7) cyclosporiasis;
- (8) *E. coli* 0157:H7 infection;
- (9) hepatitis A;
- (10) salmonellosis;
- (11) shigellosis;
- (12) streptococcal infection, Group A, invasive disease;
- (13) trichinosis;
- (14) tularemia;
- (15) typhoid;
- (16) typhoid carriage (*Salmonella typhi*); and
- (17) vibrio infection (other than cholera).

(d) Laboratories required to report test results pursuant to G.S. 130A-139 and 10A NCAC 41A .0101(c) shall report as follows:

- (1) The results of the specified tests for syphilis, chlamydia and gonorrhea shall be reported to the local health department by the first and fifteenth of each month. Reports of the results of the specified tests for gonorrhea, chlamydia and syphilis shall include the specimen collection date, the patient's age, race, and sex, and the submitting physician's name, address, and telephone numbers.
- (2) Positive darkfield examinations for syphilis, all reactive prenatal and delivery STS titers, all reactive STS titers on infants less than one year old and STS titers of 1:8 and above shall be reported within 24 hours by telephone to the HIV/STD Prevention and Care Branch at (919) 733-7301, or the HIV/STD Prevention and Care Branch Regional Office where the laboratory is located.
- (3) With the exception of positive laboratory tests for human immunodeficiency virus, positive laboratory tests as defined in G.S. 130A-139(1) and 10A NCAC 41A .0101(c) shall be reported to the Division of Public Health electronically, by mail, by secure telefax or by telephone within the time periods specified for each reportable disease or condition in 10A NCAC 41A .0101(a). Confirmed positive laboratory tests for human immunodeficiency virus as defined in 10A NCAC 41A .0101(b) and for CD4 results defined in 10A NCAC 41A .0101(c)(4) shall be reported to the

HIV/STD Prevention and Care Branch within 24 hours of obtaining reportable test results. Reports shall include as much of the following information as the laboratory possesses:

- (A) the specific name of the test performed;
- (B) the source of the specimen;
- (C) the collection date(s);
- (D) the patient's name, age, race, sex, address, and county; and
- (E) the submitting physician's name, address, and telephone number.

*History Note: Authority G.S. 130A-134; 130A-135; 130A-138; 130A-139; 130A-141; Temporary Rule Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988; Eff. March 1, 1988; Amended Eff. October 1, 1994; February 3, 1992; December 1, 1991; May 1, 1991; Temporary Amendment Eff. December 16, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Temporary Amendment Expired June 16, 1995; Amended Eff. December 1, 2007; November 1, 2007; August 1, 2005, April 1, 2003; August 1, 1998; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41A .0103 DUTIES OF LOCAL HEALTH DIRECTOR: REPORT COMMUNICABLE DISEASES**

(a) Upon receipt of a report of a communicable disease or condition pursuant to 10A NCAC 41A .0101, the local health director shall:

- (1) immediately investigate the circumstances surrounding the occurrence of the disease or condition to determine the authenticity of the report and the identity of all persons for whom control measures are required. This investigation shall include the collection and submission for laboratory examination of specimens necessary to assist in the diagnosis and indicate the duration of control measures;
- (2) determine what control measures have been given and ensure that proper control measures as provided in 10A NCAC 41A .0201 have been given and are being complied with;
- (3) forward the report as follows:
  - (A) The local health director shall forward all authenticated reports made pursuant to G.S. 130A-135 to 137 of syphilis, chancroid, granuloma inguinale, and lymphogranuloma venereum within seven days to the regional office of the Division of Public Health. In addition, the local health director shall telephone reports of all cases of primary, secondary, and early latent (under one year's duration) syphilis to the regional office of the HIV/STD Prevention and Care Branch within 24 hours of diagnosis at the health department or report by a physician.
  - (B) The local health director shall telephone all laboratory reports of reactive syphilis serologies to the regional office of the Division of Public Health within 24 hours of receipt if the person tested is pregnant. This shall also be done for all other persons tested unless the dilution is less than 1:8 and the person is known to be over 25 years of age or has been previously treated. In addition, the written reports shall be sent to the regional office of the Division of Public Health within seven days.
  - (C) Except as provided in (a)(3)(A) and (B) of this Rule, a local health director who receives a report pursuant to 10A NCAC 41A .0102 regarding a person residing in that jurisdiction shall forward the authenticated report to the Division of Public Health within seven days.
  - (D) Except as provided in (a)(3)(A) and (B) of this Rule, a local health director who receives a report pursuant to 10A NCAC 41A .0102 regarding a person who resides in another jurisdiction in North Carolina shall forward the report to the local health director of that jurisdiction within 24 hours. A duplicate report card marked "copy" shall be forwarded to the Division of Epidemiology within seven days.

- (E) A local health director who receives a report pursuant to 10A NCAC 41A .0102 regarding a person who resided outside of North Carolina at the time of onset of the illness shall forward the report to the Division of Public Health within 24 hours.
- (b) If an outbreak exists, the local health director shall submit to the Division of Public Health within 30 days a written report of the investigation, its findings, and the actions taken to control the outbreak and prevent a recurrence.
- (c) Whenever an outbreak of a disease or condition occurs which is not required to be reported by 10A NCAC 41A .0101 but which represents a significant threat to the public health, the local health director shall give appropriate control measures consistent with 10A NCAC 41A .0200, and inform the Division of Public Health of the circumstances of the outbreak within seven days.

*History Note:* Authority G.S. 130A-141; 130A-144;  
Temporary Rule Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;  
Eff. March 1, 1988;  
Amended Eff. April 1, 2003; December 1, 1991; September 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41A .0104 RELEASE OF COMMUNICABLE DISEASE RECORDS: RESEARCH PURPOSES**

- (a) A person may request, for bona fide research purposes, the release of records which pertain to a communicable disease or communicable condition and which identify individuals. The request shall be in writing and shall contain the following information:
- (1) Name of organization requesting the data;
  - (2) Names of principal investigators;
  - (3) Name of project;
  - (4) Purpose of project;
  - (5) Description of the proposed use of the data, including protocols for contacting patients, relatives, and service providers;
  - (6) Descriptions of measures to protect the security of the data;
  - (7) An assurance that the data will not be used for purposes other than those described in the protocol;
  - (8) An assurance that the data will be properly disposed of upon completion of the project; and
  - (9) An assurance that the results of the project will be provided to the custodian of the records.
- (b) The request for release of the records shall be granted or denied in writing based upon the following considerations:
- (1) Whether the objectives of the project require patient identifying information;
  - (2) Whether the objective of the project can be reached with the use of the data;
  - (3) Whether the project has a reasonable chance of answering a legitimate research question;
  - (4) Whether the project might jeopardize the ability of the Epidemiology Division to obtain reports and information regarding communicable diseases and communicable conditions;
  - (5) Whether the patient's right to privacy would be adequately protected.

*History Note:* Authority G.S. 130A-143(9);  
Temporary Rule Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;  
Eff. March 1, 1988;  
Amended Eff. September 1, 1991;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41A .0105 HOSPITAL EMERGENCY DEPARTMENT DATA REPORTING**

Hospitals, as defined in G.S. 130A-480(d), shall submit electronically to the Division of Public Health the following electronically available emergency department data elements for all emergency department visits:

- (1) Patient record number or other unique identification number;
- (2) Patient date of birth and age;
- (3) Patient's sex;
- (4) City of residence;



- (5) County of residence;
- (6) Five digit ZIP code;
- (7) Alpha numeric patient control number assigned by the hospital for each record (the Visit Identification Number);
- (8) Emergency department facility identification number;
- (9) Projected payor source;
- (10) Date and time of emergency department visit (first documented time);
- (11) Mode of transport to the emergency department;
- (12) PreMIS identification number, if transported by EMS;
- (13) Chief complaint;
- (14) Initial temperature reading and route;
- (15) Initial systolic and initial diastolic blood pressure;
- (16) Triage Notes (brief description of patient's/family's self-reported illness episode, including symptoms, duration of symptoms, and reasons for visit [in addition to Chief Complaint] as presented by the patient or family to the triage nurse upon arrival at the emergency department) – this element is optional;
- (17) Initial emergency department acuity assessment;
- (18) Coded cause of injury (ICD-9-CM, if injury related to diagnosis);
- (19) Emergency department procedures, up to ten (CPT or ICD-9-CM or ICD-10-CM);
- (20) Emergency department disposition;
- (21) Emergency department disposition diagnosis description; and
- (22) Emergency department disposition diagnosis codes, one primary and up to ten additional (ICD-9-CM or ICD-10-CM).

*History Note: Authority G.S. 130A-480;  
Eff. January 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41A .0106 REPORTING OF HEALTH CARE-ASSOCIATED INFECTIONS**

(a) The following definitions apply throughout this Rule:

- (1) "Hospital" means any facility designated as such in G.S. 131E-76(3).
- (2) "National Healthcare Safety Network" is an internet-based surveillance system managed by the Centers for Disease Control and Prevention. This system is designed to be used for the direct, standardized reporting of healthcare quality information, including health care-associated infections, by health care facilities to public health entities.
- (3) "Health care-associated infection" means a localized or systemic condition in the patient resulting from an adverse reaction to the presence of an infectious agent(s) or its toxin(s) with no evidence that the infection was present or incubating when the patient was admitted to the health care setting.
- (4) "Denominator or summary data" refers to referent or baseline data required to generate meaningful statistics for communicating health care-associated infection rates.
- (5) "The Centers for Medicaid and Medicare Services - Inpatient Prospective Payment System (CMS – IPPS) rules" are regulations promulgated for the disbursement of operating costs by the Centers for Medicare and Medicaid Services for acute care hospital stays under Medicare Part A based on prospectively set rates for care.

(b) Hospitals shall electronically report all health care-associated infections required by Paragraph (c) of this Rule through the National Healthcare Safety Network and shall make the data available to the Department. Hospitals also shall:

- (1) Report all specified health care-associated infections within 30 days following the end of every calendar month during which the infection was identified;
- (2) Report all required health care-associated infection denominator or summary data for healthcare-associated infections within 30 days following the end of every calendar month; and,
- (3) Comply with all reporting requirements for general participation in the National Healthcare Safety Network.

(c) Except as provided in rules of this Section, hospitals shall report the healthcare-associated infections required by the Centers for Medicare and Medicaid Services listed in the CMS-IPPS rules beginning on the dates specified therein. A summary of the HAI reporting requirements from the current copy of the CMS-IPPS rules may be obtained through the CMS QualityNet site at

<http://www.qualitynet.org/dcs/ContentServer?c=Page&pagename=QnetPublic%2FPage%2FQnetTier2&cid=1228760487021>

The CMS IPPS rules themselves can be obtained from the CMS IPPS website at <http://www.cms.gov/AcuteInpatientPPS/IPPS2011/list.asp#TopOfPage> and <http://www.cms.gov/AcuteInpatientPPS/FR2012/list.asp#TopOfPage>. A copy of the current CMS-IPPS rules, applicable to this section, is available for inspection in the Division of Public Health, 225 N. McDowell Street, Raleigh NC 27601.

(d) Beginning October 1, 2012 and quarterly thereafter, the Department shall release reports to the public on health care-associated infection(s) in North Carolina.

*History Note: Authority G.S. 130A-150;  
Temporary Adoption Eff. November 30, 2011;  
Eff. October 1, 2012;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41A .0107 REPORTING OF COVID-19 DIAGNOSTIC TEST RESULTS**

*History Note: Authority G.S. 130A-134; 130A-139; 130A-141; 130A-141.1;  
Emergency Adoption Eff. September 25, 2020;  
Temporary Adoption Eff. December 1, 2020;  
Eff. October 1, 2021;  
Amended Eff. October 1, 2022;  
Repealed Eff. October 1, 2023.*

### **SECTION .0200 - CONTROL MEASURES FOR COMMUNICABLE DISEASES**

#### **10A NCAC 41A .0201 CONTROL MEASURES - GENERAL**

(a) Except as provided in Rules of this Section, the recommendations and guidelines for testing, diagnosis, treatment, follow-up, and prevention of transmission for each disease and condition specified by the American Public Health Association in its publication, Control of Communicable Diseases Manual shall be the required control measures. Control of Communicable Diseases Manual is hereby incorporated by reference including subsequent amendments and editions. Guidelines and recommended actions published by the Centers for Disease Control and Prevention shall supercede those contained in the Control of Communicable Disease Manual and are likewise incorporated by reference, including subsequent amendments and editions. Copies of the Control of Communicable Diseases Manual may be purchased from the American Public Health Association, Publication Sales Department, Post Office Box 753, Waldora, MD 20604 for a cost of twenty-two dollars (\$22.00) each plus five dollars (\$5.00) shipping and handling. Copies of Centers for Disease Control and Prevention guidelines contained in the Morbidity and Mortality Weekly Report may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 for a total cost of three dollars and fifty cents (\$3.50) each. Copies of both publications are available for inspection in the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27699-1915.

(b) In interpreting and implementing the specific control measures adopted in Paragraph (a) of this Rule, and in devising control measures for outbreaks designated by the State Health Director and for communicable diseases and conditions for which a specific control measure is not provided by this Rule, the following principles shall be used:

- (1) control measures shall be those which can reasonably be expected to decrease the risk of transmission and which are consistent with recent scientific and public health information;
- (2) for diseases or conditions transmitted by the airborne route, the control measures shall require physical isolation for the duration of infectivity;
- (3) for diseases or conditions transmitted by the fecal-oral route, the control measures shall require exclusions from situations in which transmission can be reasonably expected to occur, such as

- work as a paid or voluntary food handler or attendance or work in a day care center for the duration of infectivity;
- (4) for diseases or conditions transmitted by sexual or the blood-borne route, control measures shall require prohibition of donation of blood, tissue, organs, or semen, needle-sharing, and sexual contact in a manner likely to result in transmission for the duration of infectivity.
- (c) Persons with congenital rubella syndrome, tuberculosis, and carriers of *Salmonella typhi* and hepatitis B who change residence to a different local health department jurisdiction shall notify the local health director in both jurisdictions.
- (d) Isolation and quarantine orders for communicable diseases and communicable conditions for which control measures have been established shall require compliance with applicable control measures and shall state penalties for failure to comply. These isolation and quarantine orders may be no more restrictive than the applicable control measures.
- (e) An individual enrolled in an epidemiologic or clinical study shall not be required to meet the provisions of 10A NCAC 41A .0201 - .0209 which conflict with the study protocol if:
- (1) the protocol is approved for this purpose by the State Health Director because of the scientific and public health value of the study, and
  - (2) the individual fully participates in and completes the study.
- (f) A determination of significant risk of transmission under this Subchapter shall be made only after consideration of the following factors, if known:
- (1) The type of body fluid or tissue;
  - (2) The volume of body fluid or tissue;
  - (3) The concentration of pathogen;
  - (4) The virulence of the pathogen; and
  - (5) The type of exposure, ranging from intact skin to non-intact skin, or mucous membrane.
- (g) The term "household contacts" as used in this Subchapter means any person residing in the same domicile as the infected person.

*History Note: Authority G.S. 130A-135; 130A-144;*  
*Temporary Rule Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;*  
*Eff. March 1, 1988;*  
*Amended Eff. February 1, 1990; November 1, 1989; August 1, 1988;*  
*Recodified Paragraphs (d), (e) to Rule .0202; Paragraph (i) to Rule .0203 Eff. June 11, 1991;*  
*Amended Eff. April 1, 2003; October 1, 1992; December 1, 1991; August 1, 1998;*  
*Emergency Amendment Eff. January 24, 2005;*  
*Emergency Amendment Expired on April 16, 2005;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41A .0202 CONTROL MEASURES – HIV**

The following are the control measures for the Human Immunodeficiency Virus (HIV) infection:

- (1) Persons diagnosed with HIV infection (hereafter "person living with HIV") shall:
  - (a) refrain from sexual intercourse unless condoms are used except when:
    - (i) the person living with HIV is in HIV care, is adherent with the treatment plan of the attending physician, and has been virally suppressed for at least 6 months (HIV levels below 200 copies per milliliter) at the time of sexual intercourse;
    - (ii) the sexual intercourse partner is HIV positive;
    - (iii) the sexual intercourse partner is taking HIV Pre-Exposure Prophylaxis (PrEP) – antiretroviral medication used to prevent HIV infection as directed by an attending physician; or
    - (iv) the sexual intercourse occurred in the context of a sexual assault in which the person living with HIV was the victim;
  - (b) not share needles or syringes, or any other drug-related equipment, paraphernalia, or works that may be contaminated with blood through previous use;
  - (c) not donate or sell blood, plasma, platelets, other blood products, semen, ova, tissues, organs, or breast milk, except when:

- (i) The person living with HIV is donating organs as part of a clinical research study that has been approved by an institutional review board under the criteria, standards, and regulations described in 42 USC 274f-5(a) and (b);
- or, if the United States Secretary of Health and Human Services determines under USC 274f-5(c) that participation in this clinical research is no longer warranted as a requirement for transplants, and the organ recipient is receiving the transplant under the criteria, standards, and regulations of USC 274f-5(c); or
- (ii) Sperm or ova are harvested under the supervision of an attending physician to be used by the person's spouse or partner for the purpose of achieving pregnancy.
- (d) have a test for tuberculosis;
  - (e) notify future sexual intercourse partners of the infection, unless the person living with HIV meets the criteria listed in Sub-item (1)(a)(i) of this Rule. If the person living with HIV is the victim of a sexual assault, there is no requirement to notify the assailant;
  - (f) if the time of initial infection is known, notify persons who have been sexual intercourse or needle-sharing partners since the date of infection or give the names to a disease intervention specialist employed by the local health department or by the Division of Public Health for contact tracing and notification; and
  - (g) if the date of initial infection is unknown, notify persons who have been sexual intercourse or needle-sharing partners for the previous 12 months or give names to a disease intervention specialist employed by the local health department or by the Division of Public Health for contact tracing of all sexual and needle-sharing partners for the preceding 12 months.
- (2) The attending physician shall:
- (a) give the control measures in Item (1) of this Rule to patients living with HIV in accordance with 10A NCAC 41A .0210;
  - (b) advise persons living with HIV to notify all future sexual partners of infection;
  - (c) If the attending physician knows the identity of the spouse of the person living with HIV and has not, with the consent of the person living with HIV, notified and counseled the spouse, the physician shall list the spouse on a form provided by the Division of Public Health and shall send the form to the Division by secure transmission, required by 45 CFR 164.312(e)(1), or by secure fax at (919) 715-4699. The Division shall undertake to counsel the spouse and the attending physician's responsibility to notify exposed and potentially exposed persons shall be satisfied by fulfilling the requirements of Sub-Items (2)(a) and (c) of this Rule;
  - (d) advise persons living with HIV concerning proper methods for the clean-up of blood and other body fluids;
  - (e) advise persons living with HIV concerning the risk of perinatal transmission and transmission by breastfeeding.
- (3) The attending physician of a child living with HIV who may pose a significant risk of transmission in the school or day care setting because of open, oozing wounds or because of behavioral abnormalities shall notify the local health director. The local health director shall consult with the attending physician and investigate the following circumstances:
- (a) If the child is in school or scheduled for admission and the local health director determines that there may be a significant risk of transmission, the local health director shall consult with an interdisciplinary committee, which shall include school personnel, a medical expert, and the child's parents or legal guardians to assist in the investigation and determination of risk. The local health director shall notify the superintendent or private school director of the need to appoint this interdisciplinary committee. Significant risk of transmission shall be determined in accordance with the HIV Risk and Prevention Estimates published by the Centers for Disease Control and Prevention, which are hereby incorporated by reference including subsequent amendments and editions. A copy of this publication can be accessed at no cost online at <https://www.cdc.gov/hiv/risk/estimates/riskbehaviors.html>.
  - (i) If the superintendent or private school director establishes this committee within three days of notification, the local health director shall consult with this committee.

- (ii) If the superintendent or private school director does not establish this committee within three days of notification, the local health director shall establish this committee.
  - (b) If the child is in school or scheduled for admission and the local health director determines, after consultation with the committee, that a significant risk of transmission exists, the local health director shall:
    - (i) notify the parents or legal guardians;
    - (ii) notify the committee;
    - (iii) assist the committee in determining whether an adjustment can be made to the student's school program to eliminate significant risks of transmission;
    - (iv) determine if an alternative educational setting is necessary to protect the public health;
    - (v) instruct the superintendent or private school director concerning protective measures to be implemented in the alternative educational setting developed by school personnel; and
    - (vi) consult with the superintendent or private school director to determine which school personnel directly involved with the child need to be notified of the HIV infection in order to prevent transmission and ensure that these persons are instructed regarding the necessity for protecting confidentiality.
  - (c) If the child is in day care and the local health director determines that there is a significant risk of transmission, the local health director shall notify the parents or legal guardians that the child must be placed in an alternate child care setting that eliminates the significant risk of transmission.
- (4) When health care workers or other persons have a needlestick or nonsexual non-intact skin or mucous membrane exposure to blood or body fluids that, if the source were HIV positive, would pose a significant risk of HIV transmission, the following shall apply:
  - (a) When the source person is known:
    - (i) The attending physician or occupational health care provider responsible for the exposed person, if other than the attending physician of the person whose blood or body fluids is the source of the exposure, shall notify the attending physician of the source that an exposure has occurred. The attending physician of the source person shall discuss the exposure with the source and, unless the source is already known to be living with HIV, shall test the source for HIV infection with or without consent unless it reasonably appears that the test cannot be performed without endangering the safety of the source person or the person administering the test. If the source person cannot be tested, any existing specimen shall be tested. The attending physician of the source person shall notify the attending physician of the exposed person of the infection status of the source.
    - (ii) The attending physician of the exposed person shall inform the exposed person about the infection status of the source, offer testing for HIV infection as soon as possible after exposure and at reasonable intervals until the interval since last exposure is sufficient to assure detection using current CDC HIV testing guidelines, and, if the source person was HIV positive, give the exposed person the control measures listed in Sub-Items (1)(a) through (c) of this Rule. The CDC HIV testing guidelines are hereby incorporated by reference including subsequent amendments and editions. The CDC HIV testing guidelines can be accessed at no cost online at <https://www.cdc.gov/hiv/guidelines/testing.html>, with the most current updates found at <https://stacks.cdc.gov/view/cdc/23447>. The attending physician of the exposed person shall instruct the exposed person regarding the necessity for protecting confidentiality of the source person's HIV status.
  - (b) When the source person is unknown, the attending physician of the exposed persons shall inform the exposed person of the risk of transmission and offer testing for HIV infection as soon as possible after exposure and at reasonable intervals until the interval since the

last exposure is sufficient to assure detection using the current CDC HIV testing guidelines.

- (c) A health care facility may release the name of the attending physician of a source person upon request of the attending physician of an exposed person.
- (5) The attending physician shall notify the local health director when the physician has cause to suspect a patient living with HIV is not following or cannot follow control measures and is thereby causing a significant risk of transmission. Any other person may notify the local health director when the person has cause to suspect a person living with HIV is not following control measures and is thereby causing a significant risk of transmission.
- (6) When the local health director is notified pursuant to Item (5) of this Rule of a person who is mentally ill or intellectually impaired, the local health director shall confer with the attending mental health physician or Local Management Entity/Managed Care Organization and the physician, if any, who notified the local health director to develop a plan to prevent transmission.
- (7) The Division of Public Health shall notify the Director of Health Services of the North Carolina Department of Public Safety and the prison facility administrator when any person confined in a state prison is determined to be living with HIV. If the prison facility administrator, in consultation with the Director of Health Services, determines that a confined person living with HIV is not following or cannot follow prescribed control measures, thereby presenting a significant risk of HIV transmission, the administrator and the Director shall develop and implement jointly a plan to prevent transmission, including making recommendations to the unit housing classification committee.
- (8) The local health director shall ensure that the health plan for local jails include education of jail staff and prisoners about HIV, how it is transmitted, and how to avoid acquiring or transmitting this infection.
- (9) Local health departments shall provide counseling and testing for HIV infection at no charge to the patient. Third party payers may be billed for HIV counseling and testing when such services are provided and the patient provides written consent.
- (10) HIV pre-test counseling is not required. Post-test counseling for persons living with HIV is required, must be individualized, and shall include referrals for medical and psychosocial services and control measures counseling.
- (11) Notwithstanding Rule .0201(d) of this Section, a local or state health director may require, as a part of an isolation order issued in accordance with G.S. 130A-145, compliance with a plan to assist the individual to comply with control measures. The plan shall be designed to meet the specific needs of the individual including linkage to care and may include referral to one or more of the following available and appropriate services:
  - (a) substance abuse counseling and treatment;
  - (b) harm reduction services;
  - (c) mental health counseling and treatment required to prevent transmission;
  - (d) education and counseling sessions about HIV, HIV transmission, and behavior change required to prevent transmission; and
  - (e) intimate partner violence intervention services.
- (12) The Division of Public Health shall conduct a partner notification program to assist in the notification and counseling of partners of persons living with HIV.
- (13) Every pregnant woman shall be offered HIV testing by her attending physician at her first prenatal visit and in the third trimester. The attending physician shall test the pregnant woman for HIV infection, unless the pregnant woman refuses to provide informed consent pursuant to G.S. 130A-148(h). If there is no record at labor and delivery of an HIV test result during the current pregnancy for the pregnant woman, the attending physician shall inform the pregnant woman that an HIV test will be performed, explain the reasons for testing, and the woman shall be tested for HIV without consent using a rapid HIV test unless it reasonably appears to the clinician that the test cannot be performed without endangering the safety of the pregnant woman or the person administering the test. If the pregnant woman cannot be tested, an existing specimen, if one exists that was collected within the last 24 hours, shall be tested using a rapid HIV test. The attending physician must provide the woman with the test results as soon as possible.
- (14) If an infant is delivered by a woman with no record of the result of an HIV test conducted during the pregnancy and if the woman was not tested for HIV during labor and delivery, the fact that the

mother has not been tested creates a reasonable suspicion pursuant to G.S. 130A-148(h) that the newborn has HIV infection and the infant shall be tested for HIV. An infant born in the previous 12 hours shall be tested using a rapid HIV test

- (15) Testing for HIV may be offered as part of routine laboratory testing panels using a general consent that is obtained from the patient for treatment and routine laboratory testing, so long as the patient is notified that they are being tested for HIV and given the opportunity to refuse.

*History Note: Authority G.S. 130A-135; 130A-144; 130A-145; 130A-148(h);  
Temporary Rule Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;  
Eff. March 1, 1988;  
Amended Eff. February 1, 1990; November 1, 1989; June 1, 1989;  
Temporary Amendment Eff. January 7, 1991 for a period of 180 days to expire on July 6, 1991;  
Amended Eff. May 1, 1991;  
Recodified from 15A NCAC 19A .0201 (d) and (e) Eff. June 11, 1991;  
Amended Eff. August 1, 1995; October 1, 1994; January 4, 1994; October 1, 1992;  
Temporary Amendment Eff. February 18, 2002; June 1, 2001;  
Amended Eff. January 1, 2018; November 1, 2007; April 1, 2005; April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41A .0203 CONTROL MEASURES - HEPATITIS B**

(a) The following are the control measures for hepatitis B infection. The infected persons shall:

- (1) refrain from sexual intercourse unless condoms are used except when the partner is known to be infected with or immune to hepatitis B;
- (2) not share needles or syringes;
- (3) not donate or sell blood, plasma, platelets, other blood products, semen, ova, tissues, organs, or breast milk;
- (4) if the time of initial infection is known, identify to the local health director all sexual intercourse and needle partners since the date of infection; and, if the date of initial infection is unknown, identify persons who have been sexual intercourse or needle partners during the previous six months;
- (5) for the duration of the infection, notify future sexual intercourse partners of the infection and refer them to their attending physician or the local health director for control measures; and for the duration of the infection, notify the local health director of all new sexual intercourse partners;
- (6) identify to the local health director all current household contacts;
- (7) be tested six months after diagnosis to determine if they are chronic carriers, and when necessary to determine appropriate control measures for persons exposed pursuant to Paragraph (b) of this Rule;
- (8) comply with all control measures for hepatitis B infection specified in Paragraph (a) of 10A NCAC 41A .0201, in those instances where such control measures do not conflict with other requirements of this Rule.

(b) The following are the control measures for persons reasonably suspected of being exposed:

- (1) when a person has had a sexual intercourse exposure to hepatitis B infection, the person shall be tested;
- (2) after testing, when a susceptible person has had sexual intercourse exposure to hepatitis B infection, the person shall be given a dose appropriate for body weight of hepatitis B immune globulin and hepatitis B vaccination as soon as possible; hepatitis B immune globulin shall be given no later than two weeks after the last exposure;
- (3) when a person is a household contact, sexual intercourse or needle sharing contact of a person who has remained infected with hepatitis B for six months or longer, the partner or household contact, if susceptible and at risk of continued exposure, shall be vaccinated against hepatitis B;
- (4) when a health care worker or other person has a needlestick, non-intact skin, or mucous membrane exposure to blood or body fluids that, if the source were infected with the hepatitis B virus, would pose a significant risk of hepatitis B transmission, the following shall apply:
  - (A) when the source is known, the source person shall be tested for hepatitis B infection, unless already known to be infected;

- (B) when the source is infected with hepatitis B and the exposed person is:
    - (i) vaccinated, the exposed person shall be tested for anti-HBs and, if anti-HBs is unknown or less than 10 milli-International Units per ml, receive hepatitis B vaccination and hepatitis B immune globulin as soon as possible; hepatitis B immune globulin shall be given no later than seven days after exposure;
    - (ii) not vaccinated, the exposed person shall be given a dose appropriate for body weight of hepatitis B immune globulin immediately and begin vaccination with hepatitis B vaccine within seven days;
  - (C) when the source is unknown, the determination of whether hepatitis B immunization is required shall be made in accordance with current published Control of Communicable Diseases Manual and Centers for Disease Control and Prevention guidelines. Copies of the Control of Communicable Diseases Manual may be purchased from the American Public Health Association, Publication Sales Department, Post Office Box 753, Waldora, MD 20604 for a cost of twenty-two dollars (\$22.00) each plus five dollars (\$5.00) shipping and handling. Copies of Center for Disease Control and Prevention guidelines contained in the Morbidity and Mortality Weekly Report may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 for a cost of three dollars fifty cents (\$3.50) each. Copies of both publications are available for inspection in the General Communicable Disease Control Branch, Cooper Memorial Health Building, 225 N. McDowell Street, Raleigh, North Carolina 27603-1382.
- (5) infants born to HBsAg-positive mothers shall be given hepatitis B vaccination and hepatitis B immune globulin within 12 hours of birth or as soon as possible after the infant is stabilized. Additional doses of hepatitis B vaccine shall be given in accordance with current published Control of Communicable Diseases Manual and Centers for Disease Control and Prevention Guidelines. The infant shall be tested for the presence of HBsAg and anti-HBs within three to nine months after the last dose of the regular series of vaccine; if required because of failure to develop immunity after the regular series, additional doses shall be given in accordance with current published Control of Communicable Diseases Manual and Centers for Disease Control and Prevention guidelines. Copies of the Control of Communicable Diseases Manual may be purchased from the American Public Health Association, Publication Sales Department, Post Office Box 753, Waldora, MD 20604 for a cost of twenty-two dollars (\$22.00) each plus five dollars (\$5.00) shipping and handling. Copies of Center for Disease Control and Prevention guidelines contained in the Morbidity and Mortality Weekly Report may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 for a cost of three dollars fifty cents (\$3.50) each. Copies of both publications are available for inspection in the General Communicable Disease Control Branch, Cooper Memorial Health Building, 225 N. McDowell Street, Raleigh, North Carolina 27603-1382;
- (6) infants born to mothers whose HBsAg status is unknown shall be given hepatitis B vaccine within 12 hours of birth and the mother tested. If the tested mother is found to be HBsAg-positive, the infant shall be given hepatitis B immune globulin as soon as possible and no later than seven days after birth;
- (7) when an acutely infected person is a primary caregiver of a susceptible infant less than 12 months of age, the infant shall receive an appropriate dose of hepatitis B immune globulin and hepatitis vaccinations in accordance with current published Control of Communicable Diseases Manual and Centers for Disease Control and Prevention Guidelines. Copies of the Control of Communicable Diseases Manual may be purchased from the American Public Health Association, Publication Sales Department, Post Office Box 753, Waldora, MD 20604 for a cost of twenty-two dollars (\$22.00) each plus five dollars (\$5.00) shipping and handling. Copies of Center for Disease Control and Prevention guidelines contained in the Morbidity and Mortality Weekly Report may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 for a cost of three dollars fifty cents (\$3.50) each. Copies of both publications are available for inspection in the General Communicable Disease Control Branch, Cooper Memorial Health Building, 225 N. McDowell Street, Raleigh, North Carolina 27603-1382.



(c) The attending physician shall advise all patients known to be at high risk, including injection drug users, men who have sex with men, hemodialysis patients, and patients who receive multiple transfusions of blood products, that they should be vaccinated against hepatitis B if susceptible. The attending physician shall also recommend that hepatitis B chronic carriers receive hepatitis A vaccine (if susceptible).

(d) The following persons shall be tested for and reported in accordance with 10A NCAC 41A .0101 if positive for hepatitis B infection:

- (1) pregnant women unless known to be infected; and
- (2) donors of blood, plasma, platelets, other blood products, semen, ova, tissues, or organs.

(e) The attending physician of a child who is infected with hepatitis B virus and who may pose a significant risk of transmission in the school or day care setting because of open, oozing wounds or because of behavioral abnormalities such as biting shall notify the local health director. The local health director shall consult with the attending physician and investigate the circumstances.

(f) If the child referred to in Paragraph (e) of this Rule is in school or scheduled for admission and the local health director determines that there may be a significant risk of transmission, the local health director shall consult with an interdisciplinary committee, which shall include school personnel, a medical expert, and the child's parent or guardian to assist in the investigation and determination of risk. The local health director shall notify the superintendent or private school director of the need to appoint such an interdisciplinary committee. If the superintendent or private school director establishes such a committee within three days of notification, the local health director shall consult with this committee. If the superintendent or private school director does not establish such a committee within three days of notification, the local health director shall establish such a committee.

(g) If the child referred to in Paragraph (e) of this Rule is in school or scheduled for admission and the local health director determines, after consultation with the committee, that a significant risk of transmission exists, the local health director shall:

- (1) notify the parents;
- (2) notify the committee;
- (3) assist the committee in determining whether an adjustment can be made to the student's school program to eliminate significant risks of transmission;
- (4) determine if an alternative educational setting is necessary to protect the public health;
- (5) instruct the superintendent or private school director concerning protective measures to be implemented in the alternative educational setting developed by school personnel; and
- (6) consult with the superintendent or private school director to determine which school personnel directly involved with the child need to be notified of the hepatitis B virus infection in order to prevent transmission and ensure that these persons are instructed regarding the necessity for protecting confidentiality.

(h) If the child referred to in Paragraph (e) of this Rule is in day care and the local health director determines that there is a significant risk of transmission, the local health director shall notify the parents that the child must be placed in an alternate child care setting that eliminates the significant risk of transmission.

*History Note: Authority G.S. 130A-135; 130A-144;  
Eff. February 1, 1990;  
Amended Eff. October 1, 1990;  
Recodified from 15A NCAC 19A .0201(i) Eff. June 11, 1991;  
Amended Eff. August 1, 1998; October 1, 1994;  
Temporary Amendment Eff. February 18, 2002;  
Amended Eff. April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41A .0204 CONTROL MEASURES - SEXUALLY TRANSMITTED DISEASES**

(a) Local health departments shall provide diagnosis, testing, treatment, follow-up, and preventive services for syphilis, gonorrhea, chlamydia, nongonococcal urethritis, mucopurulent cervicitis, chancroid, lymphogranuloma venereum, and granuloma inguinale. These services shall be provided upon request and at no charge to the patient.

(b) Persons infected with, exposed to, or reasonably suspected of being infected with gonorrhea, chlamydia, nongonococcal urethritis, and mucopurulent cervicitis shall:

- (1) Refrain from sexual intercourse until examined and diagnosed and treatment is completed, and all lesions are healed;

- (2) Be tested, treated, and re-evaluated in accordance with the STD Treatment Guidelines published by the U.S. Public Health Service. The recommendations contained in the STD Treatment Guidelines are the required control measures for testing, treatment, and follow-up for gonorrhea, chlamydia, nongonococcal urethritis, and mucopurulent cervicitis, and are incorporated by reference including subsequent amendments and editions. A copy of this publication is on file for public viewing with the and a copy may be obtained free of charge by writing the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27699-1915, and requesting a copy. However, urethral Gram stains may be used for diagnosis of males rather than gonorrhea cultures unless treatment has failed;
  - (3) Notify all sexual partners from 30 days before the onset of symptoms to completion of therapy that they must be evaluated by a physician or local health department.
- (c) Persons infected with, exposed to, or reasonably suspected of being infected with syphilis, lymphogranuloma venereum, granuloma inguinale, and chancroid shall:
- (1) Refrain from sexual intercourse until examined and diagnosed and treatment is completed, and all lesions are healed;
  - (2) Be tested, treated, and re-evaluated in accordance with the STD Treatment Guidelines published by the U.S. Public Health Service. The recommendations contained in the STD Treatment Guidelines are the required control measures for testing, treatment, and follow-up for syphilis, lymphogranuloma venereum, granuloma inguinale, and chancroid, except that chancroid cultures are not required;
  - (3) Give names to a disease intervention specialist employed by the local health department or by the Division of Public Health for contact tracing of all sexual partners and others as listed in this Rule:
    - (A) for syphilis:
      - (i) congenital - parents and siblings;
      - (ii) primary - all partners from three months before the onset of symptoms to completion of therapy and healing of lesions;
      - (iii) secondary - all partners from six months before the onset of symptoms to completion of therapy and healing of lesions; and
      - (iv) latent - all partners from 12 months before the onset of symptoms to completion of therapy and healing of lesions and, in addition, for women with late latent, spouses and children;
    - (B) for lymphogranuloma venereum:
      - (i) if there is a primary lesion and no buboes, all partners from 30 days before the onset of symptoms to completion of therapy and healing of lesions; and
      - (ii) if there are buboes all partners from six months before the onset of symptoms to completion of therapy and healing of lesions;
    - (C) for granuloma inguinale - all partners from three months before the onset of symptoms to completion of therapy and healing of lesions; and
    - (D) or chancroid - all partners from ten days before the onset of symptoms to completion of therapy and healing of lesions.
- (d) All persons evaluated or reasonably suspected of being infected with any sexually transmitted disease shall be tested for syphilis, encouraged to be tested confidentially for HIV, and counseled about how to reduce the risk of acquiring sexually transmitted disease, including the use of condoms.
- (e) All pregnant women shall be tested for syphilis, chlamydia and gonorrhea at the first prenatal visit. All pregnant women shall be tested for syphilis between 28 and 30 weeks of gestation and at delivery. Hospitals shall determine the syphilis serologic status of the mother prior to discharge of the newborn so that if necessary the newborn can be evaluated and treated as provided in (c)(2) of this rule. Pregnant women 25 years of age and younger shall be tested for chlamydia and gonorrhea in the third trimester or at delivery if the woman was not tested in the third trimester.
- (f) Any woman who delivers a stillborn infant shall be tested for syphilis.
- (g) All newborn infants shall be treated prophylactically against gonococcal ophthalmia neonatorum in accordance with the STD Treatment Guidelines published by the U.S. Public Health Service. The recommendations contained in the STD Treatment Guidelines are the required prophylactic treatment against gonococcal ophthalmia neonatorum.

*History Note: Authority G. S. 130A-135; 130A-144;  
 Eff. December 1, 1991;  
 Amended Eff. April 1, 2008; November 1, 2007; April 1, 2003; July 1, 1993;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41A .0205 CONTROL MEASURES – TUBERCULOSIS**

(a) The local health director shall investigate all cases of tuberculosis disease and their contacts in accordance with recommendations and guidelines published by the Centers for Disease Control and Prevention which are hereby incorporated by reference including subsequent amendments and editions. The recommendations and guidelines are the required control measures for tuberculosis, except as otherwise provided in this Rule. A copy of the recommendations and guidelines is available by contacting the Division of Public Health, 1931 Mail Service Center, Raleigh, North Carolina 27699-1931 or by accessing the Centers for Disease Control and Prevention website at <http://www.cdc.gov/tb>.

(b) The following persons shall have a tuberculin skin test (TST) or Interferon Gamma Release Assay (IGRA) administered in accordance with recommendations and guidelines published by the Centers for Disease Control and Prevention:

- (1) Household and other high priority contacts of active cases of pulmonary and laryngeal tuberculosis. For purposes of this Rule, a high priority contact is defined in accordance with Centers for Disease Control and Prevention guidelines. If the contact's initial skin or IGRA test is negative, and the case is confirmed by culture, a repeat skin or IGRA test shall be performed 8 to 10 weeks after the exposure has ended;
- (2) Persons reasonably suspected of having tuberculosis disease;
- (3) Inmates in the custody of the Department of Public Safety, Division of Adult Correction upon incarceration, and annually thereafter;
- (4) Persons with HIV infection or AIDS.

(c) The following persons shall be tested using a two-step skin test method or a single IGRA test, administered in accordance with recommendations and guidelines published by the Centers for Disease Control and Prevention:

- (1) Staff with direct inmate contact in the Department of Public Safety, Division of Adult Correction upon employment;
- (2) Staff of licensed nursing homes or adult care homes upon employment;
- (3) Residents upon admission to licensed nursing homes or adult care homes. If the individual is being admitted directly from another hospital, licensed nursing home or adult care home in North Carolina and there is documentation of a two-step skin test or a single IGRA test, the individual does not need to be retested;
- (4) Staff in adult day care centers providing care for persons with HIV infection or AIDS upon employment.

(d) Except as provided in the last sentence of Subparagraph (c)(3) of this Rule, persons listed in Paragraph (c) of this rule shall be required only to have a single TST or IGRA in the following situations:

- (1) If the person has ever had a two-step skin test; or
- (2) If the person has had a single skin test within the last twelve months.

(e) Persons with a positive tuberculin skin test or IGRA shall be evaluated by an interview to screen for symptoms and a chest x-ray if they do not have a documented chest x-ray that was performed on the date of the positive test or later.

(f) Treatment and follow-up for tuberculosis infection or disease shall be in accordance with the recommendations and guidelines from the Centers for Disease Control and Prevention.

(g) Persons with active tuberculosis disease shall complete a standard multi-drug regimen, and shall be managed using Directly Observed Therapy (DOT), which is the actual observation of medication ingestion by a health care worker (HCW).

If a standard multi-drug regimen cannot be used, the attending physician shall consult with the state Tuberculosis Medical Director or designee on the treatment plan.

(h) Persons with suspected or known active pulmonary or laryngeal tuberculosis who have sputum smears positive for acid fast bacilli shall be considered infectious and shall be managed using airborne precautions including respiratory isolation or isolation in their home with no new persons exposed. These individuals are considered noninfectious and use of airborne precautions, precautions including respiratory isolation or isolation in their home may be discontinued when:

- (1) Sputum specimen results meet Centers for Disease Control and Prevention criteria for discontinuation of respiratory isolation;
- (2) They have two consecutive sputum smears collected at least eight hours apart which are negative;

- (3) It has been at least seven days since the last positive sputum smear; and
  - (4) They have been compliant on tuberculosis medications to which the organism is susceptible and there is evidence of clinical response to tuberculosis treatment.
- (i) Persons with suspected or known active pulmonary or laryngeal tuberculosis who are initially sputum smear negative require respiratory isolation until they have been started on tuberculosis treatment to which the organism is susceptible and there is evidence of clinical response to treatment.

*History Note: Authority G.S. 130A-135; 130A-144; Eff. March 1, 1992; Amended Eff. April 1, 2006; April 1, 2003; August 1, 1998; October 1, 1994; Temporary Amendment Eff. August 1, 2011; Amended Eff. July 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

### **10A NCAC 41A .0206 INFECTION PREVENTION – HEALTH CARE SETTINGS**

(a) The following definitions apply throughout this Rule:

- (1) "Health care organization" means a hospital; clinic; physician, dentist, podiatrist, optometrist, or chiropractic office; home care agency; nursing home; local health department; community health center; mental health facility; hospice; ambulatory surgical facility; urgent care center; emergency room; Emergency Medical Service (EMS) agency; pharmacies where a health practitioner offers clinical services; or any other organization that provides clinical care.
- (2) "Invasive procedure" means entry into tissues, cavities, or organs or repair of traumatic injuries. The term includes the use of needles to puncture skin, vaginal and cesarean deliveries, surgery, and dental procedures during which bleeding occurs or the potential for bleeding exists.
- (3) "Non-contiguous" means not physically connected.

(b) In order to prevent transmission of HIV, hepatitis B, hepatitis C and other bloodborne pathogens each health care organization that performs invasive procedures shall implement a written infection control policy. The health care organization shall ensure that health care workers in its employ or who have staff privileges are trained in the principles of infection control and the practices required by the policy; require and monitor compliance with the policy; and update the policy as needed to prevent transmission of HIV, hepatitis B, hepatitis C and other bloodborne pathogens. The health care organization shall designate one on-site staff member for each noncontiguous facility to direct these activities. The designated staff member in each health care facility shall complete a course in infection control approved by the Department. The Department shall approve a course that addresses:

- (1) Epidemiologic principles of infectious disease;
- (2) Principles and practice of asepsis;
- (3) Sterilization, disinfection, and sanitation;
- (4) Universal blood and body fluid precautions;
- (5) Safe injection practices;
- (6) Engineering controls to reduce the risk of sharp injuries;
- (7) Disposal of sharps; and
- (8) Techniques that reduce the risk of sharp injuries to health care workers.

(c) The infection control policy required by this Rule shall address the following components that are necessary to prevent transmission of HIV, hepatitis B, hepatitis C and other bloodborne pathogens:

- (1) Sterilization and disinfection, including a schedule for maintenance and microbiologic monitoring of equipment; the policy shall require documentation of maintenance and monitoring;
- (2) Sanitation of rooms and equipment, including cleaning procedures, agents, and schedules;
- (3) Accessibility of infection control devices and supplies; and
- (4) Procedures to be followed in implementing 10A NCAC 41A .0202(4) and .0203(b)(4) when a health care provider or a patient has an exposure to blood or other body fluids of another person in a manner that poses a significant risk of transmission of HIV or hepatitis B.

(d) Health care workers and emergency responders shall, with all patients, follow Centers for Disease Control and Prevention Guidelines on blood and body fluid precautions incorporated by reference in 10A NCAC 41A .0201.

(e) Health care workers who have exudative lesions or weeping dermatitis shall refrain from handling patient care equipment and devices used in performing invasive procedures and from all direct patient care that involves the potential for contact of the patient, equipment, or devices with the lesion or dermatitis until the condition resolves.

(f) All equipment used to puncture skin, mucous membranes, or other tissues in medical, dental, or other settings must be disposed of in accordance with 15A NCAC 13B .1200 after use or sterilized prior to reuse.

*History Note: Authority G.S. 130A-144; 130A-145; 130A-147;  
Eff. October 1, 1992;  
Amended Eff. January 1, 2010; December 1, 2003; July 1, 1994; January 4, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41A .0207 HIV AND HEPATITIS B INFECTED HEALTH CARE WORKERS**

(a) The following definitions shall apply throughout this Rule:

- (1) "Surgical or obstetrical procedures" means vaginal deliveries or surgical entry into tissues, cavities, or organs. The term does not include phlebotomy; administration of intramuscular, intradermal, or subcutaneous injections; needle biopsies; needle aspirations; lumbar punctures; angiographic procedures; endoscopic and bronchoscopic procedures; or placing or maintaining peripheral or central intravascular lines.
- (2) "Dental procedure" means any dental procedure involving manipulation, cutting, or removal of oral or perioral tissues, including tooth structure during which bleeding occurs or the potential for bleeding exists. The term does not include the brushing of teeth.

(b) All health care workers who perform surgical or obstetrical procedures or dental procedures and who know themselves to be infected with HIV or hepatitis B shall notify the State Health Director. Health care workers who assist in these procedures in a manner that may result in exposure of patients to their blood and who know themselves to be infected with HIV or hepatitis B shall also notify the State Health Director. The notification shall be made in writing to the Chief, Communicable Disease Control Branch, 1902 Mail Service Center, Raleigh, NC 27699-1902..

(c) The State Health Director shall investigate the practice of any infected health care worker and the risk of transmission to patients. The investigation may include review of medical and work records and consultation with health care professionals who may have information necessary to evaluate the clinical condition or practice of the infected health care worker. The attending physician of the infected health care worker shall be consulted. The State Health Director shall protect the confidentiality of the infected health care worker and may disclose the worker's infection status only when essential to the conduct of the investigation or periodic reviews pursuant to Paragraph (h) of this Rule. When the health care worker's infection status is disclosed, the State Health Director shall give instructions regarding the requirement for protecting confidentiality.

(d) If the State Health Director determines that there may be a significant risk of transmission of HIV or hepatitis B to patients, the State Health Director shall appoint an expert panel to evaluate the risk of transmission to patients, and review the practice, skills, and clinical condition of the infected health care worker, as well as the nature of the surgical or obstetrical procedures or dental procedures performed and operative and infection control techniques used. Each expert panel shall include an infectious disease specialist, an infection control expert, a person who practices the same occupational specialty as the infected health care worker and, if the health care worker is a licensed professional, a representative of the appropriate licensure board. The panel may include other experts. The State Health Director shall consider for appointment recommendations from health care organizations and local societies of health care professionals.

(e) The expert panel shall review information collected by the State Health Director and may request that the State Health Director obtain additional information as needed. The State Health Director shall not reveal to the panel the identity of the infected health care worker. The infected health care worker and the health care worker's attending physician shall be given an opportunity to present information to the panel. The panel shall make recommendations to the State Health Director that address the following:

- (1) Restrictions that are necessary to prevent transmission from the infected health care worker to patients;
- (2) Identification of patients that have been exposed to a significant risk of transmission of HIV or hepatitis B; and
- (3) Periodic review of the clinical condition and practice of the infected health care worker.

(f) If, prior to receipt of the recommendations of the expert panel, the State Health Director determines that immediate practice restrictions are necessary to prevent an imminent threat to the public health, the State Health Director shall issue an isolation order pursuant to G.S. 130A-145. The isolation order shall require cessation or modification of some or all surgical or obstetrical procedures or dental procedures to the extent necessary to prevent

an imminent threat to the public health. This isolation order shall remain in effect until an isolation order is issued pursuant to Paragraph (g) of this Rule or until the State Health Director determines the imminent threat to the public health no longer exists.

(g) After consideration of the recommendations of the expert panel, the State Health Director shall issue an isolation order pursuant to G.S. 130A-145. The isolation order shall require any health care worker who is allowed to continue performing surgical or obstetrical procedures or dental procedures to, within a time period specified by the State Health Director, successfully complete a course in infection control procedures approved by the Department of Health and Human Services, General Communicable Disease Control Branch, in accordance with 10A NCAC 41A .0206(e). The isolation order shall require practice restrictions, such as cessation or modification of some or all surgical or obstetrical procedures or dental procedures, to the extent necessary to prevent a significant risk of transmission of HIV or hepatitis B to patients. The isolation order shall prohibit the performance of procedures that cannot be modified to avoid a significant risk of transmission. If the State Health Director determines that there has been a significant risk of transmission of HIV or hepatitis B to a patient, the State Health Director shall notify the patient or assist the health care worker to notify the patient.

(h) The State Health Director shall request the assistance of one or more health care professionals to obtain information needed to periodically review the clinical condition and practice of the infected health care worker who performs or assists in surgical or obstetrical procedures or dental procedures.

(i) An infected health care worker who has been evaluated by the State Health Director shall notify the State Health Director prior to a change in practice involving surgical or obstetrical procedures or dental procedures. The infected health care worker shall not make the proposed change without approval from the State Health Director. If the State Health Director makes a determination in accordance with Paragraph (c) of this Rule that there is a significant risk of transmission of HIV or hepatitis B to patients, the State Health Director shall appoint an expert panel in accordance with Paragraph (d) of this Rule. Otherwise, the State Health Director shall notify the health care worker that he or she may make the proposed change in practice.

(j) If practice restrictions are imposed on a licensed health care worker, a copy of the isolation order shall be provided to the appropriate licensure board. The State Health Director shall report violations of the isolation order to the appropriate licensure board. The licensure board shall report to the State Health Director any information about the infected health care worker that may be relevant to the risk of transmission of HIV or hepatitis B to patients.

*History Note: Authority G.S. 130A-144; 130A-145;  
Eff. October 1, 1992;  
Amended Eff. April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41A .0208 CONTROL MEASURES -- SMALLPOX; VACCINIA DISEASE**

(a) Guidelines and recommended actions for prevention of the spread of smallpox and for prevention of the spread of vaccinia published by the Center for Disease Control and Prevention (CDC) shall supercede those contained in the control of Communicable Disease Manual and are incorporated by reference, including subsequent amendments and editions. Copies of CDC guidelines contained in the Morbidity and Mortality weekly reports may be purchased from the Superintendent of Documents, US Government Printing Office, Washington DC 20402 for a total cost of three dollars and fifty cents (\$3.50) each.

(b) The attending physician of a person vaccinated against smallpox shall report to the local health department the existence of any of the following:

- (1) autoinnoculation;
- (2) generalized vaccinia;
- (3) eczema vaccinatum;
- (4) progressive vaccinia; and
- (5) post vaccination encephalitis.

The attending physician shall make the report to the local health department within 24 hours. The local health department shall notify the Division of Public Health within 24 hours.

(c) The physician responsible for vaccinating a person against smallpox and the physician diagnosing a person with vaccinia disease shall instruct the patient to follow CDC guidelines for the prevention of the spread of vaccinia adopted by reference in Paragraph (a) of this Rule. The patient shall follow these guidelines.

(d) The State Health Director or a local health director may use isolation authority pursuant to G.S. 130A-145 when necessary to prevent the spread of smallpox or vaccinia virus.

*History Note:* Authority G.S. 130A-144;  
Temporary Adoption Eff. February 13, 2003;  
Eff. August 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41A .0209 LABORATORY TESTING**

All laboratories shall do the following:

- (1) When *Neisseria meningitidis* is isolated from a normally sterile site, test the organism for specific serogroup or send the isolate to the State Laboratory of Public Health for serogrouping;
- (2) When a stool culture is requested on a specimen from a person with bloody diarrhea, culture the stool for shiga-toxin producing *Escherichia coli* or send the specimen to the State Laboratory of Public Health;
- (3) When *Haemophilus influenzae* is isolated, test the organism for specific serogroup or send the isolate to the State Laboratory of Public Health for serogrouping; and
- (4) When *Mycobacterium tuberculosis* complex is isolated, test the organism for specific restriction fragment length polymorphism (RFLP) or send the isolate, or a subculture of the isolate, to the State Laboratory of Public Health for genotyping.

*History Note:* Authority G.S. 130A-139;  
Eff. October 1, 1994;  
Temporary Amendment Eff. February 18, 2002;  
Amended Eff. April 1, 2004; April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41A .0210 DUTIES OF ATTENDING PHYSICIANS**

Immediately upon making a diagnosis of or reasonably suspecting a communicable disease or communicable condition for which control measures are provided in Rule .0201, .0202 or .0203 of this Section, the attending physician shall instruct the patient and any other person specified in those control measures to carry out those control measures and shall give sufficiently detailed instructions for proper compliance, or the physician shall request the local health director to give such instruction. When making the initial telephone report for diseases and conditions required to be reported within 24 hours, the physician shall inform the local health director of the control measures given.

*History Note:* Authority G.S. 130A-144;  
Temporary Rule Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;  
Eff. March 1, 1988;  
Recodified from 15A NCAC 19A .0202 Eff. June 11, 1991;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41A .0211 DUTIES OF OTHER PERSONS**

(a) The local health director may reveal the identity and diagnosis of a person with a reportable communicable disease or communicable condition or other communicable disease or communicable condition which represents a significant threat to the public health to those persons specified in Paragraph (b) when disclosure is necessary to prevent transmission in the facility or establishment for which they are responsible. The local health director shall ensure that all persons so notified are instructed regarding the necessity for protecting confidentiality.

(b) The following persons shall require that any person about whom they are notified pursuant to Paragraph (a) comply with control measures given by the local health director to prevent transmission in the facility or establishment:

- (1) the principal of any private or public school;
- (2) employers;
- (3) superintendents or directors of all public or private institutions, hospitals, or jails; and
- (4) operators of a child day care center, child day care home, or other child care providers.

(c) The provisions of Paragraphs (a) and (b) shall not apply with regard to gonorrhea, syphilis, chancroid, granuloma inguinale, lymphogranuloma venereum, chlamydia, non-gonococcal urethritis, AIDS, and HIV infection. However, persons may be notified with regard to these diseases and conditions in accordance with 10A NCAC 41A .0201, .0202 or .0203 of this Section.

*History Note:* Authority G.S. 130A-143; 130A-144;  
Temporary Rule Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;  
Eff. March 1, 1988;  
Amended Eff. June 1, 1989;  
Recodified from 15A NCAC 19A .0203 Eff. June 11, 1991;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41A .0212 HANDLING AND TRANSPORTATION OF BODIES**

(a) Persons handling the body of any person who has died shall comply with the standard precautions for all patient care published by the United States Centers for Disease Control and Prevention, which are hereby incorporated by reference, including any subsequent amendments and editions, and available free of charge at: <https://www.cdc.gov/infectioncontrol/basics/standard-precautions.html>.

(b) It shall be the duty of the physician, physician assistant, or nurse practitioner attending to any person who dies and is known to be infected with HIV, plague, hepatitis B, or COVID-19 or any person who dies and is known or reasonably suspected to be infected with smallpox, rabies, severe acute respiratory syndrome (SARS), or Jakob-Creutzfeldt to provide written, verbal, or electronic notification to individuals handling the body of the proper precautions to prevent infection, as set forth in Paragraphs (d), (e), and (f) of this Rule. This written, verbal, or electronic notification shall be provided to the funeral service director, funeral service worker, or body transporter at the time the body is removed from any hospital, nursing home, or other health care facility. When the patient dies in a location other than a health care facility, the physician, physician assistant, or nurse practitioner shall notify the funeral service director, funeral service worker, or body transporter of the precautions required as soon as the physician, physician assistant, or nurse practitioner becomes aware of the death. These precautions are set forth in Paragraphs (d), (e), and (f) of this Rule. The duty to notify shall be considered met if performed by one of the following individuals:

- (1) the physician, physician assistant, or nurse practitioner attending to the person who died; or
- (2) a designated representative of the physician, physician assistant, or nurse practitioner.

(c) It shall also be the duty of a medical examiner with jurisdiction pursuant to G.S. 130A-383 over the body of any person who dies and is known to be infected with COVID-19 to provide written, verbal, or electronic notification to the funeral service director, funeral service worker, or body transporter at the time the body is removed from medical examiner custody of the proper precautions to prevent infection, as set forth in Paragraph (f) of this Rule. The duty to notify shall be considered met if performed by a designated representative of the medical examiner.

(d) The body of any person who died and is known or reasonably suspected to be infected with smallpox or severe acute respiratory syndrome (SARS) or any person who died and is known to be infected with plague shall not be embalmed. The body shall be enclosed in a tightly sealed outer case that will prevent leakage or escape of odors as soon as possible after death and before the body is removed from the hospital room, home, building, or other premises where the death occurred. This case shall not be reopened except with the consent of the local health director. Nothing in this Paragraph shall prohibit cremation.

(e) Persons handling the body of any person who died and is known to be infected with HIV or hepatitis B or any person who died and is known or reasonably suspected to be infected with Jakob-Creutzfeldt or rabies shall be provided written, verbal, or electronic notification to observe blood and body fluid precautions.

(f) Persons handling the body of any person who died and is known to be infected with COVID-19 shall be provided written, verbal, or electronic notification to observe the COVID-19 guidance for funeral home workers published by the United States Centers for Disease Control and Prevention, which is hereby incorporated by reference, including any subsequent amendments or editions, and available free of charge at: <https://www.cdc.gov/coronavirus/2019-ncov/community/funeral-faqs.html>.

*History Note:* Authority G.S. 130A-144; 130A-146;  
Temporary Rule Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;  
Eff. March 1, 1988;  
Recodified from 15A NCAC 19A .0204 Eff. June 11, 1991;



*Temporary Amendment Eff. November 1, 2003;*  
*Amended Eff. April 1, 2004;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*  
*Emergency Amendment Eff. September 25, 2020;*  
*Temporary Amendment Eff. December 1, 2020;*  
*Amended Eff. October 1, 2021.*

**10A NCAC 41A .0213 CONTROL MEASURES -- SARS**

Guidelines and recommended actions for prevention of the spread of Severe Acute Respiratory Syndrome (SARS) published by the Centers for Disease Control and Prevention (CDC) shall be the required control measures for SARS and are incorporated by reference, including subsequent amendments and editions. Copies of CDC guidelines contained in the Morbidity and Mortality weekly reports may be purchased from the Superintendent of Documents, US Government Printing Office, Washington DC 20402 for a total cost of three dollars and fifty cents (\$3.50) each.

*History Note: Authority G.S. 130A-144;*  
*Temporary Adoption Eff. May 16, 2003;*  
*Eff. August 1, 2004;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**10A NCAC 41A .0214 CONTROL MEASURES - HEPATITIS C**

The following are the control measures for hepatitis C infection:

- (1) Infected persons shall not:
  - (a) share needles or syringes, any other drug-related equipment or paraphernalia, or personal items, such as razors, that may be contaminated with blood through previous use; or
  - (b) donate or sell blood, plasma, platelets, or other blood products.
- (2) Persons with acute hepatitis C infection shall:
  - (a) if the date of initial infection is known, identify to the local health director all needle partners since the date of infection;
  - (b) if the date of initial infection is unknown, identify persons who have been needle partners during the previous six months.
- (3) The attending physician shall:
  - (a) advise all patients known to be at high risk, including injection drug users, hemodialysis patients, patients who received blood transfusions or solid organ transplants before July 1992, patients who received clotting factor concentrates made before 1987, persons with HIV infection, and persons with known exposure to hepatitis C, that they should be tested for hepatitis C;
  - (b) advise infected persons of the potential for transmission to others via blood or body fluids;
  - (c) provide or recommend that the infected patient seek medical evaluation for the presence or development of chronic liver disease; and
  - (d) recommend that persons with chronic hepatitis C receive hepatitis A and hepatitis B vaccines unless serological testing indicates that they are immune to these infections by virtue of past infection or vaccination.
- (4) When a health care worker or other person has a needlestick, non-intact skin, or mucous membrane exposure to blood or body fluids that would pose a significant risk of hepatitis C transmission if the source were infected with the hepatitis C virus, the following apply:
  - (a) When the source is known, the attending physician or occupational health care provider responsible for the exposed person, if other than the attending physician of the person whose blood or body fluids is the source of the exposure, shall notify the attending physician of the source that an exposure has occurred. The attending physician of the source person shall discuss the exposure with the source and, unless the source is already known to be infected, shall test the source for hepatitis C virus infection with or without consent unless it reasonably appears that the test cannot be performed without endangering the safety of the source person or the person administering the test. If the

source person cannot be tested, an existing specimen of his or her blood, if one exists, shall be tested. The attending physician of the source person shall notify the attending physician of the exposed person of the infection status of the source.

- (b) The attending physician of the exposed person shall inform the exposed person about the infection status of the source and shall instruct the exposed person regarding the necessity for protecting confidentiality. If the source person is infected with hepatitis C virus or the source person's infection status is unknown, the attending physician of the exposed person shall advise the exposed person to seek testing for hepatitis C virus infection as soon as possible and again four to six months after the exposure. If the source person was hepatitis C virus infected, the attending physician shall inform the exposed person of the measures required in Sub-Items (1)(a) through (b) of this Rule.
- (5) The Centers for Disease Control and Prevention (CDC) Nationally Notifiable Diseases and Conditions (NNDC) Current Case Definitions for Hepatitis C are hereby incorporated by reference, including subsequent amendments and editions. The CDC NNDC may be accessed from the internet at ([http://www.cdc.gov/osels/ph\\_surveillance/nndss/phs/infdis.htm](http://www.cdc.gov/osels/ph_surveillance/nndss/phs/infdis.htm)). This document is also available for inspection at the North Carolina Division of Public Health, 1902 Mail Service Center, Raleigh NC 27603.

*History Note:* Authority G.S. 130A-135; 130A-144;  
Eff. April, 1, 2012;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

## **SECTION .0300 - SPECIAL CONTROL MEASURES**

### **10A NCAC 41A .0301 DEFINITIONS**

The following definitions shall apply in the interpretation of 10A NCAC 41A .0302:

- (1) "Turtle" means any reptile of the order Testudines.
- (2) "Institution" means a school, college, university, research laboratory, or other facility having a bona fide research or teaching interest in turtles.

*History Note:* Authority G.S. 130A-144;  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. May 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

### **10A NCAC 41A .0302 SALE OF TURTLES RESTRICTED**

(a) To prevent the spread of salmonellosis from pet turtles to humans, no turtle with a carapace length of less than four inches shall be sold, offered for sale, or bartered by any retail or wholesale establishments except as follows:

- (1) the sale of turtles shall be allowed to institutions for scientific or educational purposes;
- (2) the sale of turtles shall be allowed for food purposes; and
- (3) wholesale establishments dealing in the sale of turtles shall be allowed to sell turtles to other wholesale or retail establishments outside of the State of North Carolina, subject to the applicable state and federal laws.

(b) For establishments selling turtles in accordance with Paragraph (a) of this Rule, the following information, or words having similar meaning, shall be posted at every display of turtles for retail sale, printed on the sales receipt issued by the seller at the time of the sale, or printed on an information sheet accompanying the sales receipt issued by the seller:

"CAUTION: Children under 5 years old and people with weak immune systems (such as chemotherapy patients or those with HIV/AIDS) should avoid contact with reptiles. These people can get very sick from a germ called Salmonella that reptiles carry. Reptiles include lizards, snakes, alligators, and turtles. Wash hands thoroughly after handling turtles or material that had contact with turtles. Do not allow water or any other substance that had contact with turtles to come in contact with food or areas where food is prepared. Do not bathe turtles or clean their tanks in

your kitchen or bathroom and do not have close contact with turtles which could allow direct contamination of the mouth (e.g., kissing, etc.)."

(c) The seller shall keep a record of all purchases, losses, and other dispositions of turtles for at least one year.

*History Note:* Authority G.S. 130A-144;  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. May 1, 2017; February 3, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41A .0303 RECORDING THE SALES OF BIRDS**

(a) A business engaged in the retail sale of birds shall maintain a record of each sale for at least six months after the sale. The record shall include the name and address of the purchaser of each bird. The record shall be made available to the Department upon the request of the Department.

(b) This Rule shall not apply to the sale of birds for hunting, scientific, educational, agricultural or food purposes.

*History Note:* Authority G.S. 130A-144;  
Eff. June 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

### **SECTION .0400 - IMMUNIZATION**

#### **10A NCAC 41A .0401 DOSAGE AND AGE REQUIREMENTS FOR IMMUNIZATION**

(a) Every individual in North Carolina required to be immunized pursuant to G.S. 130A-152 through 130A-157 shall be immunized against the following diseases and have documentation of age-appropriate vaccination in accordance with the Advisory Committee on Immunization Practices (ACIP).

- (1) Diphtheria, tetanus, and pertussis (whooping cough) - five doses: three doses by age seven months; and 2 booster doses, the first by age 19 months and the second on or after the fourth birthday and before entering school for the first time. However:
  - (A) Individuals who receive the first booster dose of diphtheria/tetanus/pertussis vaccine on or after the fourth birthday are not required to have a second booster.
  - (B) Individuals entering college or university for the first time on or after July 1, 2008 must have had three doses of tetanus/diphtheria toxoid; one of which must be tetanus/diphtheria/pertussis.
  - (C) A booster dose of tetanus/diphtheria/pertussis vaccine is required for individuals who have not previously received it and are entering the seventh grade or by 12 years of age, whichever comes first.
- (2) Poliomyelitis vaccine - four doses: two doses of trivalent type by age five months; a third dose trivalent type before age 19 months; and a booster dose of trivalent type on or after his or her fourth birthday and before entering school for the first time. However:
  - (A) An individual attending school who has attained his or her 18th birthday is not required to receive a polio vaccine.
  - (B) The requirements for the booster dose on or after the fourth birthday do not apply to individuals who began school before July 1, 2015.
  - (C) Individuals who receive the third dose of poliomyelitis vaccine on or after the fourth birthday are not required to receive a fourth dose if the third dose is given at least six months after the second dose.
- (3) Measles (rubeola) vaccine - two doses of live, attenuated vaccine administered at least 28 days apart: the first dose on or after age 12 months and before age 16 months; and a second dose before entering school for the first time. However:
  - (A) An individual who has been documented by serological testing to have a protective antibody titer against measles is not required to receive measles vaccine.

- (B) An individual who has been diagnosed before January 1, 1994, by a physician (or designee such as a nurse practitioner or physician's assistant) as having measles (rubeola) disease is not required to receive measles vaccine.
  - (C) An individual born before 1957 is not required to receive measles vaccine except in measles outbreak situations.
  - (D) The requirement for a second dose of measles vaccine does not apply to individuals who enter school or in college or university for the first time before July 1, 1994.
- (4) Rubella vaccine - one dose of live, attenuated vaccine on or after age 12 months and before age 16 months. However:
- (A) An individual who has laboratory confirmation of rubella disease or who has been documented by serological testing to have a protective antibody titer against rubella is not required to receive rubella vaccine.
  - (B) An individual who has attained his or her fiftieth birthday is not required to receive rubella vaccine except in outbreak situations.
  - (C) An individual who entered a college or university after his or her thirtieth birthday and before February 1, 1989 is not required to meet the requirement for rubella vaccine except in outbreak situations.
- (5) Mumps vaccine – two doses: the first dose of live, attenuated vaccine administered on or after age 12 months and before age 16 months; and a second dose before entering school, college or university for the first time. However:
- (A) An individual who has laboratory confirmation of disease, or has been documented by serological testing to have a protective antibody titer against mumps is not required to receive the mumps vaccine.
  - (B) An individual born before 1957 is not required to receive the mumps vaccine.
  - (C) The requirements for the mumps vaccine do not apply to individuals who entered the first grade for the first time before July 1, 1987 or college or university before July 1, 1994.
  - (D) An individual entering school, college or university before July 1, 2008 is not required to receive a second dose of mumps vaccine.
- (6) Haemophilus influenzae, b conjugate vaccine - three doses of HbOC or PRP-T or two doses of PRP-OMP before age 7 months and a booster dose of any type on or after age 12 months and by age 16 months. However:
- (A) Individuals who receive the first dose of Haemophilus influenzae, b vaccine on or after 7 months of age and before 12 months of age are required to have two doses of HbOC, PRP-T or PRP-OMP and a booster dose on or after 12 months of age and by age 16 months.
  - (B) Individuals who receive the first dose of Haemophilus influenzae, b vaccine on or after 12 months of age and before 15 months of age are required to have only 2 doses of HbOC, PRP-T or PRP-OMP and a booster dose two months later.
  - (C) Individuals who receive the first dose of Haemophilus influenzae, b vaccine on or after 15 months of age are required to have only one dose of any of the Haemophilus influenzae b conjugate vaccines.
  - (D) No individual who has passed his or her fifth birthday is required to be vaccinated against Haemophilus influenzae, b.
- (7) Hepatitis B vaccine – three doses: the first dose by age 3 months, a second dose before age 5 months and a third dose by age 19 months. However:
- (A) The last dose of the hepatitis B vaccine series shall not be administered before 24 weeks of age.
  - (B) Individuals born before July 1, 1994 are not required to be vaccinated against hepatitis B.
- (8) Varicella vaccine – two doses administered at least 28 days apart; one dose on or after age 12 months of age and before age 19 months; and a second dose before entering school for the first time. However:
- (A) An individual who has laboratory confirmation of varicella disease immunity or has been documented by serological testing to have a protective antibody titer against varicella is not required to varicella vaccine.
  - (B) An individual who has documentation from a physician, nurse practitioner, or physician's assistant verifying history of varicella disease is not required to receive varicella vaccine.

- The documentation shall include the name of the individual with a history of varicella disease, the approximate date or age of infection, and a healthcare provider signature.
- (C) An individual born before April 1, 2001 is not required to receive varicella vaccine.
  - (D) The requirement for the second dose of varicella vaccine shall not apply to individuals who enter Kindergarten or first grade for the first time before July 1, 2015.
- (9) Pneumococcal conjugate vaccine – Four doses; 3 doses by age 7 months and a booster dose at 12 through 15 months of age. However:
- (A) Individuals who receive the first dose of pneumococcal conjugate vaccine on or after 7 months of age and before 12 months of age are required to have 2 doses at least 4 weeks apart; and a booster dose at 12 through 15 months of age.
  - (B) Individuals who receive the first dose of pneumococcal conjugate vaccine on or after 12 months of age and before 24 months of age are required to have 2 doses at least 8 weeks apart to complete the series.
  - (C) Individuals who receive the first dose of pneumococcal conjugate vaccine on or after 24 months of age and before 5 years are required to have 1 dose to complete the series.
  - (D) No individual who has passed his or her fifth birthday shall be required to be vaccinated against pneumococcal disease.
  - (E) An individual born before July 1, 2015 shall not be required to receive pneumococcal conjugate vaccine.
- (10) Meningococcal conjugate vaccine – two doses: one dose is required for individuals entering the seventh grade or by 12 years of age, whichever comes first, on or after July 1, 2015. A booster dose is required by 17 years of age or by entering the 12th grade. However:
- (A) The first dose does not apply to individuals who entered seventh grade before July 1, 2015.
  - (B) The booster dose does not apply to individuals who entered the 12<sup>th</sup> grade before August 1, 2020.
  - (C) If the first dose is administered on or after the 16<sup>th</sup> birthday, a booster dose is not required.
  - (D) An individual born before January 1, 2003 shall not be required to receive a meningococcal conjugate vaccine.

(b) The healthcare provider shall administer immunizations in accordance with this Rule. However, if a healthcare provider administers vaccine up to and including the fourth day prior to the required minimum age, the individual dose is not required to be repeated. Doses administered more than four days prior to the requirements are considered invalid doses and shall be repeated.

(c) The State Health Director may suspend temporarily any portion of the requirements of this Rule due to emergency conditions, such as the unavailability of vaccine. The Department shall give notice in writing to all local health departments and other providers currently receiving vaccine from the Department when the suspension takes effect and when the suspension is lifted. When any vaccine series is disrupted by such a suspension, the next dose shall be administered within 90 days of the lifting of the suspension and the series resumed in accordance with intervals determined by the most recent recommendations of the Advisory Committee on Immunization Practices. These recommendations may be accessed free of charge at <http://www.cdc.gov/vaccines/acip/>.

*History Note: Authority G.S. 130A-152(c); 130A-155.1;*  
*Eff. February 1, 1976;*  
*Amended Eff. July 1, 1977;*  
*Readopted Eff. December 5, 1977;*  
*Temporary Amendment Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;*  
*Amended Eff. October 1, 1995; October 1, 1994; January 1, 1994; January 4, 1993;*  
*Temporary Amendment Eff. February 23, 2000; August 20, 1999; May 21, 1999;*  
*Amended Eff. August 1, 2000;*  
*Temporary Amendment Eff. May 17, 2002; April 1, 2002; February 18, 2002; August 1, 2001;*  
*Amended Eff. July 1, 2015; January 1, 2008; November 1, 2005; January 1, 2005; April 1, 2003;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

All vaccine preparations licensed for interstate use by the Bureau of Biologic Standards of the U.S. Food and Drug Administration are approved for use in fulfilling the requirements of 10 NCAC 07A .0401.

*History Note:* Authority G.S. 130A-152(c);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41A .0403 NON-RELIGIOUS PERSONAL BELIEF NO EXEMPTION**

Except as provided in G.S. 130A-156 and G.S. 130A-157, and 10A NCAC 41A .0404 and .0405, no child shall be exempt from the requirements of 10A NCAC 41 .0401; there is no exception to these requirements for the case of a personal belief or philosophy of a parent or guardian not founded upon a religious belief.

*History Note:* Authority G.S. 130A-152(c);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. October 1, 1984; July 1, 1979;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41A .0404 MEDICAL EXEMPTIONS FROM IMMUNIZATION**

(a) Certification of a medical exemption by a physician pursuant to G.S. 130A-156 shall be in writing and shall state the basis of the exemption, the specific vaccine or vaccines the individual should not receive, and the length of time the exemption will apply for the individual.

(b) Medical contraindications for which medical exemptions may be certified by a physician for immunizations are included in the most recent General Recommendations of the Advisory Committee on Immunization Practices, Public Health Services, U.S. Department of Health and Human Services, published in the Centers for Disease Control and Prevention publication, the Morbidity and Mortality Weekly Report, which is adopted by reference including subsequent amendments and additions. A copy is available for inspection in the Immunization Section at 1330 St. Mary's Street, Raleigh, North Carolina. Internet access is available by searching [www.cdc.gov/nip](http://www.cdc.gov/nip).

*History Note:* Authority G.S. 130A-152(c); 130A-156;  
Eff. July 1, 1979;  
Temporary Amendment Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;  
Amended Eff. August 1, 2000; January 4, 1993; February 1, 1990; March 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41A .0405 EXEMPTION FOR CLINICAL STUDIES**

An individual enrolled in a clinical trial of the efficacy of a new vaccine preparation or dosage schedule shall be exempted from those requirements of 10A NCAC 41A .0401 and .0402 which conflict with the trial protocol. This exemption shall only apply to individuals who:

- (1) participate in a clinical trial whose protocol is approved by the State Health Director, and
- (2) fully participate in and complete the clinical trial.

*History Note:* Authority G.S. 130A-152(c);  
Eff. October 1, 1983;  
Temporary Amendment Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;  
Amended Eff. March 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41A .0406 ACCESS TO IMMUNIZATION INFORMATION**

(a) Physicians, local health departments and the Department shall, upon request and without consent release the immunization information specified in Paragraph (b) of this Rule to the following organizations:

- (1) schools K-12, whether public, private or religious;
  - (2) licensed and registered childcare facilities as defined in G.S. 110-86(3) and G.S. 110-101;
  - (3) Head Start;
  - (4) colleges and universities, whether public, private or religious;
  - (5) Health Maintenance Organizations; and
  - (6) Other state and local health departments outside of North Carolina.
- (b) The following is the immunization information to be released to the organizations specified in Paragraph (a) of this Rule:
- (1) name and address;
  - (2) name of the parent, guardian, or person standing in loco parentis;
  - (3) date of birth;
  - (4) gender;
  - (5) race and ethnicity;
  - (6) vaccine type, date and dose number administered;
  - (7) the name and address of the physician or local health department that administered each dose; and
  - (8) the existence of a medical or religious exemption determined by the Immunization Section to meet the requirements of G.S. 130A-156 and 10A NCAC 41A .0404 or G.S. 130A-157. If such a determination has not been made by the Division of Public Health, the person shall have access to the certification of medical and religious exemptions required by G.S. 130A-156 or G.S. 130A-157 and 10A NCAC 41A .0404.

*History Note:* Authority G.S. 130A-153;  
 Temporary Adoption Eff. August 9, 1993, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
 Eff. January 4, 1994;  
 Amended Eff. April 1, 2001; August 1, 2000; October 1, 1995;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

## **SECTION .0500 - PURCHASE AND DISTRIBUTION OF VACCINE**

### **10A NCAC 41A .0501 PURCHASE OF VACCINE**

The Division of Public Health may enter into contracts for the purchase of vaccines. Any purchase of such vaccines shall be in accordance with Article 3 of G.S. 143 and 01 NCAC 05A.

*History Note:* Authority S.L. 1986, c. 1008, s. 2;  
 Temporary Rule Eff. October 5, 1986 for a period of 120 days to expire on February 1, 1987;  
 Eff. February 1, 1987;  
 Amended Eff. September 1, 1991;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

### **10A NCAC 41A .0502 VACCINE FOR PROVIDERS OTHER THAN LOCAL HEALTH DEPARTMENTS**

*History Note:* Authority G.S. 130A-433;  
 Temporary Rule Eff. October 5, 1986 for a period of 120 days to expire on February 1, 1987;  
 Temporary Rule Eff. February 1, 1987 for a period of 120 days to expire on May 31, 1987;  
 Eff. March 1, 1987;  
 Temporary Amendment Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;  
 Temporary Amendment Eff. August 26, 1992, for a period 180 days or until the permanent rule becomes effective, whichever is sooner;  
 Temporary Amendment Eff. October 1, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
 Amended Eff. October 1, 1995; January 1, 1995; January 4, 1994; January 4, 1993;  
 Temporary Amendment Eff. December 1, 1998;

*Amended Eff. August 1, 2000;*  
*Temporary Amendment Eff. December 1, 2007;*  
*Amended Eff. November 1, 2008;*  
*Repealed Eff. July 1, 2014.*

#### **SECTION .0600 - SPECIAL PROGRAM/PROJECT FUNDING**

**10A NCAC 41A .0601    RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 41A .0602    PROVIDER ELIGIBILITY**

**10A NCAC 41A .0603    APPLICATION FOR FUNDS**

**10A NCAC 41A .0604    REPORTS**

**10A NCAC 41A .0605    USE OF SPECIAL PROJECT FUNDS**

*History Note:    Authority G.S. 130A-5(3);*  
*Eff. June 1, 1988;*  
*Amended Eff. September 1, 1990;*  
*Expired Eff. February 1, 2018 pursuant to G.S. 150B-21.3A.*

#### **SECTION .0700 - LICENSED NURSING HOME SERVICES**

**10A NCAC 41A .0701    MEDICAL ELIGIBILITY FOR LICENSED NURSING HOME SERVICES**

*History Note:    Authority G.S. 130A-177;*  
*Eff. October 1, 1985;*  
*Amended Eff. September 1, 1990;*  
*Expired Eff. February 1, 2018 pursuant to G.S. 150B-21.3A.*

#### **SECTION .0800 - COMMUNICABLE DISEASE GRANTS AND CONTRACTS**

**10A NCAC 41A .0801    COMMUNICABLE DISEASE FINANCIAL GRANTS AND CONTRACTS**

(a) The Division of Public Health may enter into financial arrangements with local health departments, community hospitals, nursing homes, or other convalescent facilities, and with physicians for the purpose of providing specific health care services for communicable diseases and the implementation of control measures.

(b) The Division of Public Health may authorize a local health department to obtain required diagnostic and treatment services for persons with syphilis, gonorrhea, chancroid, lymphogranuloma venereum, and granuloma inguinale from physicians:

- (1) The amount to be charged for these services shall be negotiated between the local health department and the physician and approved by the Division of Public Health at the lowest agreeable rate, not to exceed approved Medicaid reimbursement rates. Drugs used in treatment may be provided to such physicians by the local health department.
- (2) The physician shall bill the local health department for services provided. The local health department shall submit requests for payment to the Division of Public Health on forms provided by the Division of Public Health.

*History Note:    Authority G.S. 130A-5; 130A-135; 130A-144;*  
*Eff. December 1, 1991;*  
*Amended Eff. April 1, 2003;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**10A NCAC 41A .0802    RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 41A .0803    RESERVED FOR FUTURE CODIFICATION**

#### **SECTION .0900 - BIOLOGICAL AGENT REGISTRY**



#### **10A NCAC 41A .0901 GENERAL**

The biological agent registry established by G.S. 130A-149 is administered by the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27699-1915.

*History Note: Authority G.S. 130A-149;  
Temporary Adoption Eff. January 10, 2002;  
Eff. April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41A .0902 BIOLOGICAL AGENTS TO BE REPORTED**

The biological agents that shall be reported to the registry shall be those agents listed as select agents in 42 C.F.R. Part 72, Appendix A which is adopted herein by reference including subsequent amendments and editions. Copies of this federal provision may be inspected at and copies obtained from the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27699-1915 at a cost of ten cents (\$.10) per page at the time of adoption of this Rule.

*History Note: Authority G.S. 130A-149;  
Temporary Adoption Eff. January 10, 2002;  
Eff. April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41A .0903 WHEN TO REPORT**

A person possessing and maintaining a listed biological agent on the effective date of these Rules shall make a report within 45 days of the effective date of these Rules. A person who does not possess and maintain any listed biological agents on the effective date of these Rules shall make a report within seven days of receipt of such agents. A person shall make an amended report within seven days of any change in the information contained in the report. A person shall make a report within 24 hours of any suspected release, loss or theft of any listed biological agent.

*History Note: Authority G.S. 130A-149;  
Temporary Adoption Eff. January 10, 2002;  
Eff. April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41A .0904 WHAT TO REPORT**

The report shall be made on a form created by the Department and shall identify the listed biological agents possessed and maintained at the facility; shall specify the use of the agents for vaccine production, research purposes, quality control or other use; shall indicate the form of the agents; shall identify the physical location of the laboratories and the storage areas; and shall identify the person in charge of the agents.

*History Note: Authority G.S. 130A-149;  
Temporary Adoption Eff. January 10, 2002;  
Eff. April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41A .0905 EXEMPTION FROM REPORTING**

A person who detects a listed biological agent in a clinical or environmental sample for the purpose of diagnosing disease, epidemiological surveillance, exposure assessment, reference, verification or proficiency testing, and who discards the agent within 14 calendar days of receiving notice of the completion of confirmation testing, or discards the agent within 14 calendar days of using the agent for reference, verification or proficiency testing, is not required to make a report.

*History Note:* Authority G.S. 130A-149;  
Temporary Adoption Eff. January 10, 2002;  
Eff. April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41A .0906 SECURITY**

All persons possessing and maintaining a listed biological agent must demonstrate compliance with all safeguards contained in the 42 C.F.R. Part 72 and the Rules promulgated thereunder, and must employ those federal safeguards over the agents they possess and maintain, regardless of whether the mere possession of the agent is itself required to be registered under federal law. The safeguards contained in 42 C.F.R. Part 72 and the Rules promulgated thereunder are adopted herein by reference including subsequent amendments and additions. Copies of this federal provision may be inspected at and copies obtained from the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27699-1915, at a cost of ten cents (\$.10) per page at the time of adoption of this Rule.

*History Note:* Authority G.S. 130A-149;  
Temporary Adoption Eff. January 10, 2002;  
Eff. April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41A .0907 RELEASE OF INFORMATION**

The Department shall release information contained in the Biological Agents Registry only by order of the State Health Director upon a finding that the release is necessary for the conduct of a communicable disease investigation or for the investigation of a release, theft or loss of a biological agent.

*History Note:* Authority G.S. 130A-149;  
Temporary Adoption Eff. January 10, 2002;  
Eff. April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

### **SUBCHAPTER 41B – INJURY CONTROL**

#### **SECTION .0100 – GENERAL POLICIES**

##### **10A NCAC 41B .0101 DEFINITIONS**

The definitions in G.S. 18B-101, G.S. 20-4.01, G.S. 130A-3 and the following shall apply throughout this Subchapter:

- (1) "Alcoholic Breath Simulator" means a constant temperature water-alcohol solution bath instrument devised for the purpose of providing a standard alcohol-air mixture;
- (2) "Breath-testing Instrument" means an instrument for making a chemical analysis of breath and giving the resultant alcohol concentration in grams of alcohol per 210 liters of breath;
- (3) "Controlled Drinking Program" means a bona fide scientific, experimental, educational, or demonstration program in which tests of a person's breath or blood are made for the purpose of determining his alcohol concentration when such person has consumed controlled amounts of alcohol;
- (4) "Director" means the Director of the Division of Public Health of the Department;
- (5) "Handling Alcoholic Beverages" means the acquisition, transportation, keeping in possession or custody, storage, administration, and disposition of alcoholic beverages done in connection with a controlled-drinking program;
- (6) "Observation Period" means a period during which a chemical analyst observes the person or persons to be tested to determine that the person or persons has not ingested alcohol or other fluids, regurgitated, vomited, eaten, or smoked in the 15 minutes immediately prior to the collection of a breath specimen. The chemical analyst may observe while conducting the

- operational procedures in using a breath-testing instrument. Dental devices or oral jewelry need not be removed;
- (7) "Permittee" means a chemical analyst possessing a valid permit from the Department to perform chemical analyses, of the type set forth within the permit;
  - (8) "Simulator Solution" means a water-alcohol solution made by preparing a stock solution of distilled or American Society for Testing and Materials Type I water and 48.4 grams of alcohol per liter of solution. Each 10 ml. of this stock solution is further diluted to 500 ml. by adding distilled or American Society for Testing and Materials Type I water. The resulting simulator solution corresponds to the equivalent alcohol concentration of 0.08;
  - (9) "Verify Instrument Accuracy" means verification of instrumental accuracy of an approved breath testing instrument or approved alcohol screening test device by employment of a control sample from an alcoholic breath simulator using simulator solution and obtaining the expected result or 0.01 less than the expected result as specified in Item (8) of this Rule; or by employment of a control sample from an ethanol gas canister and obtaining the expected result or 0.01 less than the expected result as specified in Item (10) of this Rule. When the procedures set forth for approved breath testing instruments in Section .0300 of this Subchapter and for approved alcohol screening test devices in Section .0500 of this Subchapter are followed and the result specified herein is obtained, the instrument shall be deemed accurate;
  - (10) "Ethanol Gas Canister" means a dry gas calibrator producing an alcohol-in-inert gas sample at an accurately known concentration from a compressed gas cylinder. The resulting alcohol-in-inert gas sample corresponds to the equivalent concentration of 0.08.

*History Note:* Authority G.S. 20-139.1(b); 20-139.1(g);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. November 1, 2007; April 1, 2001; January 1, 1995; January 4, 1994; October 1, 1990; September 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41B .0102 CONSULTANT PANEL AND REVIEW BOARD FEES**

*History Note:* Authority G.S. 20-9; 143B-10;  
Eff. December 22, 1980;  
Amended Eff. July 1, 2005; January 1, 1990; October 1, 1986;  
Repealed Eff. November 1, 2005.

### **SECTION .0200 - BLOOD ALCOHOL TEST REGULATIONS**

#### **10A NCAC 41B .0201 INITIAL PERMIT FOR BLOOD ANALYST**

- (a) Any person desiring an initial permit as a blood analyst shall make written application to the Director.
- (b) In the application, the applicant shall set out his professional qualifications and experience and describe in detail the method intended to be used in performing chemical analyses of blood, the equipment and chemicals to be employed, the names and professional qualifications of any persons who will assist him in any of the incidental phases of the analyses to be made, and the location in and conditions under which the analyses shall be made. The Director shall prepare application forms to assist applicants in presenting the required information in an orderly fashion.

*History Note:* Authority G.S. 20-139.1(b);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41B .0202 GRANTING PERMITS**

- (a) After receiving the application, the Director shall grant or deny permits to perform chemical analyses of the blood on the basis of his determination of the character and qualifications of the applicant and whether the method of chemical analysis proposed will be sufficiently reliable to meet generally accepted forensic standards.
- (b) If from any application it appears that the chemical analysis of the blood will be done by persons under the supervision of the applicant, the Director shall require each person slated to perform chemical analyses of the blood to submit application. Where the Director is satisfied that the critical professional phases of the analysis will be performed by the applicant and that assistance from others will be incidental phases, he may grant the permit to the applicant.
- (c) Permits granted under this Section shall be granted only to persons performing chemical analyses of blood for law enforcement officers under the provisions of G.S. 20-139.1. The Director may require such documentation or conduct such investigations as may be necessary to insure that applicants for initial or renewal permits meet this requirement before granting permits.

*History Note: Authority G.S. 20-139.1(b);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. September 1, 1990; July 1, 1985; January 1, 1985;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41B .0203 APPROVED PERMITS**

- (a) A blood analyst performing chemical analyses of blood in accordance with the description set out in the application for an initial, renewal, or modified permit shall be deemed to be performing such analyses in a manner approved by the Director.
- (b) All initial, modified, and renewal permits shall be valid for a period of two years.

*History Note: Authority G.S. 20-139.1(b);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. April 1, 1992; September 1, 1990; July 1, 1985;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41B .0204 MODIFICATION OF PERMIT**

Before making any material alteration in method or procedure for performing chemical analyses of blood, a blood analyst must be granted a modified permit from the Director. The provisions applicable for the granting of initial permits shall govern. When the blood analyst who holds a permit has assistants performing incidental phases of chemical analyses, replacement of these individuals with other assistants shall not be deemed a material alteration of procedure so long as any assistant has the same general qualifications and abilities as the person replaced.

*History Note: Authority G.S. 20-139.1(b);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. September 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41B .0205 RENEWAL OF PERMIT**

- (a) At least three months prior to the expiration of the permit, a blood analyst desiring to renew the permit must submit written application for renewal to the Director.
- (b) The procedure applicable to the granting of initial applications shall govern the granting of renewal applications.

*History Note: Authority G.S. 20-139.1(b);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. January 1, 1985;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41B .0206 DETERMINATION OF RENEWAL OF PERMIT**

(a) In determining whether to renew the permit of a blood analyst, the Director shall consider whether the method and procedure continues to meet the generally accepted forensic standards for chemical analyses of blood; he shall also take into account evidence available concerning the character and continuing ability of the blood analyst.

(b) If in acting upon an application for renewal of permit the Director returns the application for additional information, or requests a modification of method, so as to cause a delay in granting the renewal or modified permit, the Director at his discretion may grant the blood analyst a provisional permit under the conditions applicable to the expiring permit. A provisional permit shall be valid for the period stated in the permit, but shall not be issued for a period longer than three months. A provisional permit may be renewed once.

*History Note: Authority G.S. 20-139.1(b);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. September 1, 1990; July 1, 1985;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41B .0207 EVALUATION OF BLOOD ANALYSTS**

The Director may institute a procedure for periodically testing the competence of blood analysts, which may include supervisory inspections of laboratories in which chemical analyses of blood are being performed.

*History Note: Authority G.S. 20-139.1(b);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41B .0208 REVOCATION OF PERMIT**

(a) If the Director receives unfavorable information concerning the character or ability of any blood analyst, he shall direct an investigation to be made. If the Director becomes satisfied that the unfavorable information is accurate, and that the blood analyst would for this reason no longer be eligible to be granted an initial or renewal permit, he shall suspend or revoke the permit using the same procedures that are used for the suspension or revocation of permits in G.S. 130A-23.

(b) Appeals concerning the interpretation and enforcement of the rules in this Section shall be made in accordance with G.S. 150B.

*History Note: Authority G.S. 20-139.1(b);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. September 1, 1990; December 1, 1987; April 1, 1987; January 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41B .0209 REPORTING OF ALCOHOL CONCENTRATIONS BY BLOOD ANALYSTS**

When performing chemical analyses of blood under the authority of G.S. 20-139.1 and the provisions of these rules, blood analysts shall report alcohol concentrations based on grams of alcohol per 100 milliliters of whole blood.

*History Note: Authority G.S. 20-139.1(b);  
Eff. October 1, 1986;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

### **SECTION .0300 - BREATH ALCOHOL TEST REGULATIONS**

#### **10A NCAC 41B .0301 APPLICATION FOR INITIAL PERMIT**

(a) Application for an initial permit to perform chemical analysis of a person's breath to determine his alcohol concentration shall be made in writing to the Director. The applicant shall have the endorsement of his supervisor, or his supervisor's representative. The Director shall issue, deny, terminate, and revoke permits for individuals to perform chemical analyses.

(b) Permits shall be granted to individuals who:

- (1) demonstrate the ability to perform chemical analyses accurately and reliably;
- (2) can explain the method of operation of the breath-testing instrument for which he is applying for a permit to operate;
- (3) provide a statement on the application from the applicant's supervisor attesting to the good character of the applicant; and
- (4) are employed by a law enforcement agency, the Forensic Tests for Alcohol Branch or members of its instructional staff, or by some other federal, state, county or municipal agency with the responsibility of administering chemical analyses to drivers charged with implied consent offenses.

(c) Individuals successfully completing a minimum of 35 course hours conducted by the Forensic Tests for Alcohol Branch shall be deemed to have met the requirements of Subparagraphs (b)(1) and (2) of this Rule.

*History Note: Authority G.S. 20-139.1(b);  
Eff. January 1, 1982;  
Amended Eff. May 1, 2007; October 1, 1993; September 1, 1990; September 1, 1989; January 1, 1985;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41B .0302 LIMITATION OF PERMIT**

(a) Permits shall be limited in scope to the methods or instruments for performing chemical analyses in which the individual applying for a permit has demonstrated competence. This limitation shall be upon the basis of the methods or instruments that received primary emphasis in the particular course of instruction attended by the applicant in the event that successful completion of the course is offered as proof of ability to perform chemical analyses. Initial and renewal permits shall state the date upon which they are to become effective and the date upon which they are to expire. The expiration date shall be no more than 24 months after the effective date.

(b) Permits granted under this Section, initial and renewals, shall be valid only during the period the permittee is employed by a law enforcement agency, the Forensic Tests for Alcohol Branch or a member of its instructional staff, or by some other federal, state, county or municipal agency with the responsibility of administering chemical analyses to drivers charged with implied consent offenses.

*History Note: Authority G.S. 20-139.1(b);  
Eff. January 1, 1982;  
Amended Eff. April 1, 2007; April 1, 1992; September 1, 1990; January 1, 1985; October 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41B .0303 RENEWAL OF PERMIT**

The Director shall issue, deny, terminate, and revoke renewal permits for individuals to perform chemical analyses. Where there is a question on the need for a permit, the Director may require the individual to submit a written application for renewal. The applicant shall have the endorsement of his appropriate supervising law enforcement officer, or his designated representative, unless an exception is granted by the Director.

*History Note: Authority G.S. 20-139.1(b);  
Eff. January 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41B .0304 CONDITIONS FOR RENEWAL OF PERMIT**

(a) Permits may be renewed at expiration, or at such time prior to expiration as is convenient for the Director, upon demonstration by the permittee of:

- (1) continuing ability to perform accurate and reliable chemical analyses;
- (2) ability to explain the method of operation of the breath-testing instrument for which he is applying for a renewal permit to operate; and
- (3) continued employment by a law enforcement agency, the Forensic Tests for Alcohol Branch or a member of its instructional staff, or by some other federal, state, county or municipal agency with the responsibility of administering chemical analyses to drivers charged with implied consent offenses.

(b) The permittee shall provide a statement on the application from the applicant's supervisor attesting to the good character of the applicant.

(c) Individuals successfully completing a forensic test for alcohol recertification course conducted by the Forensic Tests for Alcohol Branch prior to the expiration of their permits shall be deemed to have met the requirements of Subparagraphs (a)(1) and (2) of this Rule for the renewal of permits.

(d) In addition to meeting the requirements of Paragraph (a) of this Rule, individuals desiring renewal permits, after expiration of their permits, shall successfully complete the following Forensic Tests for Alcohol Branch course requirements prior to the granting of renewal permits:

- (1) Forensic Tests for Alcohol Recertification Course if the permit has been expired less than six months;
- (2) Forensic Tests for Alcohol Operators Course if the permit has been expired six months or longer.

*History Note:* Authority G.S. 20-139.1(b);  
Eff. January 1, 1982;  
Amended Eff. May 1, 2007; October 1, 1993; April 1, 1992; September 1, 1990; September 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41B .0305 RESERVED FOR FUTURE CODIFICATION**

#### **10A NCAC 41B .0306 TESTING OF EQUIPMENT**

The Director or his representative shall have the authority to verify periodically the condition of all breath-testing instruments used by permittees.

*History Note:* Authority G.S. 20-139.1(b);  
Eff. January 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41B .0307 EVALUATION OF PERMITTEES**

The Director or his representative may at any time examine permittees to determine their continuing ability to perform accurate and reliable chemical analyses.

*History Note:* Authority G.S. 20-139.1(b);  
Eff. January 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41B .0308 REVOCATION OF PERMIT**

(a) If the Director receives unfavorable information concerning the character or ability of any permittee, he shall direct an investigation to be made. If the Director determines, after investigation, that the permittee would no longer be eligible to be granted an initial or renewal permit, he shall suspend or revoke the permit using the same procedures that are used for suspension or revocation of permits in G.S. 130A-23.

(b) Appeals concerning the interpretation and enforcement of the Rules in this Section shall be made in accordance with G.S. 150B.

*History Note:* Authority G.S. 20-139.1(b);  
Eff. January 1, 1982;  
Amended Eff. September 1, 1990; December 1, 1987;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

**10A NCAC 41B .0309 QUALIFICATIONS OF MAINTENANCE PERSONNEL**

*History Note:* Authority; G.S. 20-139.1(b2);  
Eff. January 1, 1982;  
Amended Eff. October 1, 1993; April 1, 1992; September 1, 1990; September 1, 1989;  
Repealed Eff. May 1, 2007.

**10A NCAC 41B .0310 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 41B .0311 LOG**

*History Note:* Authority G.S. 20-16.5(j); 20-139.1(b);  
Eff. January 1, 1982;  
Amended Eff. April 1, 1992; October 1, 1990;  
Repealed Eff. November 1, 2007.

**10A NCAC 41B .0312 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 41B .0313 BREATH-TESTING INSTRUMENTS: REPORTING OF SEQUENTIAL TESTS**

The Department approves breath-testing instruments listed on the National Highway Traffic Safety Administration, Conforming Products List of Evidential Breath Measurement Devices. Instruments are approved on the basis of results of evaluations by the Forensic Tests for Alcohol Branch. Evaluations are not limited in scope and may include any factors deemed appropriate to ensure the accuracy, reliability, stability, cost, and ease of operation and durability of the instrument being evaluated.

*History Note:* Authority G.S. 20-16.5(j); 20-139.1(b);  
Eff. January 1, 1982;  
Amended Eff. May 1, 2007; April 1, 1993; September 1, 1990; March 1, 1989; December 1, 1987;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

**10A NCAC 41B .0314 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 41B .0315 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 41B .0316 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 41B .0317 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 41B .0319 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 41B .0319 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 41B .0320 INTOXILYZER: MODEL 5000**

**10A NCAC 41B .0321 PREVENTIVE MAINTENANCE: INTOXILYZER: MODEL 5000**

*History Note:* Authority G.S. 20-139.1(b); 20-139.1(b)(b2);  
Eff. January 1, 1985;  
Temporary Amendment Eff. September 1, 1989 for a period of 180 days to expire on February 28, 1990;



*Amended Eff. November 1, 2007; April 1, 2001; April 1, 1993; April 1, 1992; January 1, 1990; March 1, 1989;*  
*Expired Eff. February 1, 2018 pursuant to G.S. 150B-21.3A.*

**10A NCAC 41B .0322 INTOXIMETERS: MODEL INTOX EC/IR II AND MODEL INTOX EC/IR II (ENHANCED WITH SERIAL NUMBER 10,000 OR HIGHER)**

The following operational procedures shall be followed when administering a test using the Intoximeters, Model Intox EC/IR II and Model Intox EC/IR II (Enhanced with serial number 10,000 or higher):

- (1) Ensure instrument displays time and date;
- (2) Ensure observation period requirements have been met;
- (3) Initiate breath test sequence;
- (4) Enter information as prompted by the instrument;
- (5) Verify instrument accuracy;
- (6) When "PLEASE BLOW" appears, collect breath sample;
- (7) When "PLEASE BLOW" appears, collect breath sample; and
- (8) Print test record.

If the alcohol concentrations differ by more than 0.02, a third or fourth breath sample shall be collected when "PLEASE BLOW" appears. Sequential tests shall be administered as soon as feasible by repeating steps (1) through (8), as applicable.

*History Note: Authority G.S. 15A-534.2(d); 20-139.1(b);*  
*Eff. November 1, 2007;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*  
*Amended Eff. April 1, 2020.*

**10A NCAC 41B .0323 PREVENTIVE MAINTENANCE: INTOXIMETERS: MODEL INTOX EC/IR II AND MODEL INTOX EC/IR II (ENHANCED WITH SERIAL NUMBER 10,000 OR HIGHER)**

The preventive maintenance procedures for the Intoximeters, Model Intox EC/IR II and Model Intox EC/IR II (Enhanced with serial number 10,000 or higher) to be followed at least once every four months are:

- (1) Verify the ethanol gas canister displays at least 51 pounds per square inch (psi) of pressure, or the alcoholic breath simulator thermometer shows 34 degrees, plus or minus .2 degree centigrade;
- (2) Verify instrument displays time and date;
- (3) Initiate breath test sequence;
- (4) Enter information as prompted;
- (5) Verify instrument accuracy;
- (6) When "PLEASE BLOW" appears, collect breath sample;
- (7) When "PLEASE BLOW" appears, collect breath sample;
- (8) Print test record;
- (9) Run diagnostic program and confirm preventive maintenance status of "Pass"; and
- (10) Verify that the ethanol gas canister is being changed before expiration date, or the alcoholic breath simulator solution is being changed every four months or after 125 Alcoholic Breath Simulator tests, whichever occurs first.

A signed original of the preventive maintenance record, or an electronic copy of the signed original of the preventive maintenance record, shall be kept on file at the North Carolina Department of Health and Human Services for three years.

*History Note: Authority G.S. 15A-534.2(d); 20-139.1(b2);*  
*Eff. November 1, 2007;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*  
*Amended Eff. April 1, 2020.*

**SECTION .0400 - CONTROLLED DRINKING PROGRAMS**

#### **10A NCAC 41B .0401 APPLICATION OF REGULATIONS**

(a) The regulations of this Section apply to the handling of alcoholic beverages in connection with one or a series of controlled-drinking programs when any aspect of the handling would not be lawful except for the provisions of G.S. 20-139.1(g) and these regulations. If all aspects of the handling of alcoholic beverages in connection with one or a series of controlled-drinking programs may be effected in accordance with North Carolina's laws and regulations of general application pertaining to the regulation of alcoholic beverages, compliance with these regulations is not necessary. In all events, governing provisions of federal law must be met in the handling of alcoholic beverages.

(b) Persons authorized to obtain and possess alcohol exempt from the taxes of the United States and of North Carolina may utilize such alcohol in controlled-drinking programs to the extent authorized by law. Handling of such tax-exempt alcohol shall not be governed by these regulations provided there is compliance with all the other applicable laws of the United States and of North Carolina.

*History Note:* Authority G.S. 20-139.1(g);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. January 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41B .0402 AUTHORIZATION**

(a) Any person may conduct a controlled-drinking program without special authorization from the Director if such program is either under the supervision of a public agency or institution or presented with the participation of a public employee possessing a valid permit from the Director to perform chemical analyses of breath or blood and participation by the permittee has been authorized by his superiors.

(b) Any other person desiring to conduct a controlled-drinking program under the authority of these regulations must apply for authorization from the Director. The Director may grant the authorization if it appears that the proposed controlled-drinking program or series of programs will be conducted in a manner so as to minimize danger or annoyance to the public on the part of the drinking subjects and that the program or series of programs will in general further the bona fide objectives of the chemical testing programs within this state. Request for such authority shall be submitted so as to reach the Director at least 10 days prior to the proposed controlled-drinking program or the initial program of a proposed series.

*History Note:* Authority G.S. 20-139.1(g);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. January 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41B .0403 HANDLING ALCOHOLIC BEVERAGES**

(a) Alcoholic beverage intended for use in a controlled-drinking program authorized under these regulations shall be procured from alcoholic beverage control stores, from the North Carolina Alcoholic Beverage Control Commission, or from retail establishments duly licensed to sell wine or malt beverages. Each purchase shall be covered by a requisition, bill of sale, or other record evidence, showing the date, place of purchase, type of alcoholic beverage, and the quantity.

(b) An individual procuring alcoholic beverage for use in a controlled-drinking program shall be of lawful age to buy alcoholic beverages.

(c) Alcoholic beverages required for use in a specific controlled-drinking program shall be procured on the basis of estimated requirements and wherever feasible procured just prior to its use.

*History Note:* Authority G.S. 20-139.1(g);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. September 1, 1990; January 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41B .0404 QUANTITY LIMITS**

Any person handling alcoholic beverages in a manner consonant with the bona fide objectives of an authorized controlled-drinking program may possess and transport such alcoholic beverage wherever necessary or desirable in furtherance of the objectives of the program within the quantity limits specified in this Rule. Any person handling alcohol beverages in conjunction with a controlled-drinking program shall handle such beverages in accordance with G.S. 18B-303.

If the cap or seal on any container of alcoholic beverage has been opened or broken, such container may not be transported in the passenger area of a motor vehicle.

*History Note:* Authority G.S. 20-139.1(g);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. September 1, 1990; January 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41B .0405 EXCESS OF QUANTITIES**

(a) Any person responsible for the handling of alcoholic beverages in connection with an authorized controlled-drinking program may procure, possess, and transport alcoholic beverages in excess of the quantities allowed by Rule .0404 of this Section provided the person or his employer holds a valid permit from the North Carolina Alcoholic Beverage Control Commission. Request for such a permit shall be forwarded to the Director, indicating the need for the permit, location of the testing program, the quantity and type alcoholic beverage to be procured and transported, and the name of the agency or individual to whom the permit should be issued.

(b) Where a series of controlled-drinking programs are proposed, the request for the permit may generally state the nature, extent, and possible locations of such programs and the over-all duration of the series. Permits shall not be valid for more than one year. The Director shall forward such requests to the North Carolina Alcoholic Beverage Control Commission with appropriate recommendations concerning the issuance of each permit.

*History Note:* Authority G.S. 20-139.1(g);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. September 1, 1990; January 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41B .0406 RESTRICTED USE OF ALCOHOLIC BEVERAGES**

(a) When not being used, all alcoholic beverages shall be stored in a safe place, if possible under lock and key.

(b) Alcoholic beverages procured for use in a controlled-drinking program shall be used only for this purpose. Malt beverages, unfortified wine, fortified wine or spirituous liquor shall not be given or otherwise administered to anyone under 21 years of age.

(c) Any person, agency, or institution conducting a controlled-drinking program is authorized to store such quantities of alcoholic beverages as may be required for the conduct of the program.

*History Note:* Authority G.S. 20-139.1(g);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. October 1, 1986; October 1, 1983; January 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41B .0407 RECORDS**

(a) Any person, agency, or institution acquiring alcoholic beverages for use in a controlled-drinking program pursuant to these Rules shall keep records accounting for the disposition of all alcoholic beverages so acquired. Such records shall be made available for inspection upon the request of any federal or state law enforcement officer with jurisdiction over the laws relating to alcohol or alcoholic beverages.

(b) As a minimum, records on alcoholic beverages procured for use in controlled-drinking programs will show the following:

- (1) the date, place, type, and quantity of alcoholic beverages procured;
- (2) the date and quantities of alcoholic beverages, by type, dispensed for controlled-drinking purposes;
- (3) a running inventory, showing the quantity of each type alcoholic beverage on hand.

*History Note:* Authority G.S. 20-139.1(g);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. September 1, 1990; January 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

## **SECTION .0500 - ALCOHOL SCREENING TEST DEVICES**

### **10A NCAC 41B .0501 SCREENING TESTS FOR ALCOHOL CONCENTRATION**

(a) This Section governs the requirement of G.S. 20-16.3 that the Department examine devices suitable for use by law enforcement officers in making on-the-scene tests of drivers for alcohol concentration and that the Department approve these devices and their manner of use. In examining devices for making chemical analyses, the Department finds that at present only screening devices for testing the breath of drivers are suitable for on-the-scene use by law enforcement officers.

(b) This Section does not address or in any way restrict the use of screening tests for impairment other than those based on chemical analyses, including various psychophysical tests for impairment.

*History Note:* Authority G.S. 20-16.3; 20-16.3A;  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. April 1, 2007; October 1, 1993; October 1, 1983; January 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

### **10A NCAC 41B .0502 APPROVAL: ALCOHOL SCREENING TEST DEVICES: USE**

(a) Alcohol screening test devices that measure alcohol concentration through testing the breath of individuals are approved on the basis of results of evaluations by the Forensic Tests for Alcohol Branch. Devices shall meet the minimum requirements as set forth in the Department specifications for Alcohol Screening Test Devices. Evaluations are not limited in scope and may include any factors deemed appropriate to insure the accuracy, reliability, stability, cost, and ease of operation and durability of the device being evaluated. On the basis of evaluations to date, approved devices are listed in 10A NCAC 41B .0503 of this Section.

(b) When the validity of an alcohol screening test of the breath of a driver administered by a law enforcement officer depends upon approval by the Department of the test device and its manner of use, the test shall be administered as follows:

- (1) The officer shall determine that the driver has removed all food, drink, tobacco products, chewing gum and other substances and objects from his mouth. Dental devices or oral jewelry need not be removed.
- (2) Unless the driver volunteers the information that he has consumed an alcoholic beverage within the previous 15 minutes, the officer shall administer a screening test as soon as feasible. If a test made without observing a waiting period results in an alcohol concentration reading of 0.08 or more, the officer shall wait five minutes and administer an additional test. If the results of the additional test show an alcohol concentration reading more than 0.02 under the first reading, the officer shall disregard the first reading.
- (3) The officer may request that the driver submit to one or more additional screening tests.
- (4) In administering any screening test, the officer shall use an alcohol screening test device approved under 10A NCAC 41B .0503 of this Section in accordance with the operational instructions supplied by the Forensic Tests for Alcohol Branch and listed on the device.

*History Note: Authority G.S. 20-16.3;  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. April 1, 2007; April 1, 2001; September 1, 1990; January 1, 1990; October 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,  
2018.*

**10A NCAC 41B .0503 APPROVED ALCOHOL SCREENING TEST DEVICES: CALIBRATION**

(a) The following breath alcohol screening test devices are approved as to type and make:

- (1) ALCO-SENSOR (with two-digit display), manufactured by Intoximeters, Inc.
- (2) ALCO-SENSOR III (with three-digit display), manufactured by Intoximeters, Inc.
- (3) ALCO-SENSOR IV, manufactured by Intoximeters, Inc.
- (4) ALCO-SENSOR FST, manufactured by Intoximeters, Inc.
- (5) S-D2, manufactured by CMI, Inc.
- (6) S-D5, manufactured by CMI, Inc.
- (7) ALCO-SENSOR III (Enhanced with Serial Numbers above 1,200,000), manufactured by Intoximeters, Inc.
- (8) ALCO-SENSOR FST (Enhanced with Serial Numbers 200,000 and higher), manufactured by Intoximeters, Inc.
- (9) LIFELOC FC10, manufactured by Lifeloc Technologies, Inc.
- (10) INTOXILYZER 500, manufactured by CMI, Inc.
- (11) ALCOVISOR MERCURY, manufactured by PAS International.

(b) The agency or operator shall verify instrument calibration of each alcohol screening test device at least once during each 30 day period of use. The verification shall be performed using an alcoholic breath simulator with a simulator solution in accordance with Paragraph (c) of this Rule or an ethanol gas canister in accordance with Paragraph (d) of this Rule.

(c) Alcoholic breath simulators used exclusively to verify instrument calibration of alcohol screening test devices shall have the solution changed every 30 days or after 25 calibration tests, whichever occurs first.

(d) Ethanol gas canisters used exclusively to verify instrument calibration of alcohol screening test devices shall not be utilized beyond the expiration date on the canister.

(e) Requirements of Paragraphs (b), (c), and (d) of this Rule shall be recorded on an alcoholic breath simulator log or an ethanol gas canister log designed by the Forensic Tests for Alcohol Branch within the North Carolina Department of Health and Human Services and maintained by the user agency in accordance with the user agency's retention policy.

*History Note: Authority G.S. 20-16.3; 20-138.7(d);  
Eff. February 1, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. July 1, 2007; November 1, 2005; April 1, 2001; January 1, 1995; January 4, 1994;  
April 1, 1993; January 4, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,  
2018;  
Amended Eff. April 1, 2020.*

**SUBCHAPTER 41C - OCCUPATIONAL HEALTH**

**SECTION .0100 - GENERAL**

**10A NCAC 41C .0101 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 41C .0102 ACTIVITIES**

(a) The Occupational Health Section shall conduct programs to help obtain a safe and healthy workplace. The activities shall include at least the following:

- (1) support the North Carolina Industrial Commission in meeting the legislative mandate assigned to evaluate and control incidences of asbestosis and silicosis in dusty trades;
  - (2) supply program consultation services to North Carolina employers to evaluate hazardous conditions and recommend solutions and improvements;
  - (3) provide occupational health nursing consultation to industries, academia, health care and related agencies and affiliated professions;
  - (4) evaluate health conditions in places of employment;
  - (5) implement the Asbestos Hazard Management Program in Section .0600 of these Rules;
  - (6) implement the Occupational Health Surveillance Section .0700 of these Rules.
- (b) The Occupational Health Section shall also offer technical assistance to other state and federal agencies.

*History Note:* Authority G.S. 130A-5(3);  
 Eff. September 15, 1980;  
 Amended Eff. January 4, 1994; September 1, 1990;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.

### **SECTION .0200 - DUSTY TRADES PROGRAM**

**10A NCAC 41C .0201 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 41C .0202 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 41C .0203 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 41C .0204 ADVISORY MEDICAL COMMITTEE**

*History Note:* Authority G.S. 97-69; 97-73; 130A-5(3);  
 Eff. September 15, 1980;  
 Amended Eff. February 1, 1990; December 1, 1980;  
 Expired Eff. March 1, 2019 pursuant to G.S. 150B-21.3A.

**10A NCAC 41C .0205 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 41C .0206 FEES FOR MEDICAL EXAMS IN DUSTY TRADES**

*History Note:* Authority G.S. 97-72(b);  
 Temporary Adoption Eff. January 8, 1992 for a Period of 180 Days to Expire on July 5, 1992;  
 Eff. March 2, 1992;  
 Temporary Amendment Eff. February 10, 1998;  
 Amended Eff. April 1, 1999;  
 Expired Eff. March 1, 2019 pursuant to G.S. 150B-21.3A.

### **SECTION .0300 - INDUSTRIAL HYGIENE CONSULTATION PROGRAM**

**10A NCAC 41C .0301 RESERVED FOR FUTURE CODIFICATION**

**10A NCAC 41C .0302 SURVEYS**

(a) The Occupational Health Section shall conduct consultative industrial hygiene surveys in the workplace. Such surveys shall include the following elements:

- (1) An on-site survey of the potential health problem;
- (2) Air samples with submission to the state laboratory for analysis or the test may be made with on-site evaluation and interpretation;
- (3) Calculation of laboratory or on-site results, and a written report citing the findings of the survey and recommending feasible controls for the particular industry.

(b) The industrial hygiene consultative staff shall perform surveys at the request of the Industrial Commission.

*History Note:* Authority G.S. 130A-5(3); 130A-5(5); 130A-5(10);  
Eff. September 15, 1980;  
Amended Eff. September 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.

#### **10A NCAC 41C .0303 POTENTIAL HEALTH HAZARDS**

The industrial hygiene consultative staff may evaluate existing controls of potential industrial health hazards and may recommend improvements upon request by the industry.

*History Note:* Authority G.S. 130A-5(3);  
Eff. September 15, 1980;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.

#### **10A NCAC 41C .0304 TRAINING AND TECHNICAL ASSISTANCE**

*History Note:* Authority G.S. 130A-5(3);  
Eff. September 15, 1980;  
Repealed Eff. January 1, 2021.

#### **10A NCAC 41C .0305 RESEARCH**

The industrial hygiene consultative staff may conduct research, such as epidemiological studies concerning diseases that arise in and out of the work environment during the course of employment.

*History Note:* Authority G.S. 130A-5(3);  
Eff. September 15, 1980;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.

#### **10A NCAC 41C .0306 FEE TO COVER TRANSPORTATION COSTS**

Employers who voluntarily request industrial hygiene consultation services or occupational consultation services from the Occupational Health Section shall be charged a fee of two hundred dollars (\$200.00) per on-site inspection to cover the transportation costs of responding to the request.

*History Note:* Authority G.S. 130A-5(13);  
Eff. January 1, 1984;  
Amended Eff. September 1, 1990; October 1, 1985;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.

### **SECTION .0400 - OCCUPATIONAL HEALTH NURSING CONSULTATION PROGRAM**

#### **10A NCAC 41C .0401 PURPOSE**

The occupational health nursing consultation program shall provide occupational health nursing consultation to industries, academia, health care and related agencies and affiliated professions.

*History Note:* Authority G.S. 130A-5(3);  
Eff. September 15, 1980;  
Amended Eff. September 1, 1991;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.

#### **10A NCAC 41C .0402 ACTIVITIES**

The responsibilities of the occupational health nursing consultant shall include at least the following:

- (1) answering requests from private firms or state and local governments expressing interest in initiating, providing or improving occupational health services;
- (2) offering program consultation to staff of established occupational health units in industry by responding to requests for visits and by initiating visits;
- (3) providing program consultation to agencies, organizations and colleges and universities in planning and coordinating conferences, seminars and continuing education courses for occupational health nurses as indicated by a needs assessment;
- (4) compiling and distributing educational and informational material to the occupational health nurses in North Carolina;
- (5) promoting occupational health and excellence in occupational health nursing standards.

*History Note: Authority G.S. 130A-5(3); 130A-5(5);  
 Eff. September 15, 1980;  
 Amended Eff. September 1, 1991; September 1, 1990;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.*

## **SECTION .0500 - RESERVED FOR FUTURE CODIFICATION**

## **SECTION .0600 - ASBESTOS HAZARD MANAGEMENT PROGRAM**

### **10A NCAC 41C .0601 GENERAL**

(a) The definitions contained in G.S. 130A-444 and the following definitions shall apply throughout this Section:

- (1) "Abatement Designer" means a person who is responsible for planning all phases of an asbestos abatement design from abatement site preparation through disassembly of all abatement area barriers and who meets the requirements of Rule .0602(c) of this Section.
- (2) "Abatement Project Monitoring Plan" means a written project-specific plan for conducting visual inspections and ambient and clearance air sampling.
- (3) "Air Monitor" means a person who implements the abatement project monitoring plan, collects ambient and clearance air samples, performs visual inspections, or monitors and evaluates asbestos abatement, and who meets the requirements of Rule .0602(c) of this Section.
- (4) "Asbestos Abatement Design" means a written or graphic plan that is prepared by an accredited abatement designer as defined in Subparagraph (a)(1) of this Rule and that specifies how an asbestos abatement project will be performed. An asbestos abatement design shall include, at minimum, the following:
  - (A) a scope of work and technical specifications;
  - (B) the asbestos abatement designer's signature; and
  - (C) the accreditation number.
- (5) "Completion Date" means the date on which all activities on a permitted asbestos removal requiring the use of accredited workers and supervisors are complete, including the disassembly of all removal area barriers.
- (6) "Emergency Renovation Operation" means the same as defined in 40 CFR Part 61.141 and as adopted in Rule .0609 of this Section.
- (7) "Inspector" means a person who examines buildings or structures for the presence of asbestos containing materials, collects bulk samples, or conducts physical assessments of the asbestos containing materials, and who meets the requirements of Rule .0602(c) of this Section. A person whose asbestos inspection activities are limited to roofing products is not considered an inspector under this definition if the person is accredited as a roofing supervisor under this Section.
- (8) "Installation" means any building or structure or group of buildings or structures at a single site under the control of the same owner or operator.
- (9) "Management Planner" means a person who interprets inspection reports, conducts hazard assessments of asbestos containing materials, and prepares written management plans, and who meets the requirements of Rule .0602(c) of this Section.
- (10) "Nonscheduled Asbestos Removal" means the same as nonscheduled renovation operation, as defined in 40 CFR Part 61.141, of asbestos containing material.
- (11) "Program" means the Health Hazards Control Unit within the Division of Public Health.



- (12) "Public Area" means as defined in G.S. 130A-444(7).
- (13) "Regulated Asbestos Containing Material" means the same as defined in 40 CFR Part 61.141 and as adopted in Rule .0609 of this Section.
- (14) "Start Date" means the date on which activities begin on an asbestos removal project that is permitted pursuant to Rule .0605 of this Section and that requires the use of workers and supervisors who are accredited pursuant to Rule .0602 of this Section, including removal area isolation and preparation or any other activity which may disturb asbestos containing materials.
- (15) "Successfully complete" means that an individual has attended the initial or refresher training course and passed the course exam with a score of 70 percent or higher in accordance with Rules .0603 and .0611 of this Section and 40 C.F.R. Part 763, Subpart E, Appendix C(I)(C)(2).
- (16) "Supervising Air Monitor" means a person who meets the requirements of Rule .0602(c) of this Section and who prepares a written abatement project monitoring plan and implements the plan or ensures that the plan is implemented by an air monitor working under his or her supervision. The supervising air monitor directs, coordinates, and approves all activities of air monitors working under his or her supervision. The supervising air monitor may also perform the duties of an air monitor.
- (17) "Supervisor" means a person who is a "competent person" as defined in 29 CFR 1926.1101(b) and who is an "on-site representative" as defined in 40 CFR Part 61.145(c)(8) as adopted in Rule .0609 of this Section and who performs the duties specified therein.
- (18) "Under the direct supervision" means working under the guidance of an individual who is accredited pursuant to Rule .0602 of this Section and who is responsible for all activities performed.
- (19) "Worker" means a person who performs asbestos abatement under the direct supervision of an accredited supervisor.
- (20) "Working day" means Monday through Friday, including any holidays.
- (21) "Class II Asbestos Work" means as defined in 29 CFR 1926.1101(b).
- (22) "Roofing Worker" means a person whose duties regarding asbestos are limited to Class II asbestos work involving the removal of roofing products that are classified as regulated asbestos containing material and who works under the direct supervision of a roofing supervisor.
- (23) "Roofing Supervisor" means a supervisor as defined in Subparagraph (a)(16) of this Rule, whose duties regarding asbestos are limited to Class II asbestos work involving only roofing products that are classified as regulated asbestos containing material. This person may also perform asbestos roofing inspection activities which are limited to roofing products, including the collection of bulk samples.
- (24) "Roofing Products" means bituminous built-up roofing systems, roofing membranes, asphalt shingles, cement shingles, roofing cements, mastics, coatings, panels, light weight roofing concrete, and flashings.

(b) In addition to the rules of this Section, asbestos management activities shall comply with the Asbestos Hazard Emergency Response Act (AHERA) as defined at G.S. 130A-444(1) and 40 CFR Part 763, Subpart E and Appendices, which are hereby incorporated by reference, including any subsequent amendments and editions, and available free of charge at: <https://www.ecfr.gov/>.

(c) For the purposes of this Section, 29 CFR 1926.1101 is hereby incorporated by reference, including any subsequent amendments and editions, and available free of charge at <https://www.ecfr.gov/>.

*History Note: Authority G.S. 130A 5(3); 130A 451;  
 Temporary Amendment Eff. November 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
 Temporary Amendment Eff. November 1, 1989 for a period of 180 days to expire on April 30, 1990;  
 Temporary Rule Eff. October 28, 1988 for a period of 180 days to expire on April 26, 1989;  
 Eff. March 1, 1989;  
 Amended Eff. July 1, 1996; January 1, 1995; October 1, 1994; August 1, 1991; February 1, 1990;  
 Readopted Eff. January 1, 2021.*

(a) No person shall perform asbestos management activities until that person has been accredited by the Program in the appropriate accreditation category, as set forth in Paragraphs (b) and (c) of this Rule, except as provided for in G.S. 130A-447(b) and (c).

(b) An applicant for accreditation shall meet the requirements of the "EPA Model Contractor Accreditation Plan" contained in 40 CFR Part 763, Subpart E, Appendix C and shall complete the applicable training courses approved by the Program pursuant to Rule .0603 of this Section and as set forth in this Rule for each accreditation category. An applicant applying for roofing worker or roofing supervisor accreditation shall only be required to complete the training courses as described under Rule .0611 of this Section.

(c) In addition to the requirements in Paragraph (b) of this Rule, an applicant, other than for the worker or roofing worker categories, shall meet the following:

- (1) an applicant for initial accreditation shall have completed an approved initial training course for the discipline in which the applicant seeks accreditation within the 12 months immediately preceding application. If initial training was completed more than 12 months prior to application, the applicant shall have completed an approved refresher training course for the discipline in which he or she seeks accreditation at least every 24 months from the date of completion of initial training to the date of application;
- (2) an inspector shall have:
  - (A) a high school diploma or equivalent; and
  - (B) at least three months of experience working as an accredited asbestos inspector or three months of experience working under the direct supervision of an accredited inspector.
- (3) a management planner shall have a high school diploma or equivalent and shall be an accredited inspector, as defined in Subparagraph (c)(2) of this Rule.
- (4) a supervisor or roofing supervisor shall have:
  - (A) a high school diploma or equivalent; except that this requirement shall not apply to supervisors that were accredited on November 1, 1989, or roofing supervisors that were accredited prior to April 1, 1997; and
  - (B) at least three months of experience working as an accredited asbestos supervisor or three months of experience working under the direct supervision of an accredited supervisor.
- (5) an abatement designer shall have:
  - (A) a high school diploma or equivalent; and
  - (B) at least three months of experience working as an accredited asbestos designer or three months of experience working under the direct supervision of an accredited abatement designer.
- (6) an air monitor shall work only under an accredited supervising air monitor or meet the provisions of Part (c)(7)(C) of this Rule. However, this requirement shall not apply to the owner or operator of a building and his employees when performing air monitoring in non-public areas. In addition, all air monitors shall meet the following requirements:
  - (A) Education and Work Experience:
    - (i) a high school diploma or equivalent; and
    - (ii) at least three months of experience working as an asbestos air monitor or three months of experience working under the direct supervision of an accredited air monitor.
  - (B) Training Requirements:
    - (i) complete a Program approved National Institute for Occupational Safety and Health (NIOSH) 582 or Program approved NIOSH 582 Equivalency Course and meet the initial and refresher training requirements of this Rule for supervisors; Program approved project monitor refresher course may be substituted for the supervisor refresher course; or
    - (ii) meet the initial and refresher training requirements of this Rule for a Program approved five-day project monitor course and a Program approved annual refresher course.
- (7) a supervising air monitor shall meet the following requirements:
  - (A) Education and Work Experience:
    - (i) a high school diploma or equivalent;

- (ii) at least three months of experience working as an asbestos air monitor or three months of experience working under the direct supervision of an accredited air monitor.
  - (B) Training Requirements:
    - (i) complete a Program approved NIOSH 582 or Program approved NIOSH 582 Equivalency Course and meet the initial and refresher training requirements of this Rule for supervisors; a Program approved project monitor refresher course may be substituted for the supervisor refresher course; or
    - (ii) meet the initial and refresher training requirements of this Rule for a Program approved five-day project monitor course and a Program approved annual refresher course.
  - (C) Professional Status:
    - (i) a supervising air monitor who was accredited as an air monitor on or after February 1, 1991, or an air monitor accredited prior to that date who has not continuously maintained accreditation, shall be a Certified Industrial Hygienist;
    - (ii) a supervising air monitor who was accredited as an air monitor prior to February 1, 1991, who has continuously maintained accreditation shall be a Certified Industrial Hygienist, Professional Engineer, or Registered Architect.
  - (D) Air monitors with a valid accreditation on January 1, 1995 supervising other accredited air monitors shall be deemed to be accredited supervising air monitors for the duration of their existing air monitor accreditation.
- (d) To obtain accreditation, the applicant shall submit to the Program:
  - (1) a completed application on a form provided by the Program, which is available at: <https://epi.dph.ncdhhs.gov/asbestos/healthaz.html>. A completed application form shall include the following information:
    - (A) full name;
    - (B) address, including city, state, zip code, and telephone number;
    - (C) date of birth, sex, height, and weight;
    - (D) discipline applied for;
    - (E) name, address, and telephone number of employer;
    - (F) training agency attended;
    - (G) name of training course completed; and
    - (H) dates of course attended;
  - (2) one 1.25 inch x 1.25 inch color photograph of the applicant taken within the preceding six months per application with the applicant's full name printed on the back of each photograph;
  - (3) confirmation of completion of an approved initial or refresher training course from the training agency. The confirmation shall be in the form of an original certificate of completion of the approved training course bearing the training agency's official seal or an original letter from the training agency on training agency letterhead that includes the following information:
    - (A) the name of the course completed;
    - (B) the date of course completion;
    - (C) the unique certificate number; and
    - (D) a list of names for the individuals who successfully completed the training course, with the applicant's name included in that list;
  - (4) when education is a requirement in accordance with this Rule, a copy of the diploma;
  - (5) when work experience is a requirement in accordance with this Rule, documentation of the applicant's asbestos related work experience that includes the following:
    - (A) employer name;
    - (B) employer address and phone number;
    - (C) position(s) held by applicant; and
    - (D) dates when the applicant held each position;
  - (6) when applicants for initial air monitor accreditation are working under an accredited supervising air monitor pursuant to Subparagraph (c)(6) of this Rule, the accredited supervising air monitor shall submit an original, signed letter acknowledging responsibility for the applicant's air monitoring activities. The applicant shall ensure that a new letter is submitted to the Program any time the information in the letter currently on file is no longer accurate.

(e) All accreditations shall expire at the end of the 12th month following completion of required initial or refresher training. Work performed after the 12th month and prior to reaccreditation shall constitute a violation of this Rule. To be reaccredited, an applicant shall have completed the required refresher training course within 24 months after the initial or refresher training course. An applicant for reaccreditation shall also submit information specified in Subparagraphs (d)(1)-(d)(6) of this Rule. If a person fails to obtain the required training within 12 calendar months after the expiration date of accreditation, that person shall be accredited only by meeting the requirements of Paragraphs (b), (c), and (d) of this Rule.

(f) All accredited persons shall be assigned an accreditation number and issued a photo-identification card by the Program.

(g) In accordance with G.S. 130A-23, the Program may revoke accreditation or reaccreditation for any violation of G.S. 130A, Article 19 or the rules in this Section, or upon determining that its issuance was based upon incorrect or inadequate information that materially affected the decision to issue accreditation or reaccreditation. The Program shall also revoke accreditation or reaccreditation upon a finding that the accredited person has violated any requirement referenced in Rule .0605(e) of this Section. A person whose accreditation is revoked because of fraudulent misrepresentations or because of violations that create a public health hazard shall not reapply for accreditation before six months after the revocation and shall repeat the initial training course and other requirements as set out in Paragraphs (b), (c), and (d) of this Rule.

*History Note: Authority G.S. 130A-5(3); 130A-23; 130A-447;  
Temporary Rule Eff. October 28, 1988 for a period of 180 days to expire on April 26, 1989;  
Eff. March 1, 1989;  
Temporary Amendment Eff. November 1, 1989 for a period of 180 days to expire on April 30, 1990;  
Amended Eff. October 1, 1994; August 1, 1991; February 1, 1990;  
Temporary Amendment Eff. November 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
Amended Eff. July 1, 1996; January 1, 1995;  
Readopted Eff. January 1, 2021.*

#### **10A NCAC 41C .0603 APPROVAL OF TRAINING COURSES**

(a) Pursuant to Rule .0602 of this Section, applicants for accreditation and reaccreditation are required to successfully complete training courses approved by the Program. Training courses:

- (1) Required or recommended by 40 CFR Part 763, Subpart E, Appendix C and approved for a specific training provider by the Environmental Protection Agency or by a state with an Environmental Protection Agency-approved accreditation program, or by a state that has a written reciprocating agreement with the Program and meeting the requirements under Paragraph (g) of this Rule shall be deemed approved by the Program unless approval is suspended or revoked in accordance with Paragraph (I) of this Rule;
- (2) Required or recommended under 40 CFR Part 763, Subpart E, Appendix C and having no prior Program approval as specified in Subparagraph (a)(1) of this Rule shall meet the requirements of 40 CFR Part 763, Subpart E, Appendix C, I and III, and this Rule; or
- (3) Other than those covered in Subparagraphs (1) and (2) of this Paragraph which are required for North Carolina accreditation purposes shall meet the requirements of this Rule. Roofing worker or roofing supervisor courses taught prior to the effective date of these Rules and after August 10, 1994, that met the requirements of Rule .0611 of this Section shall be considered acceptable for accreditation purposes.

(b) Refresher training courses shall review and discuss changes in the Federal and State regulations, developments in the state-of-the-art procedures, and key aspects of the initial courses outlined under 40 CFR Part 763, Subpart E, Appendix C or Rule .0611 of this Section, as applicable.

(c) At the completion of the refresher training courses in all disciplines, the training provider shall administer a written closed book examination, approved by the Program. The requirements for the examination shall consist of a minimum of 25 multiple choice questions. For successful completion of the course the applicant shall pass the exam with a minimum score of 70 percent.

(d) Training courses shall be evaluated to maintain approval by the Program for course administration, course length, curriculum, training methods, instructors' qualifications, instructors' teaching effectiveness, technical accuracy of written materials and instruction, examination, and training certificate. The evaluation shall be

conducted using 40 CFR Part 763, Subpart E, Appendix C, Rules .0608 and .0611 of this Section, or NIOSH 582 curriculum, as applicable, which are hereby incorporated by reference, including any subsequent amendments and editions. These documents are available for inspection at the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27699-1915. Copies of 40 CFR Part 763, Subpart E, Appendix C may be obtained by writing to the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954, at a cost of twenty-six dollars (\$26.00). Copies of the NIOSH 582 curriculum may be obtained by writing the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27699-1915 at a cost of thirty-five dollars (\$35.00).

(e) Training course providers shall submit the following for evaluation and approval by the Program:

(1) a completed application on a form provided by the Program, along with supporting documentation. The form and supporting documentation shall include the following:

- (A) name, address, and telephone number of the training provider, and name and signature of the contact person;
- (B) course title, location and the language in which the course is to be taught;
- (C) a student manual and an instructor manual for each course and a content checklist that identifies and locates sections of the manual where required topics are covered;
- (D) course agenda;
- (E) a copy or description of all audio/visual materials used;
- (F) a description of each hands-on training activity;
- (G) a copy of a sample exam;
- (H) a sample certificate with the following information; and
  - (i) Name and social security number of student;
  - (ii) Training course title specifying initial or refresher;
  - (iii) Inclusive dates of course and applicable examination;
  - (iv) Statement that the student completed the course and passed any examination required;
  - (v) Unique certificate number as required;
  - (vi) For courses covered under 40 CFR Part 763, Subpart E, Appendix C, certificate expiration date that is one year after the date the course was completed and the applicable examination passed;
  - (vii) Printed name and signature of the training course administrator and printed name of the principal instructor;
  - (viii) Name, address, and phone number of the training provider;
  - (ix) Training course location;
  - (x) For courses required under 40 CFR Part 763, Subpart E, Appendix C, a statement that the person receiving the certificate has completed the requisite training for asbestos accreditation under Title II of the Toxic Substances Control Act; and
  - (xi) For training courses taught in languages other than English, the certificate shall indicate the language of the course.

(I) a list of training currently being provided.

(2) A list of instructors and their qualifications in accordance with Rule .0608 of this Section.

(f) An application for course approval shall be processed as follows:

(1) The Program shall review the application and supporting documentation submitted pursuant to Paragraph (e) of this Rule and advise the applicant of any deficiencies;

(2) If the submitted documentation meets all applicable requirements of this Rule, the Program shall notify the applicant of this and also advise the applicant that it may contact the Program to schedule an on-site audit; of a training course taught in North Carolina; approval of submitted documentation does not constitute course approval;

(3) If the Program determines, as a result of the audit, that the training course meets all applicable requirements of this Rule, it shall issue course approval. If the course does not meet these requirements, the Program shall notify the applicant of the deficiencies and advise that applicant that it may request one additional audit, which shall be held no more than six months from the date of the first audit; a request for audit after that time shall require a new application and fee;

(4) If the Program determines, as the result of the second audit, that the training course meets all applicable requirements of this Rule, it shall issue course approval. If the course does not meet all

these requirements, the Program shall notify the applicant of the deficiencies and advise the applicant that it may not reapply for course approval for the audited course for a period of six months from the date of the last audit;

- (5) The Program shall not accept certificates pursuant to Rule .0602 of this Section for a training course that is not approved or deemed approved pursuant to this Rule.

(g) Training course providers shall perform the following in order to maintain approval of all initial and refresher courses:

- (1) Issue a certificate of training meeting the requirements of Part (e)(1)(H) of this Rule to any student who completes the required training and passes the applicable examination.
- (2) Submit to the Program written notice of intention to conduct a training course for North Carolina asbestos accreditation purposes if the course is to be taught in North Carolina or if requested by the Program. Notices for training courses, except asbestos worker, shall be postmarked or received 10 working days before the training course begins. Notices for asbestos worker training courses shall be postmarked or received five working days before the training course begins. If the training course is canceled, the training course provider shall notify the Program at least one working day prior to the scheduled start date. Notification of intent to conduct a training course shall be made using a form provided by the Program and shall include the following:
  - (A) Training provider name, address, phone number and contact person;
  - (B) Training course title;
  - (C) Inclusive dates of course and applicable exam;
  - (D) Start and completion times;
  - (E) Identify whether the course is public offering, contract training, or for the training provider's employees;
  - (F) Location and directions to course facility;
  - (G) Language in which the course is taught; and
  - (H) Principal instructor.
- (3) Notify the Program, in writing, at least 10 working days prior to the scheduled course start date, of any changes to course length, curriculum, training methods, training manual or materials, instructors, examination, training certificate, training course administrator or contact person. The changes must be approved by the Program in order for the course to be acceptable for accreditation purposes.
- (4) Submit to the Program information and documentation for any course approved under Subparagraph (a) of this Rule if requested by the Program.
- (5) Ensure that all instructors meet the requirements of Rule .0608 of this Section and are approved by the Program.
- (6) Ensure that all training courses covered under this Rule meet the following requirements:
  - (A) All initial training courses shall have a maximum of 40 students;
  - (B) A day of training shall include at least six and one-half hours of direct instruction, including classroom, hands-on training or field trips;
  - (C) Regular employment and instruction time shall not exceed 12 hours in a 24 hour period;
  - (D) A training course shall be completed within a two-week period;
  - (E) All instructors and students shall be fluent in the language in which the course is being taught;
  - (F) An interpreter shall not be used;
  - (G) Upgrading worker accreditation to that of supervisor by completing only one day of initial training is not permitted. Separate initial training as a supervisor is required;
  - (H) A single instructor is allowed only for a worker course. Other initial disciplines shall have a minimum of two instructors;
  - (I) Instructor ratio for hands-on shall be no more than 10 students per instructor;
  - (J) All course materials shall be in the language in which the course is being taught;
  - (K) Each training course required by 40 CFR Part 763, Subpart E, Appendix C, shall be discipline specific;
  - (L) Students shall be allowed to take an examination no more than twice for each course. After two failures, the student shall retake the full course before being allowed to retest; and

- (M) Training providers shall provide examination security to prevent student access to the examination materials before and after the exam. Training providers shall take measures to preclude cheating during the exam, such as providing space between students, prohibiting talking, and monitoring students throughout the exam.
  - (7) Verify, by photo identification, the identity of any student requesting training.
  - (8) For each course approved or deemed approved by the Program under Paragraph (a) of this Rule and taught in North Carolina, the training provider shall submit a completed renewal application on a form provided by the Program. Effective January 1, 1995, a renewal application shall be submitted prior to the next course offering and annually thereafter. If an annual training course renewal lapses, the provider shall submit a renewal application prior to offering the course again in North Carolina. Training courses approved by the Program under Paragraph (f) of this Rule shall be taught at least once every three years in North Carolina.
  - (9) Training courses required or recommended under 40 CFR Part 763, Subpart E, Appendix C, shall meet the requirements therein.
  - (10) Work practice and worker protection demonstrations and hands-on exercises, including, but not limited to respirator fit testing, presented in all training courses covered under this Rule shall be conducted following the procedures provided in 29 CFR 1926.1101 which is incorporated by reference in Rule .0601(c) of this Section.
- (h) Training course providers shall permit Program representatives to attend, evaluate and monitor any training course, take the course examination and have access to records of training courses without charge or hindrance to the Program for the purpose of evaluating compliance with 40 CFR Part 763, Subpart E, Appendix C and these Rules. The Program shall perform periodic and unannounced on-site audits of training courses.
- (i) In accordance with G.S. 130A-23, the Program may revoke approval for a training course for violation of this Rule and shall revoke approval upon revocation of approval by the Environmental Protection Agency or by any state with an Environmental Protection Agency-approved accreditation program. A training provider whose approval has been revoked by the Program shall not be eligible for reapproval for a period of one year from the date of revocation. The Program shall also revoke course approval for all courses taught by a training provider upon a finding that the training course provider has issued one or more certificates to an individual who did not actually attend the course, either initial or refresher, and pass the examination. When course approval is revoked for improper issuance of certificates, the training course provider shall not be eligible for reapproval for a period of three years from the date of revocation.

*History Note: Authority G.S. 130A-5(3); 130A-447; P.L. 99-519; Temporary Rule Eff. November 1, 1989 for a period of 180 days to expire on April 30, 1989; Eff. February 1, 1990; Amended Eff. October 1, 1994; August 1, 1991; Temporary Amendment Eff. November 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. July 1, 1996; January 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.*

**10A NCAC 41C .0604 ASBESTOS MANAGEMENT PLANS**

- (a) All Local Education Agencies as defined in 40 CFR Part 763, Subpart E shall submit Asbestos Management Plans for school buildings to the Program on forms provided by the Program. Asbestos Management Plans shall meet the requirements contained in 40 CFR Part 763, Subpart E.
- (b) In addition to the requirements in Paragraph (a) of this Rule, the management plan shall identify, locate, classify, quantify, and assess asbestos containing building materials.
- (c) All Local Education Agencies shall submit to the Program, within 120 days of the actual on-site reinspection, the Asbestos Hazard Emergency Response Act reinspection reports as required under 40 CFR Part 763, Subpart E. These reports shall be submitted on forms provided by the Program.
- (d) All inspectors and management planners developing management plans and reinspection reports under the Asbestos Hazard Emergency Response Act shall comply with all requirements of 40 CFR Part 763, Subpart E and the rules of this Section.

*History Note: Authority G.S. 130A-5(3); 130A-445; P.L. 99-519;*

*Temporary Rule Eff. November 1, 1989 for a period of 180 days to expire on April 30, 1990;  
Eff. February 1, 1990;  
Amended Eff. October 1, 1994; August 1, 1991;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February  
16, 2019.*

**10A NCAC 41C .0605 ASBESTOS CONTAINING MATERIALS REMOVAL PERMITS**

(a) No person shall remove more than 35 cubic feet (1 cubic meter), 160 square feet (15 square meters) or 260 linear feet (80 linear meters) of regulated asbestos containing material, without a permit issued by the Program. This permitting requirement is applicable to:

- (1) individual removals that exceed the threshold amounts addressed in this Paragraph;
- (2) nonscheduled asbestos removals conducted at an installation that exceed the threshold amounts addressed in this Paragraph in a calendar year of January 1 through December 31. Other asbestos abatement activities are exempt from the permit requirements of G.S. 130A-449.

(b) All applications shall be made on a form provided or approved by the Program. The application submittal shall include at least all of the information specified under the notification requirements of 40 CFR Part 61.145(b), Subpart M as adopted in Rule .0609 of this Section. Applications for asbestos containing material removal permits shall adhere to the following schedule.

- (1) Applications for individual asbestos removals shall be postmarked or received by the Program at least 10 working days prior to the scheduled removal start date. For emergency renovation operations involving asbestos removal, the 10 working days notice shall be waived. An application for a permit for the emergency renovation operation shall be postmarked or received by the Program as early as possible before, but not later than, the following working day. Permit applications for emergency renovation operations shall be accompanied by a letter from the owner or his representative explaining the cause of the emergency;
- (2) Applications for nonscheduled asbestos removals shall be postmarked or received by the Program at least 10 working days before the start of the calendar year and shall expire on or before the last day of the same calendar year. Reports of the amount of regulated asbestos containing material removed shall be made at least quarterly to the Program.

(c) Application for revision to an issued asbestos removal permit shall be made by the applicant in writing on a form provided by the Program and shall be received by the Program in accordance with the following:

- (1) Revision to a start date for a project that will begin after the start date stated in the approved permit shall be received on or before the previously stated start date or previously revised start date;
- (2) Revision to a start date for a project that will begin before the start date stated in the approved permit shall be received at least 10 working days before the new start date;
- (3) Revision to a completion date that will be extended beyond the completion date stated in the approved permit shall be received by the original or previously revised completion date;
- (4) Revision to a completion date that will be earlier than the completion date stated in the approved permit shall be received by the new completion date; and
- (5) Revisions to permits other than start or completion dates shall be submitted to the Program prior to initiating the activity which the revision addresses.

(d) The following shall be maintained on site during removal activities and be immediately available for review by the Program:

- (1) a copy of the removal permit issued by the Program and all revisions with the Program's confirmation of receipt;
- (2) a copy of applicable asbestos abatement design and project monitoring plan; and
- (3) photo identification cards issued by the Program for all accredited personnel performing asbestos management activities.

(e) All permitted removal activities shall be conducted in accordance with 40 CFR Parts 61 and 763, Subpart E, where applicable.

(f) All permitted removals shall be conducted under the direct supervision of an accredited supervisor, except that permitted removals of roofing products may be conducted under the direct supervision of an accredited roofing supervisor. The supervisor or roofing supervisor, as applicable, shall be on-site at all times when removal activities are being performed. For the purpose of this Rule, removal activities for roofing products, means the tear off and disposal activities associated with these products, and does not include the roof replacement.



(g) An asbestos abatement design shall be prepared by an accredited abatement designer for each individually permitted removal of more than 3000 square feet (281 square meters), 1500 linear feet (462 meters) or 656 cubic feet (18 cubic meters), of regulated asbestos containing materials conducted in public areas.

(h) In accordance with G.S. 130A-23, the Program may suspend or revoke the permit for any violation of G.S. 130A, Article 19 or any of the rules of this Section. The Program may also revoke the permit upon a finding that its issuance was based upon incorrect or inadequate information that materially affected the decision to issue the permit. Notwithstanding permit suspension or revocation for violation of the rules of this Section, an asbestos removal permit shall also be subject to suspension or revocation if the removal activities are in violation of the following provisions with regard to asbestos abatement, as determined by the agencies which administer these Rules:

- (1) Department of Labor rules found at Chapter 7, Title 13 of the North Carolina Administrative Code;
- (2) Department of Transportation rules found at Title 19A, of the North Carolina Administrative Code;
- (3) Solid Waste Management rules found at Chapter 13, Title 15A of the North Carolina Administrative Code.

(i) All waste shipment records shall be submitted to the Program by the building owner or a representative of the owner for all asbestos removal projects permitted under this Rule. This submittal shall be made on a form provided or approved by the Program. This form shall include at least all of the information specified under the waste shipment record requirements of 40 CFR Part 61, Subpart M, Section 61.150(d) as adopted in Rule .0609 of this Section.

(j) The following schedule shall be adhered to in the submittal of waste shipment records:

- (1) For individually permitted asbestos removals, the waste shipment records shall be postmarked or received by the Program within 45 days from the completion date provided on the permit; and
- (2) For nonscheduled asbestos removals, the waste shipment records shall be postmarked or received by the Program within 30 days after the end of each quarter.

*History Note: Authority G.S. 130A-5(3); 130A-449; P.L. 99-519; Temporary Rule Eff. November 1, 1989 for a period of 180 days to expire on April 30, 1990; Eff. February 1, 1990; Amended Eff. October 1, 1994; August 1, 1991; Temporary Amendment Eff. November 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. July 1, 1996; January 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.*

#### **10A NCAC 41C .0606 FEES**

(a) The fee required by G.S. 130A-450 shall be submitted with an application for the asbestos containing material removal permit. The fees shall be as follows:

- (1) Fees for the removal of floor tiles, cementitious asbestos containing wallboard or panels and asbestos containing roofing material shall be one percent of the contract price or ten cents (\$0.10) per square foot, whichever is greater;
- (2) Fees for the removal of ceiling tiles shall be one percent of the contract price or ten cents (\$0.10) per square foot, whichever is greater;
- (3) Fees for the removal of surfacing material, thermal system insulation and other asbestos containing materials shall be one percent of the contract price or twenty cents (\$0.20) per square or linear foot, whichever is greater;
- (4) Fees for demolition shall be a maximum of three hundred dollars (\$300.00). Demolition, for the purposes of this Rule only, means the act of razing a building or structure, or portion thereof, to the ground. Removal of regulated asbestos containing material from any undemolished portion of a building or structure shall be permitted as an individual asbestos removal; and
- (5) An owner of any single family dwelling in which the owner resides or will reside after the asbestos removal is complete is exempt from permit fees. A permit shall not be issued until the required fee is paid.

(b) The fee required by G.S. 130A-448(a) shall be submitted with an application for accreditation or reaccreditation. The amount of the fee shall be one hundred dollars (\$100.00) for each category, except that the fee for persons applying for accreditation or reaccreditation as workers or roofing workers shall be twenty-five dollars (\$25.00). However, if a person applies for accreditation or reaccreditation in more than one category per calendar year, the amount of the fee shall be one hundred dollars (\$100.00) for accreditation or reaccreditation in the first category and seventy-five (\$75.00) for accreditation or reaccreditation in each remaining category, except for workers. A person shall not be accredited or reaccredited until the required fee is paid.

(c) The fees required by G.S. 130A-448(b) shall be submitted with the application for each initial course approval and each renewal course approval. The amount of the fee shall be one thousand five hundred dollars (\$1,500.00) for each initial course approval and two hundred dollars (\$200.00) for each renewal course approval.

*History Note: Authority G.S. 130A-5(3); 130A-448(a); 130A-448(b); 130A-450; P.L. 99-519; Temporary Rule Eff. November 1, 1989 for a period of 180 days to expire on April 30, 1990; Eff. February 1, 1990; Amended Eff. October 1, 1994; August 1, 1991; Temporary Amendment Eff. November 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. July 1, 1996; January 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.*

#### **10A NCAC 41C .0607 ASBESTOS EXPOSURE STANDARD FOR PUBLIC AREAS**

(a) The maximum allowable ambient asbestos level in the air for public areas shall be:

- (1) 0.01 fibers per cubic centimeter as analyzed by phase contrast microscopy, or
- (2) arithmetic mean of less than or equal to 70 structures per millimeter square as analyzed by transmission electron microscopy, or
- (3) a Z-Test result that is less than or equal to 1.65 as analyzed by transmission electron microscopy.

(b) For individually permitted asbestos removals, ambient air sampling shall be conducted in public areas adjacent to the work area. Initial sampling shall be conducted on the day that regulated asbestos containing material removal begins. The sampling shall continue on a daily basis unless, or until, the supervising air monitor specifies differently. Potential public asbestos exposure shall be considered when determining the frequency and location of the sampling.

(c) Clearance air sampling shall be conducted in accordance with Paragraphs (d) and (e) of this Rule for all individually permitted asbestos removal projects conducted in public areas. Clearance air samples shall be analyzed by:

- (1) transmission electron microscopy and comply with the levels specified under Subparagraph (a)(2) or (a)(3) of this Rule for each individually permitted removal of more than 3000 square feet (281 square meters), 1500 linear feet (462 meters), or 656 cubic feet (18 cubic meters) of regulated asbestos containing material; or
- (2) transmission electron microscopy or phase contrast microscopy and comply with the levels specified in Paragraph (a) of this Rule for all other permitted asbestos removals, including asbestos removals exceeding threshold amounts stipulated in Subparagraph (c)(1) of this Rule in buildings scheduled for demolition. Demolition, for the purposes of this Rule, means as defined in Rule .0606(a)(4) of this Section.

(d) Phase contrast microscopy and transmission electron microscopy sampling and analysis methods shall be conducted in accordance with 40 CFR Part 763, Subpart E.

(e) Sample analysis for phase contrast microscopy or transmission electron microscopy samples shall be performed by a laboratory meeting the requirements of P.L. 99-519 and 40 CFR 763 and accompanying appendices. Laboratories performing phase contrast microscopy analysis pursuant to this Rule shall have a rating of proficient by the American Industrial Hygiene Association's Proficiency Analytical Testing Program. Individuals performing phase contrast microscopy analysis at the asbestos removal location shall be rated proficient in the American Industrial Hygiene Association's Asbestos Analysts Registry Program. If all microscopists in a particular laboratory performing phase contrast microscopy analysis are rated as proficient by the Asbestos Analysts Registry Program, enrollment and proficiency in the Proficiency Analytical Testing Program is not required.

(f) A final visual inspection shall be conducted by an accredited air monitor or an accredited supervising air monitor for all permitted asbestos removals conducted in public areas. This visual inspection shall be conducted prior to

clearance air sampling. The final visual inspection shall assure that all asbestos containing residue, dust, and debris and asbestos contaminated equipment has been removed.

(g) Any person performing ambient or clearance air sampling or visual inspection during an asbestos removal as specified under Paragraphs (b), (c), and (f) of this Rule shall be retained by the building owner. Neither the accredited supervising air monitor nor accredited air monitor shall be employed by the contractor hired to conduct the asbestos removal except that:

- (1) this restriction in no way applies to personal samples taken to evaluate worker exposure as required by Occupational Safety and Health Act; and
- (2) this restriction shall not apply when the contractor and air monitor have disclosed their association to the building owner and the building owner approves this association in writing.

(h) For air sampling and visual inspections conducted under Paragraphs (b), (c), and (f) of this Rule, the supervising air monitor shall:

- (1) Prepare, prior to the removal start date, an abatement project monitoring plan which takes into consideration at least the abatement project scope of work, building use, occupant locations and their potential for exposure to airborne asbestos fibers, type of asbestos containing material, and the asbestos abatement design, including work practices and engineering controls. The plan shall include air sampling procedures, air sample locations and air sampling frequency. This sampling plan may be amended by the supervising air monitor as needed. This requirement shall apply to each individually permitted removal of more than 3000 square feet (281 square meters), 1500 linear feet (462 meters), or 656 cubic feet (18 cubic meters) of regulated asbestos containing materials;
- (2) Ensure that ambient air sampling results shall be available on-site:
  - (A) within 24 hours of sample collection and analysis by phase contrast microscopy;
  - (B) within 48 hours of sample collection and analysis by transmission electron microscopy;
- (3) Personally inspect any individually permitted asbestos removal project:
  - (A) that exceeds 10 working days in length, but does not exceed 30 working days, at least once; or
  - (B) that exceeds 30 working days in length, at least once in the first 30 working days and at least once every 30 working days thereafter;
- (4) Prepare a written, signed and dated report documenting all site visits made to the removal, final visual inspection, and all ambient and clearance air sampling conducted. This report shall be supplied by the supervising air monitor to the building owner. The building owner shall supply a copy of the report to the Program upon request.

*History Note: Authority G.S. 130A-5(3); 130A-446; P.L. 99-519; Temporary Rule Eff. November 1, 1989 for a period of 180 days to expire on April 30, 1990; Eff. February 1, 1990; Amended Eff. October 1, 1994; August 1, 1991; Temporary Amendment Eff. November 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. July 1, 1996; January 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.*

#### **10A NCAC 41C .0608 TRAINING COURSE INSTRUCTOR QUALIFICATIONS**

(a) Any person seeking approval as an instructor for courses covered under 40 CFR Part 763, Subpart E, Appendix C, Rule .0603(a)(3) and .0611 of this Section shall meet the applicable requirements listed in this Rule.

(b) All training course providers shall submit to the Program the following:

- (1) a completed application on a form provided by the Program and available at <https://epi.dph.ncdhhs.gov/asbestos/healthaz.html>. A completed application form shall include the following information:
  - (A) name, address, and telephone number of the applicant;
  - (B) name, address and telephone number of the training provider that is employing the applicant;
- (2) when training course completion is a requirement pursuant to Rule .0602 of this Section, confirmation of completion of an approved training course. The confirmation shall be in the form

of an original certificate of completion of the approved training course or the following information:

- (A) the course title;
  - (B) dates of the course instruction;
  - (C) name(s) of instructor(s); and
  - (D) name, address and telephone number of the training provider;
- (3) when education is a requirement, a copy of the high school diploma or equivalent;
  - (4) when work experience is a requirement pursuant to Rule .0602 of this Section, documentation of the applicant's work history, including the following:
    - (A) employer name;
    - (B) employer address and phone number;
    - (C) position(s) held by applicant;
    - (D) dates when the applicant held each position; and
    - (E) copies of any licenses, registrations, certifications, or accreditations related to the subject matter to be taught; and
  - (5) when experience as an instructor is a requirement pursuant to Rule .0602 of this Section, documentation of instructional experience including the following:
    - (A) name(s) of the course(s) taught;
    - (B) the topic that the applicant taught for each course;
    - (C) the dates of the courses that the applicant taught; and
    - (D) the name, address, and phone number of each training organization for which experience is claimed.
- (c) Training courses shall include instruction on specific topics as follows:
- (1) for the worker and roofing worker courses: current best practices;
  - (2) for the supervisor and roofing supervisor courses: current best practices and techniques for asbestos abatement activities;
  - (3) for the inspector course: pre-inspection planning and review of previous inspection records, inspecting for friable and nonfriable asbestos containing materials and assessing the condition of friable asbestos containing materials, bulk sampling and documentation of asbestos in schools, recordkeeping and writing inspection reports;
  - (4) for the management planner course: evaluation and interpretation of survey results, hazard assessment, developing an operations and maintenance plan, recordkeeping for the management planner, and assembling and submitting the management plan;
  - (5) for the abatement designer course: safety system design specifications, designing abatement solutions, budgeting and cost estimation, writing abatement specifications, preparing abatement drawings and occupied buildings; and
  - (6) for the project monitor course: asbestos abatement contracts, specifications and drawings, response actions and abatement practices, air monitoring strategies, conducting visual inspections, and recordkeeping and report writing.
- (d) Instructors for topics, hands-on exercises, workshops, or field trips covered under 40 CFR Part 763, Subpart E, Appendix C shall meet the following requirements as applicable:
- (1) For the worker initial and refresher and the supervisor initial and refresher courses:
    - (A) the applicant shall have completed the initial and subsequent refresher training course requirements for supervisor; and
    - (B) the applicant shall meet at least one of the following education and asbestos work experience combinations:
      - (i) If the applicant does not possess either a high school diploma or equivalent, the applicant shall:
        - (I) have at least 1440 hours experience in a worker or supervisory capacity in a contained work area; and
        - (II) have at least 360 hours as an instructor in an Environmental Protection Agency-approved or Program approved worker course.
      - (ii) If the applicant possesses either a high school diploma or equivalent, the applicant shall:
        - (I) have at least 960 hours experience in a worker, supervisory, or consulting capacity in a contained work area; or

- (II) have at least 240 hours as an instructor in an Environmental Protection Agency-approved or Program approved asbestos worker or supervisor course, or other courses that provide instruction on the occupational safety and health topics described in 29 CFR Parts 1910 and 1926 or environmental safety and health topics described in 40 CFR Parts 50 through 503, Parts 700 through 799, and Parts 1000 through 1099.
  - (iii) If the applicant possesses at least an associate degree from an accredited college or university, the applicant shall:
    - (I) have at least 480 hours experience in a worker, supervisory, or consulting capacity in a contained area; or
    - (II) have at least 120 hours as an instructor in an Environmental Protection Agency-approved or Program approved asbestos worker or supervisor course, or other courses that provide instruction on the occupational safety and health topics described in 29 CFR Parts 1910 and 1926 or environmental safety and health topics described in 40 CFR Parts 50 through 503, Parts 700 through 799, and Parts 1000 through 1099.
- (2) For the inspector initial and refresher courses:
  - (A) the applicant shall have successfully completed the initial and subsequent refresher training course requirements for inspector; and
  - (B) the applicant shall meet at least one of the following education and asbestos work experience combinations:
    - (i) If the applicant possesses either a high school diploma or equivalent, the applicant shall:
      - (I) have documented experience, including asbestos inspections in at least 1,000,000 square feet of building space in the past three years; or
      - (II) have at least 60 hours as an instructor in an Environmental Protection Agency-approved or Program approved inspector course, or other courses that provide instruction on the occupational safety and health topics described in 29 CFR Parts 1910 and 1926 or environmental safety and health topics described in 40 CFR Parts 50 through 503, Parts 700 through 799, and Parts 1000 through 1099.
    - (ii) If the applicant possesses at least an associate degree from an accredited college or university, the applicant shall:
      - (I) have documented experience, including asbestos inspections in at least 500,000 square feet of building space in the past three years; or
      - (II) have at least 40 hours as an instructor in an Environmental Protection Agency-approved or Program approved inspector course, or other courses that provide instruction on the occupational safety and health topics described in 29 CFR Parts 1910 and 1926 or environmental safety and health topics described in 40 CFR Parts 50 through 503, Parts 700 through 799, and Parts 1000 through 1099.
- (3) For the management planner initial and refresher courses:
  - (A) the applicant shall have successfully completed the initial and subsequent refresher training course requirements for management planner; and
  - (B) the applicant shall meet at least one of the following education and asbestos work experience combinations:
    - (i) If the applicant possesses either a high school diploma or equivalent, the applicant shall:
      - (I) have documented management planning experience showing at least 25 management plans or reinspection reports written in the past three years, or documented experience as the management consultant for at least 25 asbestos projects in the past three years, or a combination of management plans and projects managed; or
      - (II) have at least 48 hours as an instructor in an Environmental Protection Agency-approved or Program approved management planner course or other courses that provide instruction on the occupational safety and

health topics described in 29 CFR Parts 1910 and 1926 or environmental safety and health topics described in 40 CFR Parts 50 through 503, Parts 700 through 799, and Parts 1000 through 1099.

- (ii) If the applicant possesses at least an associate degree from an accredited college or university, the applicant shall:
    - (I) have documented management planning experience showing at least 12 management plans or reinspection reports written in the past three years, or documented experience as the management consultant for at least 12 asbestos projects in the past three years, or a combination of management plans and projects managed; or
    - (II) have at least 32 hours as an instructor in an Environmental Protection Agency-approved or Program approved management planner course or other courses that provide instruction on the occupational safety and health topics described in 29 CFR Parts 1910 and 1926 or environmental safety and health topics described in 40 CFR Parts 50 through 503, Parts 700 through 799, and Parts 1000 through 1099.
- (4) For the project designer initial and refresher courses:
- (A) the applicant shall have successfully completed the initial and subsequent refresher training course requirements for abatement project designer; and
  - (B) the applicant shall meet at least one of the following education and asbestos work experience combinations:
    - (i) If the applicant possesses either a high school diploma or equivalent, the applicant shall:
      - (I) have documented asbestos abatement project design experience including the design of at least 12 asbestos projects in the past three years; or
      - (II) have at least 30 hours as an instructor in an Environmental Protection Agency-approved or Program approved abatement project designer course or other courses that provide instruction on the occupational safety and health topics described in 29 CFR Parts 1910 and 1926 or environmental safety and health topics described in 40 CFR Parts 50 through 503, Parts 700 through 799, and Parts 1000 through 1099.
    - (ii) If the applicant possesses at least an associate degree from an accredited college or university, the applicant shall:
      - (I) have documented asbestos abatement project design experience, including the design of at least six asbestos projects in the past three years; or
      - (II) have at least 20 hours as an instructor in an Environmental Protection Agency-approved or Program approved abatement project designer course or other courses that provide instruction on the occupational safety and health topics described in 29 CFR Parts 1910 and 1926 or environmental safety and health topics described in 40 CFR Parts 50 through 503, Parts 700 through 799, and Parts 1000 through 1099.
- (5) For the project monitor initial and refresher courses:
- (A) the applicant shall meet the qualifications for project designer instructor under Subparagraph (d)(4) of this Rule or the qualifications for supervisor instructor under Subparagraph (d)(1) of this Rule to teach the work practice topics of asbestos abatement contracts, specifications and drawings or response action and abatement practices;
  - (B) the applicant for work practice topics of air monitoring strategies, conducting visual inspections, and recordkeeping and report writing shall:
    - (i) possess either a high school diploma or equivalent;
    - (ii) successfully complete a Program approved NIOSH 582 course, Program approved NIOSH 582 Equivalency Course or a Program approved project monitor course; and
    - (iii) have documented asbestos air monitoring experience on at least six asbestos removals.

(e) Instructors who teach one or more segments of a training course covered under 40 CFR Part 763, Subpart E, Appendix C, Rule .0603(a) or Rule .0611 of this Section, other than work practice topics, hands-on exercises, workshops, or field trips, shall meet the following requirements:

- (1) be currently working in the field of expertise in which training is conducted; and
- (2) have a minimum of a high school diploma or equivalent.

(f) Instructors for a Program approved NIOSH 582 or Program approved NIOSH 582 Equivalency Course shall meet the following requirements:

- (1) have a high school diploma or equivalent;
- (2) attend a NIOSH 582 training course or a Program approved NIOSH 582 Equivalency Course; and
- (3) for teaching the NIOSH 7400 Method, have at least three months work experience as a microscopist performing analysis using the NIOSH 7400 Method.

(g) Instructors who teach work practice or hands-on topics in Program approved roofing worker or roofing supervisor initial or refresher courses shall meet the following requirements:

- (1) have a high school diploma or equivalent;
- (2) successfully complete either an initial asbestos supervisor or initial asbestos roofing supervisor course, and subsequent annual refresher courses;
- (3) successfully complete an initial asbestos inspector course; and
- (4) have at least three months' experience as a roofing supervisor or asbestos supervisor.

*History Note:* Authority G.S. 130A-447;  
Eff. October 1, 1994;  
Amended Eff. July 1, 1996;  
Readopted Eff. January 1, 2021.

#### **10A NCAC 41C .0609 ASBESTOS NESHAP FOR RENOVATIONS AND DEMOLITIONS**

(a) Each owner or operator of a renovation or demolition activity, as defined in 40 CFR 61.141, shall comply with all applicable requirements of the Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP) for renovations and demolitions as found in 40 CFR Part 61, Subparts A and M. 40 CFR Part 61, Subparts A and M are hereby incorporated by reference, including any subsequent amendments and editions. This document is available for inspection at the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27699-1915. Copies may be obtained free of charge by writing the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27699-1915.

(b) All reports, applications, submittals, and other communications required to be submitted under Paragraph (a) of this Rule shall be submitted to the Director, Division of Epidemiology, rather than to the Environmental Protection Agency, except that such asbestos NESHAP documents pertaining to renovations and demolitions within local air pollution program jurisdictions shall be submitted to the local program.

*History Note:* Authority G.S. 130A-451;  
Temporary Adoption Eff. November 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
Eff. January 1, 1995;  
Amended Eff. July 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.

#### **10A NCAC 41C .0610 LOCAL AIR POLLUTION PROGRAMS**

The Department shall authorize local air pollution programs certified as of October 1, 1994, pursuant to G.S. 143-215.112 to enforce the asbestos NESHAP for renovations and demolitions so long as the local program maintains its certification pursuant to G.S. 143-215.112.

*History Note:* Authority G.S. 130A-452;  
Temporary Adoption Eff. November 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
Eff. January 1, 1995;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.

### **10A NCAC 41C .0611 REQUIREMENTS FOR ASBESTOS ROOFING TRAINING COURSES**

(a) Pursuant to Rule .0602 of this Section, applicants for accreditation and reaccreditation as a roofing worker or roofing supervisor are required to successfully complete a training course approved by the Program under this Rule. Initial and refresher training courses for roofing workers and roofing supervisors shall meet requirements of this Rule and Rule .0603 of this Section.

(b) Initial training courses for roofing workers shall be at least one day in length and cover the following topics:

- (1) Physical characteristics of asbestos, including the identification of asbestos, the aerodynamic characteristics, and the typical uses of asbestos in roofing materials;
- (2) Health effects related to asbestos exposure, including the nature of asbestos related diseases, the routes of exposures, the dose-response relationship, the lack of a safe exposure level, the latency period, cigarette smoking and asbestos exposure, medical surveillance programs, and information on smoking cessation programs;
- (3) State-of-the art work practices, including proper work techniques to minimize fiber release, removal procedures for cement roofing products versus built-up roofing products, discussion of prohibited work practices, wetting, hand tools, power tools, HEPA vacuumed tools, waste disposal procedures, and controlling access to work areas;
- (4) Personal protection equipment, including the classes and characteristics of respirator types, limitations, proper selection, inspection, donning, use and storage procedures for respirators, fit testing, components of a proper respiratory protection program, selection and use and storage of non-disposable clothing, hard hats, safety glasses, and non-slip shoes;
- (5) Personal hygiene, including entry and exit procedure for the work area, avoidance of eating, smoking, and chewing in the work area, and potential exposures, such as family exposures;
- (6) Safety practices and hazard prevention during removal of roofing materials and emergency procedures, including hazards posed by wet working conditions, electrical hazards, slips, trips, heat/cold stress, falls, and scaffold and ladder hazards; and
- (7) Review of state, federal, and local rules and regulations, including, an overview of the asbestos regulations under the National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61, Subpart M), Occupational Safety and Health Act (29 CFR 1926.1101), these Rules, and other pertinent rules and regulations.

(c) Initial training courses for roofing supervisors shall be at least two days in length and cover the topics under Paragraph (b) of this Rule. The following additional topics shall be covered in roofing supervisor courses:

- (1) Discussion of the competent person duties required by the Occupational Safety and Health Act, Asbestos Construction Standard, 29 CFR 1926.1101(o), as adopted by 13 NCAC 7F .0201 and amendment or recodification as adopted by the North Carolina Department of Labor;
- (2) Pre-work activities and considerations, including the determination of asbestos containing roofing products, bulk sampling procedures, analytical methods, inspection reports, and air monitoring procedures;
- (3) Assessment of the work area, including isolation of the work area, considerations if the work area is adjacent to an occupied area, and items requiring special protection;
- (4) Site considerations and preparations, designating the regulated areas, setting up the barricade, and warning signs; and
- (5) Supervisory techniques, including worker training, housekeeping, recordkeeping, and documentation requirements.

(d) The state-of-the-art work practice topics shall include a segment of hands-on activities, which allows the students an opportunity to use and handle equipment found on asbestos roofing projects. The hands-on activities shall be a minimum of two hours for the roofing worker course and four hours for roofing supervisor course.

(e) The refresher training course for roofing workers shall be at least one-half day and for the roofing supervisor course shall be at least one day in length. These courses shall review and discuss changes in the Federal and State regulations, developments in the state-of-the-art work procedures, and key aspects of the initial courses as provided in Paragraphs (b) and (c) this Rule.

(f) At the completion of the initial roofing worker and roofing supervisor course the training provider shall administer a written closed book examination, approved by the Program. The examination shall be in multiple choice format, with a minimum of 50 questions for the roofing supervisor course and 25 questions for the roofing worker course. For successful completion of the course, the student shall pass the examination with a minimum



score of 70 percent. The refresher training course examination for these disciplines shall meet the requirements of Rule .0603(c) of this Section.

*History Note: Authority G.S. 130A-447;  
Eff. July 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.*

## **SECTION .0700 - OCCUPATIONAL HEALTH SURVEILLANCE**

### **10A NCAC 41C .0701 DEFINITION**

The following definitions apply in this Section:

- (1) "Elevated blood lead level" means a blood lead of  $> 0 \mu\text{g/dL}$ .
- (2) "Non-elevated blood lead level" means all blood lead levels that are  $0 \mu\text{g/dL}$  or an undetectable amount.

*History Note: Authority G.S. 130A-455;  
Eff. January 4, 1994;  
Readopted Eff. January 1, 2020.*

### **10A NCAC 41C .0702 REPORTABLE DISEASES, ILLNESSES, AND INJURIES**

(a) The following named diseases, illnesses, and injuries are declared to be dangerous to the public health and shall be reported by a physician within the time period specified after the disease, illness, and injury is diagnosed:

- (1) asbestosis - 15 business days;
- (2) silicosis - 15 business days;
- (3) elevated blood lead levels for persons aged 16 years of age and above - 15 business days;
- (4) injuries caused by tractors, farm equipment, or farm machinery that occur while working on a farm and require medical care – 15 business days;
- (5) carbon monoxide poisoning - 15 business days.

(b) All laboratories providing diagnostic service in North Carolina shall report to the Occupational and Environmental Epidemiology Branch within the Division of Public Health elevated blood lead levels for persons aged 16 years of age and above.

(c) Physicians shall not be required to report elevated blood lead levels for persons aged 16 years of age and above when a laboratory providing diagnostic service in North Carolina reports elevated blood lead levels.

(d) Non-elevated blood lead levels shall be reported in same manner as elevated blood lead levels under Subparagraph (a)(3) for surveillance purposes.

*History Note: Authority G.S. 130A-29(b); 130A-455; 130A-456; 130A-457; 130A-458;  
Eff. January 4, 1994;  
Amended Eff. December 1, 2016;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019;  
Amended Eff. January 1, 2020.*

### **10A NCAC 41C .0703 METHOD OF REPORTING**

(a) When a physician makes a report of a disease, illness, injury, or elevated blood lead level for persons aged 16 years of age and above pursuant to G.S. 130A-456 or a medical facility makes such a report pursuant to G.S. 130A-457, the report shall be made to the Occupational and Environmental Epidemiology Branch as follows:

- (1) The report shall be made on the surveillance forms provided by the Occupational and Environmental Epidemiology Branch and shall include the following information:
  - (A) The name, address, telephone number, date of birth, race, ethnicity, gender, and job title of the person;
  - (B) The name, address, telephone number, and type of business of the person's employer;
  - (C) The name of the disease, illness, or injury being reported; and
  - (D) The name, address, and telephone number of the physician, laboratory, or medical facility.

- (2) Surveillance forms are available from the Occupational and Environmental Epidemiology Branch, Epidemiology Section, Division of Public Health, N.C. Department of Health and Human Services, 1912 Mail Service Center, Raleigh, NC 27699-1912. The form can also be requested by calling (919) 707-5900.
- (b) When a laboratory providing diagnostic service in North Carolina reports laboratory findings related to occupational disease or illness pursuant to G.S. 130A-458, the report shall include:
  - (1) the specimen collection date;
  - (2) the person's name, date of birth, gender, race, and ethnicity;
  - (3) the submitting physician/employer name, address, and telephone number; and
  - (4) the name, address, and telephone number of the laboratory.

*History Note:* Authority G.S. 130A-455; 130A-456; 130A-458;  
Eff. January 4, 1994;  
Readopted Eff. January 1, 2020.

## **SECTION .0800 - LEAD-BASED PAINT HAZARD MANAGEMENT PROGRAM**

### **10A NCAC 41C .0801 GENERAL**

(a) In addition to the definitions found in 40 CFR Part 745 Subpart D and Subpart L, the following definitions shall apply throughout this Section:

- (1) "Accredited training course" means a lead training course accredited by the Program.
- (2) "Accredited training provider" means a training provider who is accredited by the Program, and who provides accredited training courses.
- (3) "Design" means a written or graphic plan prepared by a certified project designer specifying how an abatement project will be performed, and includes, but is not limited to, scope of work and technical specifications. The certified project designer's signature and certification number shall be on all such abatement designs.
- (4) "Emergency Lead-Based Paint Abatement" means abatement conducted to remediate a lead-based paint hazard which has been determined by a certified risk assessor and the Program to be an imminent lead-based paint hazard to building occupants in a child occupied facility.
- (5) "Immediate family" means an individual's family members limited to spouse, parents, siblings, grandparents, children, and grandchildren.
- (6) "Occupant Protection Plan" means a written plan which describes the measures and management procedures that will be taken during abatement to protect building occupants from exposure to lead-based paint hazards. The plan shall be unique to each residential dwelling or child-occupied facility. For projects less than five units, the plan shall be prepared by a certified supervisor or project designer. For projects with five or more units, the plan shall be prepared by a certified project designer. The plan shall include the preparer's signature and certification number.
- (7) "Program" means the Lead-Based Paint Hazard Management Program within the Division of Public Health.
- (8) "Start date" means the date on which activities begin on a permitted lead abatement project requiring the use of certified individuals, including the abatement area isolation and preparation or any other activity which may disturb lead-based paint.
- (9) "Working day" means Monday through Friday. Holidays falling on any of these days are working days.
- (10) "Certified Industrial Hygienist" means a person who has met the education, experience, and examination requirements established by the American Board of Industrial Hygiene for certified industrial hygienists and whose certification has not been revoked by that organization.

(b) Lead-Based Paint Activities, 40 CFR Part 745 Subpart D and Subpart L, is hereby incorporated by reference, including any subsequent amendments and editions. This document is available for inspection at the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27699-1915. A copy of this document may be obtained in writing from the US Government Bookstore, 999 Peachtree Street, Suite 120, Atlanta, GA, at a cost of fifty five dollars (\$55.00).

*History Note:* Authority G.S. 130A-453.01; 130A-453.11; 150B-21.1(a)(3);  
Temporary Adoption Eff. July 7, 1997;

*Eff. July 1 1998;*

*Temporary Amendment Eff. May 17, 2002;*

*Amended Eff. April 1, 2003;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.*

#### **10A NCAC 41C .0802 CERTIFICATION OF INDIVIDUALS**

(a) No person shall perform lead-based paint activities until that person has been certified by the Program in the appropriate certification category, except as provided for in G.S. 130A-453.03(b).

(b) An applicant for certification shall successfully complete applicable training courses accredited by the Program or accredited by a state, tribe, or territory that has a written reciprocating agreement with the Program, and shall successfully complete the examination specified in Rule .0804 of this Section. Successful completion includes attendance of at least 95 percent of the course, passing the course exam with a minimum score of 70% and passing the hands-on skills assessment. An applicant for initial certification shall have successfully completed an accredited initial training course for a specific discipline within the 12 months immediately preceding application. If initial training was completed more than 12 months prior to application, the applicant shall have successfully completed an accredited refresher course for the specific discipline at least every 24 months from the date of completion of initial training and within 12 months prior to applying for certification. However, an applicant who completed training prior to the effective date of this Rule and applies for certification prior to December 31, 1998, shall meet the following requirements:

- (1) Training taken prior to July 1, 1995, shall be recognized for certification if the applicant has completed a refresher course at least every 24 months from the date of initial training; if the applicant has not attended a refresher course at least every 24 months from the date of initial training, the applicant shall complete an accredited initial training course; or
- (2) Applicants for certification who have successfully completed an initial training course for a specific discipline between July 1, 1995, and July 1, 1998, shall successfully complete an accredited refresher course for the specific discipline by December 31, 1998, or by date of application whichever is first and within 12 months prior to applying for certification.

(c) In addition to the requirements in Paragraph (b) of this Rule, an applicant, other than those for the worker category, shall meet the following:

- (1) a risk assessor shall meet the training requirements for inspector and the examination requirements pursuant to Rule .0804 of this Section for inspector and risk assessor, and shall have:
  - (A) a Bachelor's degree and one year experience in a related field that demonstrates skills directly transferable to the job activities for risk assessor; or
  - (B) an Associate's degree and two years experience in a related field that demonstrates skills directly transferable to the job activities for risk assessor; or
  - (C) certification as an industrial hygienist, professional engineer, registered architect; or
  - (D) a high school diploma or equivalent and at least three years of experience in a related field that demonstrates skills directly transferable to the job activities for risk assessor.
- (2) a supervisor shall meet the examination requirements pursuant to Rule .0804 of this Section for supervisor and shall have:
  - (A) one year experience as a certified lead abatement worker; or
  - (B) at least two years experience in a related field that demonstrates skills directly transferable to the job activities for supervisor.
- (3) a project designer shall meet the training requirements for supervisor and project designer and the examination requirements pursuant to Rule .0804 of this Section for supervisor and shall have:
  - (A) a Bachelor's degree in engineering, architecture, or related profession, and one year of experience in building construction and design; or
  - (B) an Associate's degree and two years experience in a related field that demonstrates skills directly transferable to the job activities for designer; or
  - (C) certification as an industrial hygienist, professional engineer, or registered architect; or
  - (D) a high school diploma or equivalent, and four years experience in building construction and design or a related field that demonstrates skills directly transferable to the job activities for designer.
- (4) an inspector shall meet the examination requirements pursuant to Rule .0804 of this Section for inspector.

- (d) To obtain certification, the applicant shall submit to the Program:
- (1) a completed application with the following information:
    - (A) full name and social security number of applicant;
    - (B) address, including city, state, zip code, and telephone number;
    - (C) date of birth, sex, height, and weight;
    - (D) discipline applied for;
    - (E) name, address, and telephone number of employer;
    - (F) training agency attended;
    - (G) name of training course completed; and
    - (H) dates of course attended;
  - (2) two current, identical, 1 1/4 inch x 1 1/4 inch color photographs of the applicant;
  - (3) confirmation of completion of accredited initial and refresher training courses, as applicable, from the training agency; the confirmation shall be in the form of an original certificate of completion of the accredited training course bearing the training agency's official seal, or an original letter from the training agency, on training agency letterhead, confirming completion of the course; however, if an applicant is certified in a state, tribe, or territory that has a reciprocating agreement with the Program, the applicant shall submit a copy of the state issued certification and meet the requirements of Paragraphs (b), (d)(1) and (2) of this Rule;
  - (4) when education is a requirement, a copy of the diploma or other written documentation; and
  - (5) when work experience is a requirement, work history documenting lead or other related experience including employer name, address, and telephone number; positions held and a description of work duties performed; and dates when the positions were held.
- (e) All certifications shall expire at the end of the twelfth month after the certification is issued.
- (f) An applicant for renewal of certification shall successfully complete the required accredited refresher training course within 12 months prior to applying for certification renewal, and shall meet the requirements of Paragraphs (d)(1), (2), and (3) of this Rule. If a person fails to obtain the required refresher training within 24 calendar months of the date of last training, that person may be re-certified only by meeting the requirements of Subparagraphs (b), (c), and (d) of the Rule.
- (g) All certified persons shall be assigned a unique certification number by the Program.
- (h) In accordance with G.S. 130A-23, the Program may suspend or revoke certification for any violation of G.S. 130A, Article 19A or these Rules, or upon finding that its issuance was based upon incorrect information or misrepresentations that materially affected the decision to issue certification. The Program may also suspend or revoke certification upon finding that the certified person has violated any requirement referenced in Rule .0808(h) of this Section. A person whose certification is revoked shall repeat the initial training course and meet the requirements set out in Paragraphs (b), (c), and (d) of this Rule. A person whose certification is revoked because of fraudulent misrepresentations or because of violations that create a significant public health hazard shall not reapply for certification before 12 months after the revocation, and shall repeat the initial training course and meet the requirements set out in Paragraphs (b), (c), and (d) of this Rule.
- (i) Certification for persons who were certified under the Interim Lead Abatement Certification Program and who were conducting specified lead-based paint activities, as defined in the Interim Lead Abatement Certification Program, prior to the effective date of these Rules, shall remain valid until the completion of the project begun prior to the effective date of these Rules.

*History Note: Authority G.S. 130A-453.03; 130A-453.11; 150B-21.1(a)(3);  
Temporary Adoption Eff. July 7, 1997;  
Eff. July 1, 1998;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.*

#### **10A NCAC 41C .0803 CERTIFICATION OF FIRMS**

- (a) All firms who conduct lead-based paint activities shall become certified by the Program. The Program shall issue a certificate of approval to firms meeting the requirements in Paragraphs (b) and (c) of this Rule.
- (b) To become certified the firm shall submit a completed application to the Program. The form shall include:
- (1) the name, address and telephone number of the firm;
  - (2) a statement that attests that all individuals to be used by the firm to perform lead-based paint activities are certified by the Program;

- (3) a statement that attests that the firm will perform lead-based paint activities in accordance with these Rules and all applicable local, State, and Federal requirements, including all applicable record keeping requirements;
  - (4) a disclosure of any action by EPA or an EPA authorized program involving violations, suspensions, revocations, or modifications of a firm's activities; and
  - (5) the original signature, title, and printed name of an official of the firm.
- (c) All certifications shall expire at the end of the twelfth month after the certification is issued and can be renewed by submitting a completed application provided by the Program.
- (d) In accordance with G.S. 130A-23, the Program may suspend or revoke certification for any violation of G.S. 130A, Article 19A or the rules of this Section, or upon finding that its issuance was based upon incorrect information or misrepresentations that materially affected the decision to issue certification or recertification. The Program may revoke certification upon a finding that a certified firm has violated any requirement referenced in Rule .0808(h) of this Section. Certification may be revoked upon revocation of certification by EPA or an EPA authorized program. A firm whose certification has been revoked because of fraudulent misrepresentations or because of violations that create a significant public health hazard shall not be eligible for certification for a period of 12 months from the date of revocation.

*History Note:* Authority G.S. 130A-453.04; 130A-453.11; 150B-21.1(a)(3);  
Temporary Adoption Eff. July 7, 1997;  
Eff. July 1, 1998;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.

#### **10A NCAC 41C .0804 PROGRAM ADMINISTERED EXAMS**

- (a) The Program shall offer examinations for each individual certification category except worker. Individuals pass the exam by achieving a score of at least 70 percent. Individuals seeking certification shall pass the appropriate exam. The examination shall be administered by the Program or by a state, tribe, or territory that has a written reciprocating agreement with the Program. If an individual does not successfully complete the examination after three attempts, the individual shall retake the initial course from an accredited training program before reapplying for certification.
- (b) Applicants seeking North Carolina certification who wish to take the Program administered examination shall first complete all other requirements for certification; the applicant will be notified of the exact time and location of the examination. The applicant shall present photo identification for verification of identity at the time of the examination.
- (c) Applicants seeking North Carolina certification who have been certified by a state, tribe, or territory that has a written reciprocating agreement with the Program shall meet the requirements of Rule .0802 Paragraphs (b), (d)(1) and (2) of this Section. A copy of that state's, tribe's, or territories' issued certification shall be verification that the applicant has met all other requirements for certification.

*History Note:* Authority G.S. 130A-453.05; 130A-453.11; 150B-21.1(a)(3);  
Eff. July 1, 1998;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.

#### **10A NCAC 41C .0805 ACCREDITATION OF TRAINING COURSES**

- (a) Training courses taught in North Carolina for lead certification shall be accredited by the Program, and shall be offered by an accredited training provider, pursuant to Rule .0806 of this Section. If the course is accredited by a state, tribe, or territory that has a written reciprocating agreement with the Program, the course shall meet the requirements of Paragraphs (b), (c), (e), (h), and (i) of this Rule and Rule .0806 of this Section to become accredited by the Program.
- (b) A training provider may apply for initial and refresher training course accreditation for any of the following disciplines: inspector, risk assessor, supervisor, project designer, and worker. Training provider applying for accreditation shall submit a completed training course application to the Program for review and approval, pursuant to Paragraph (e) of this Rule. Once a training course is accredited, any changes in curriculum, hands-on exercises, principal instructor, or quality control plan from the original course accreditation application shall be approved by the Program prior to implementation.

(c) For all courses, the training provider shall administer a closed book examination. Initial courses, except the Project Designer Course shall also include a hands-on skills assessment. The initial course examination shall consist of a minimum of 50 multiple choice questions, and the refresher course examinations shall consist of a minimum of 25 multiple choice questions.

(d) Training courses shall be evaluated for accreditation purposes by the Program for course administration, course length, curriculum, training methods, instructors' qualifications, instructors' teaching effectiveness, technical accuracy of written materials and instruction, examination, and training certificate. The evaluation shall be conducted using 40 CFR Part 745 Subpart L.

(e) Training course providers shall submit the following for evaluation and accreditation by the Program:

- (1) a completed application on a form provided by the Program, along with supporting documentation. The form and supporting documentation shall include the following:
  - (A) name, address, and telephone number of the training provider, and name and signature of the contact person, training manager, and principal instructor;
  - (B) course title, location and the language in which the course is to be taught;
  - (C) course agenda;
  - (D) a copy of all written instructional material used;
  - (E) learning or performance objectives for each topic to be taught;
  - (F) a copy or description of all audio/visual materials used;
  - (G) a description of each hands-on training activity and skills assessment, including criteria for student proficiency;
  - (H) a description of instructional facilities and equipment;
  - (I) a copy of a sample exam with correct answers marked;
  - (J) a sample certificate with the following information:
    - (i) Name, address, and social security number of student;
    - (ii) Training course title specifying initial or refresher;
    - (iii) Inclusive dates of course and applicable examination;
    - (iv) Statement that the student successfully completed the course and passed the required examination and hands-on skills assessment;
    - (v) Unique certificate number;
    - (vi) Printed name and signature of the training course manager and printed name of the principal instructor;
    - (vii) Name, address, and telephone number of the training provider;
    - (viii) Training course location;
    - (ix) For worker training courses taught in languages other than English, the certificate shall indicate the language of the course; and
  - (K) a list of accredited lead training courses currently being provided for certification.
- (2) A list of instructors who will teach in North Carolina and their qualifications in accordance with Paragraph (f) of this Rule.
- (3) A copy of the course quality control plan that meets the requirements of 40 CFR 745 Subpart L Subsection .225(c)(9).

(f) All instructors and training managers shall be approved by the Program. Any person seeking approval as a training manager or instructor for courses covered under these Rules and taught in North Carolina shall meet the following requirements:

- (1) Training managers and instructors shall meet the requirements of 40 CFR 745 Subpart L Subsection .225(c), except that guest instructors who teach work practice topics and hands-on training shall meet the training requirements for principal instructors; however, guest instructors whose course instruction is limited to conducting training for XRF instruments are not required to meet the requirements for principal instructors;
- (2) Principal instructors and guest instructors who teach work practice topics or hands-on training shall meet the training requirements for certification, pursuant to Rule .0802 of this Section, for the discipline in which instructor approval is sought; and
- (3) All training providers shall submit to the Program a completed application with the following information:
  - (A) name, address, and telephone number of the applicant;
  - (B) name, address, and telephone number of the training provider that is employing the applicant;

- (C) when training course completion is a requirement, confirmation of completion of an accredited initial or refresher training course from the training agency, the confirmation shall be in the form of an original certificate of completion of the accredited training course or the following information: the course title, dates of instruction, names of instructors, name, address, and telephone number of the training provider;
- (D) when education is a requirement, a copy of the diploma or other written documentation; and
- (E) when work experience is a requirement, documentation of relevant work history, including employer name, address, and telephone number, positions held, dates when positions were held, and legible copies of any relevant licenses, registrations, or certifications.

(g) An application for course accreditation shall be processed as follows:

- (1) The Program shall review the application and supporting documentation and advise the applicant of any deficiencies. If the deficiencies are not corrected within one year from the date of application, the application and any supporting documentation may be returned to the applicant and the applicant shall be required to re-submit a completed application. Approval of submitted documentation does not constitute course accreditation;
- (2) If the submitted documentation meets all applicable requirements of this Rule, the Program shall notify the applicant of this and also advise the applicant that it may contact the Program to schedule an on-site audit. The on-site audit shall be of a class of at least two student attendees and taught in North Carolina;
- (3) If the Program determines, as a result of the on-site audit, that the training course meets all applicable requirements of this Rule, it shall issue course accreditation. If the course does not meet these requirements, the Program shall notify the applicant of the deficiencies and advise the applicant that it may request one additional on-site audit, which shall be held no more than six months from the date of the first audit;
- (4) If the Program determines, as the result of the second audit, that the training course meets all applicable requirements of this Rule, it shall issue course accreditation. If the course does not meet all these requirements, the Program shall notify the applicant of the deficiencies, return all application materials, and advise the applicant that it may not reapply for course accreditation for the audited course for a period of six months from the date of the last audit.

(h) Training course providers shall perform the following in order to maintain accreditation of all initial and refresher courses:

- (1) Issue a certificate of training meeting the requirements of Part (e)(1)(J) of this Rule to any student who successfully completes the required training, passes the hands on skills assessment, and passes the applicable examination.
- (2) Submit to the Program written notice of intention to conduct a training course for North Carolina lead certification purposes if the course is to be taught in North Carolina. Notices for training courses, except lead worker, shall be postmarked or received 10 working days before the training course begins. Notices for lead worker training courses shall be postmarked or received five working days before the training course begins. If the training course is canceled, the training course provider shall notify the Program at least one working day prior to the scheduled start date. Notification of intent to conduct a training course shall be made using a form provided by the Program and shall include the following:
  - (A) Training provider name, address, telephone number and contact person;
  - (B) Training course title;
  - (C) Inclusive dates of course and applicable exam;
  - (D) Start and completion times;
  - (E) Location of the course facility and directions to the course facility if the site is not routine for the training provider;
  - (F) Language in which the course is taught;
  - (G) Principal instructor; and
  - (H) Signature of the training manager.
- (3) Notify the Program, in writing, at least 10 working days prior to the scheduled course start date, of any changes to course length, curriculum, training methods, training manual or materials, instructors, examination, training certificate, training course manager or contact person.

- (4) Submit to the Program information and documentation for any course approved under Paragraph (e) of this Rule if requested by the Program.
- (5) Ensure that all training managers and instructors are approved by the Program.
- (6) Ensure that all training courses covered under this Rule meet the requirements of 40 CFR Part 745 Subpart L, Subsection 225(c), (d), and (e) and the following requirements:
  - (A) The instructor must follow the curriculum that was approved by the Program or a state, tribe, or territory with whom the Program has a reciprocity agreement. The schedule may be adjusted, but all curriculum elements shall be covered.
  - (B) All initial and refresher training courses shall have a maximum of 40 students;
  - (C) A day of training shall include at least six and one-half hours of direct instruction, including classroom, hands-on training or field trips;
  - (D) Work time and instruction time shall not exceed 12 hours in a 24 hour period;
  - (E) A training course shall be completed within a two-week period;
  - (F) A single instructor is allowed only for a worker course. Other initial disciplines shall have a minimum of two instructors;
  - (G) Instructor ratio for hands-on training shall be no more than 10 students per instructor;
  - (H) All course materials shall be in the language in which the course is being taught;
  - (I) Each training course shall be discipline specific;
  - (J) Students shall be allowed to take an examination no more than twice for each course. After two failures, the student shall retake the full course before being allowed to retest; and
  - (K) Training providers shall provide examination security to prevent student access to the examination materials before and after the exam. Training providers shall take measures to preclude cheating during the exam, such as providing space between students, prohibiting talking, and monitoring students throughout the exam.
- (7) Verify, by photo identification, the identity of any student requesting training.
- (8) For each course accredited by the Program, and taught in North Carolina, the training provider shall submit a completed renewal application on a form provided by the Program. Effective July 1, 1999, a renewal application shall be submitted prior to the next course offering and annually thereafter. If an annual training course renewal lapses, the provider shall submit a renewal application prior to offering the course again in North Carolina.
- (9) Work practice and worker protection demonstrations and hands-on exercises, including, but not limited to respirator fit testing, presented in all training courses covered under this Rule shall be conducted in accordance with Rule .0807 of this Section and 29 CFR 1926.62, which is hereby incorporated by reference, including any subsequent amendments and editions. Copies may be obtained by writing the NC Department of Labor, Bureau of Education, Training and Technical Assistance, 319 Chapanoke Road, Suite 105, Raleigh, NC, 27603, at a cost of ten dollars and sixty cents (\$10.60).
  - (i) Training course providers shall permit Program representatives to attend, evaluate and monitor any training course, take the course examination and have access to records of training courses without charge or hindrance to the Program for the purpose of evaluating compliance with these Rules. The Program shall perform periodic and unannounced on-site audits of training courses.
  - (j) In accordance with G.S. 130A-23, the Program may suspend or revoke accreditation for a training course for any violation of G.S. 130A, Article 19A or these Rules and may revoke accreditation upon revocation of accreditation by the EPA or by an EPA authorized accreditation program.

*History Note:* Authority G.S. 130A-453.07; 130A-453.11; 150B-21.1(a)(3);  
 Eff. July 1, 1998;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.

#### **10A NCAC 41C .0806 ACCREDITATION OF TRAINING PROVIDERS**

- (a) All training providers who offer lead training courses in North Carolina for individual certification shall be accredited by the Program before offering training courses.
- (b) To become accredited, the training provider shall:



- (1) employ a training manager who meets the requirements of 40 CFR 745 Subpart L Subsection .225(c); and
- (2) submit a completed application to the Program including:
  - (A) the name, address and telephone number of the training provider;
  - (B) a statement that all courses taught in North Carolina for certification will comply at all times with all of the requirements of these Rules;
  - (C) a statement that the training provider is responsible for maintaining the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics;
  - (D) a statement that the training provider is responsible for maintaining the validity and integrity of the course examination to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics;
  - (E) a completed application for training manager, pursuant to Rule .0805(f) of this Section with documentation for meeting the requirements of 40 CFR 745 Subpart L Subsection .225(c); and
  - (F) the original signature, title, and printed name of an official of the training company.

(c) In accordance with G.S. 130A-23, the Program may suspend or revoke accreditation of a training course provider for any violation of G.S. 130A, Article 19A or these Rules, and may revoke accreditation upon revocation of accreditation by EPA or by an EPA authorized state. The Program shall revoke training provider accreditation upon finding that the training provider has falsified training documents. When training provider accreditation is revoked for falsification of training documents, the training course provider shall not be eligible for reaccreditation for a period of three years from the date of revocation.

*History Note:* Authority G.S. 130A-453.07; 130A-453.11; 150B-21.1(a)(3);  
 Eff. July 1, 1998;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.

#### **10A NCAC 41C .0807 STANDARDS FOR CONDUCTING LEAD-BASED PAINT ACTIVITIES**

(a) All lead-based paint activities and design activities shall be conducted in accordance with 40 CFR 745 Subpart L, Subsection .227.

(b) For each inspection, risk assessment, or lead hazard screen conducted, the certified inspector or risk assessor shall submit to the Program a legible copy of the summary of the activity on a form provided or approved by the Program. The form shall be submitted within 45 days of the activity.

*History Note:* Authority G.S. 130A-453.10; 130A-453.11; 150B-21.1(a)(3);  
 Eff. July 1, 1998;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.

#### **10A NCAC 41C .0808 LEAD-BASED PAINT ABATEMENT PERMITS**

(a) No person shall conduct abatement without an abatement permit issued by the Program, except as provided for in G.S. 130A-453.09(c). All abatement activities shall be conducted by a certified firm.

(b) All applications shall be made in writing on a form provided or approved by the Program. The application shall include at least all of the following:

- (1) name, address, contact name, and telephone number of the owner and operator of the target housing or child occupied facility;
- (2) name, certification number, address, contact name, and telephone number of the certified firm;
- (3) name, certification number, address, and telephone number of the inspector and risk assessor;
- (4) name, certification number, address, and telephone number of the project designer;
- (5) location and street address, including building number or name and floor or room number, city, county, and state, of the building where the abatement is taking place;
- (6) scheduled start and completion dates of lead-based paint abatement work including preparation work and cleanup;
- (7) work schedule, including days of the week and hours to be worked;

- (8) amount of material to be abated;
  - (9) method(s) of abatement;
  - (10) non-hazardous waste transporter, address, contact name, and telephone number;
  - (11) non-hazardous waste disposal site, address, contact name, and telephone number;
  - (12) hazardous waste transporter, address, contact name, and telephone number;
  - (13) hazardous waste disposal site, address, contact name, and telephone number;
  - (14) for ordered abatements, the name, title, and authority of the State or local government representative who has ordered the abatement, the date that the order was issued, and the date the abatement was ordered to begin;
  - (15) for emergency abatements, a description of the nature of the emergency and an explanation of how failure to correct the situation would cause a lead-based paint hazard;
  - (16) contract price for the abatement; and
  - (17) the name of the representative of the certified firm, address, original signature, and date.
- (c) Applications for lead abatement permits shall be postmarked or received by the Program at least 10 working days prior to the scheduled abatement start date. For emergency lead abatement activities, the Program will take action immediately. Applications for emergency lead-based paint abatement activities shall be submitted along with a letter from the owner or the certified risk assessor explaining the nature of the emergency.
- (d) Application for revision to an issued lead abatement permit shall be made by the applicant in writing on a form provided or approved by the Program and shall be received by the Program in accordance with the following:
- (1) Revision to a start date for a project that will begin after the start date stated in the approved permit shall be received on or before the previously stated start date or previously revised start date;
  - (2) Revision to a start date for a project that will begin before the start date stated in the approved permit or subsequent revisions shall be received at least 10 working days before the new start date;
  - (3) Revision to a completion date that will be extended beyond the completion date stated in the approved permit shall be received by the original completion date or previously revised completion date;
  - (4) Revision to a completion date that will be earlier than the completion date stated in the approved permit or subsequent revision shall be received by the new completion date; and
  - (5) Revision to permits other than start or completion dates shall be submitted to the Program prior to initiating the activity which the revision addresses.
- (e) The following shall be maintained on site during abatement activities and be immediately available for review by the Program:
- (1) a copy of the abatement permit issued by the Program and all revisions with the Program's confirmation of receipt;
  - (2) photo identification cards issued by the Program for all personnel performing lead abatement activities;
  - (3) the occupant protection plan; and
  - (4) any applicable abatement design, risk assessment and inspection reports.
- (f) All permitted abatement activities shall be conducted in accordance with Rule .0807 of this Section.
- (g) A certified supervisor shall be on-site at all times when permitted abatement activities are being conducted.
- (h) In accordance with G.S. 130A-23, the Program may suspend or revoke the permit for any violation of G.S. 130A, Article 19A or these Rules. The Program may also revoke the permit upon a finding that its issuance was based upon incorrect information or misrepresentations that materially affected the decision to issue the permit. Notwithstanding permit revocation for violation of the rules of this Section, a lead-based paint abatement permit shall also be subject to revocation if the abatement activities are in violation of the following provisions with regard to lead-based paint abatement, as determined by the agencies which administer these Rules:
- (1) Department of Labor Rules found at Chapter 7, Title 13 of the North Carolina Administrative Code;
  - (2) Department of Transportation Rules found at Title 19A, of the North Carolina Administrative Code;
  - (3) Solid Waste Management Rules found at Chapter 13, Title 15A of the North Carolina Administrative Code; and
  - (4) NC Childhood Lead Poisoning Prevention Program requirements found at G.S. 130A, Article 5, Part 4.

*History Note: Authority G.S. 130A-453.09; 130A-453.11; 150B-21.1(a)(3);  
Eff. July 1, 1998;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February  
16, 2019.*

#### **10A NCAC 41C .0809 FEES**

- (a) The fees required by G.S. 130A-453.08 for individual and firm certification shall be submitted with a completed application for certification. The amount of the fee shall be one hundred fifty dollars (\$150.00) for each category of individual certification except that the fee for worker shall be fifty dollars (\$50.00). The fee for firm certification shall be fifty dollars (\$50.00).
- (b) The fee required by G.S. 130A-453.08 for examination shall be submitted with a completed application for certification. The amount of the fee shall be seventy-five dollars (\$75.00).
- (c) The fees required by G.S. 130A-453.08 for initial course accreditation and renewal course accreditation shall be submitted with a training course application. The amount of the fee shall be fifteen hundred dollars (\$1500.00) for each initial course accreditation if the course does not have prior approval by a state, tribe, or territory that has a reciprocating agreement with the Program; one thousand dollars (\$1000.00) for each course accreditation if the course is accredited by a state, territory, or tribe that has a reciprocating agreement with the Program; and five hundred dollars (\$500.00) for each renewal course accreditation.
- (d) The fees required by G.S. 130A-453.08 for course provider accreditation shall be submitted with a completed application. The amount of the fee shall be one hundred fifty dollars (\$150.00).
- (e) The fee required by G.S. 130A-453.09 for abatement permits shall be submitted with a completed permit application. The amount of the fee shall be two percent of the contract price, not to exceed five hundred dollars (\$500.00).
- (f) The fee for a replacement photo identification card shall be fifteen dollars (\$15.00).
- (g) In the case of issuing a refund for permits, an administrative cost of two hundred dollars (\$200.00) shall be retained by the Program.

*History Note: Authority G.S. 130A-453.08; 130A-453.11; 150B-21.1(a)(3);  
Eff. July 1, 1998;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February  
16, 2019.*

### **SECTION .0900 - LEAD-BASED PAINT HAZARD MANAGEMENT PROGRAM FOR RENOVATION, REPAIR AND PAINTING**

#### **10A NCAC 41C .0901 GENERAL**

- (a) In addition to the definitions found in 40 CFR Part 745 Subpart E and Subpart L and G.S. 130A-453.22 the following definitions apply throughout this Section:
  - (1) "Accredited training course" means a lead training course accredited by the Program.
  - (2) "Accredited training provider" means a training provider who is accredited by the Program, and who provides accredited training courses.
  - (3) "Program" means the Lead-Based Paint Hazard Management Program for Renovation, Repair and Painting within the Division of Public Health.
  - (4) "Training hour" means at least 50 minutes of actual learning, including time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and hands-on experience.
  - (5) "Working day" means Monday through Friday. Holidays falling on any of these days are included in the definition.
- (b) Residential Property Renovation and Lead-Based Paint Activities, 40 CFR Part 745 Subpart E and Subpart L, is hereby incorporated by reference, including any subsequent amendments and editions. This document is available for inspection at the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27499-1915. A copy of this document may be obtained in writing from the US Government Printing Office, P.O. Box 979050, St Louis, MO 63197-9000, at a cost of sixty-one dollars (\$61.00).

*History Note: Authority G.S. 130A-22; 130A-453-31;  
Temporary Adoption Eff. January 1, 2010;  
Eff. November 1, 2010;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.*

#### **10A NCAC 41C .0902 CERTIFICATION OF INDIVIDUALS**

(a) No person shall perform lead-based paint renovation activities for compensation in target housing and child-occupied facilities until that person has been certified by the Program in the applicable certification category. Certification is not required for a trained renovation worker as defined by G.S. 130A-453.22(b)(7).

(b) An applicant for certification shall successfully complete applicable, discipline specific training courses accredited by the Program pursuant to Rule .0904 of this Section. Successful completion includes attendance of at least 95 percent of the course, passing the course exam with a minimum score of 70 percent, and successful completion of the hands-on skills assessment pursuant to 40 CFR 745, Subpart L. An applicant for initial certification shall also meet the applicable, discipline-specific, certification requirements in Paragraphs (c) and (d) of this Rule:

(c) To obtain dust sampling technician certification or renewal of certification, the applicant shall meet the following:

- (1) An applicant for initial certification shall have successfully completed an accredited initial dust sampling technician training course within the 12 months immediately preceding application. If initial training was completed more than 12 months prior to application, the applicant shall have successfully completed an accredited dust sampling technician training course at least every 60 months from the date of the last training, and within 12 months immediately preceding the application.
- (2) An applicant shall submit a completed dust sampling technician certification application with the following information to the Program:
  - (A) full name of the applicant;
  - (B) address, including city, state, zip code, and telephone number;
  - (C) date of birth, sex, height, and weight;
  - (D) name, address, including city, state, zip code, and telephone number of certified renovation firm;
  - (E) name of training provider;
  - (F) name of training course completed;
  - (G) dates of course attended;
  - (H) one color photograph of the applicant; and
  - (I) confirmation of completion of accredited initial and refresher training courses, as applicable, from the training provider. The confirmation shall be in the form of an original certificate of completion of the accredited training course, or an original letter from the training provider, on training provider letterhead, including the information in Parts (A) through (G) of this Subparagraph, confirming completion of the course.
- (3) Initial dust sampling technician certification expires on the last day of the 12 month after training was taken.
- (4) An applicant for renewal of dust sampling technician certification shall have successfully completed an accredited initial or refresher training course within 48 months prior to applying for certification renewal, and shall meet the requirements of Paragraphs (b) and (c) of this Rule. All renewal certifications expire on the last day of the 12th month from the date of certification. If a person fails to obtain the required training within 48 calendar months of the date of last training, that person may renew certification only by successful completion of an accredited dust sampling technician course and by meeting the requirements of Paragraphs (b) and (c) of the Rule. If a person fails to obtain the required training within 60 calendar months of the date of last training, that person may renew certification only by successful completion of an accredited initial dust sampling technician course and by meeting the requirements of Paragraphs (b) and (c) of this Rule.

(d) To obtain certification as a certified renovator or to renew certification, the applicant shall meet the following:

- (1) An applicant for renovator certification shall have successfully completed an accredited initial renovator training course prior to application. If initial training was completed more than 60 months prior to application, the applicant shall have successfully completed an accredited refresher course for the specific discipline at least every 60 months from the date of completion of initial training.

- (2) An applicant shall submit a completed renovator certification application with the following information to the Program:
    - (A) full name of the applicant;
    - (B) address, including city, state, zip code, and telephone number;
    - (C) date of birth and sex;
    - (D) name, address, including city, state, zip code, and telephone number of certified renovation firm;
    - (E) name, address, including city, state, zip code, and telephone number of training provider that provided the training;
    - (F) name of training course completed and language in which it was taught;
    - (G) date(s) of course completion and exam;
    - (H) confirmation of completion of accredited initial and refresher training courses, as applicable from the training provider. The confirmation shall be in the form of a copy of an original certificate of completion of the accredited training course, or an original letter from the training provider, on training provider letterhead, including the information in Parts (A) through (G) of this Subparagraph, and confirming completion of the course; and one color photograph of the applicant.
  - (3) An applicant for renewal of renovator certification shall have successfully completed the required accredited refresher training course no more than 60 months prior to applying for certification renewal, and shall meet the requirements of Paragraphs (b) and (d) of this Rule. If a person fails to obtain the required training within 60 calendar months of the date of last training, that person may renew certification only by successful completion of an accredited initial renovator course and by meeting the requirements of Paragraphs (b) and (d) of this Rule.
- (e) All certified persons shall be assigned a unique certification number by the Program.
- (f) A person whose certification or certification renewal is revoked, suspended or denied because of misrepresentations or because of violations that create a public health threat as defined in G.S. 130A-475(d), shall not reapply for certification or certification renewal before 12 months after the effective date of the revocation, suspension, or denial and shall repeat the initial training course and other requirements as set out in Paragraphs (b), (c), and (d) of this Rule.
- (g) The Program may revoke, suspend or deny certification or certification renewal upon a finding that the certified person has violated any requirement referenced in the following provisions with regard to renovation activities, as determined by the agencies which administer these Rules:
- (1) Department of Labor Rules found at Chapter 7, Title 13 of the North Carolina Administrative Code;
  - (2) Department of Transportation Rules found at Title 19A of the North Carolina Administrative Code;
  - (3) Solid Waste Management Rules found at Chapter 13, Title 15A of the North Carolina Administrative Code; and
  - (4) NC Childhood Lead Poisoning Prevention Program requirements found at G.S. 130A, Article 5, Part 4.

*History Note: Authority G.S. 130A-453.24; 130A-453.25; 130A-453.31; 130A-23; Temporary Adoption Eff. January 1, 2010; Eff. November 1, 2010; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.*

#### **10A NCAC 41C .0903 CERTIFICATION OF RENOVATION FIRMS**

- (a) The Program shall issue a certificate of approval to firms meeting the requirements in Paragraphs (b) and (c) of this Rule.
- (b) A firm applying for certification shall submit a completed firm certification application provided by the Program for evaluation. The application shall include:
  - (1) The name, address, including city, state, and zip code, and telephone number of the firm;
  - (2) A statement that attests that all individuals to be used by the firm as renovators and dust sampling technicians are certified by the Program;

- (3) A statement that attests that the firm will perform lead-based paint renovation activities in accordance with the rules of this Section and all applicable local, State, and Federal requirements, including all applicable record keeping, record retention, information distribution, and reporting requirements;
  - (4) A disclosure of any action by US EPA or a US EPA authorized program involving violations, suspension, revocations, or modifications of a firm's activities or the activities of employees performing a renovation on behalf of a firm;
  - (5) A list of renovators and dust sampling technicians employed by the firm to perform lead-based paint renovation activities, and their Program certification numbers; and
  - (6) The original signature, title, and printed name of an official of the firm.
- (c) All certifications may be renewed annually by submitting a completed application provided by the Program for evaluation.
- (d) A firm whose certification is revoked, suspended or denied because of misrepresentations or because of violations that create a public health threat as defined in G.S. 130A-475(d) shall not reapply for certification or renewal of certification before 12 months after the effective date of the revocation, suspension, or denial and shall comply with the requirements for firm certification as set out in Paragraphs (a), (b), and (c) of this Rule. The Program may revoke, suspend or deny certification or certification renewal upon a finding that a certified firm, or an individual performing a renovation on behalf of the firm, has violated any requirement referenced in Rule .0902(g) of this Section. Firm certification may be revoked, suspended or denied upon revocation of certification by US EPA or a US EPA authorized program.

*History Note: Authority G.S. 130A-453.24; 130A-453.25; 130A-453.22; 130A-23; Temporary Adoption Eff. January 1, 2010. Eff. November 1, 2010; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.*

#### **10A NCAC 41C .0904 ACCREDITATION OF TRAINING COURSES**

- (a) Pursuant to Rule .0902 of this Section, applicants for certification and certification renewal are required to successfully complete training courses accredited by the Program. Training courses:
- (1) Taught in locations other than North Carolina and accredited by US EPA or by a state with a US EPA authorized program shall be deemed accredited for certification purposes of the Program;
  - (2) Taught in North Carolina and accredited by a state, tribe, or territory that has a written reciprocating agreement with the Program shall meet the requirements of Paragraphs (b), (c), (e), (g), and (h) of this Rule to be accredited by the Program;
  - (3) Taught in North Carolina, other than those covered in Subparagraphs (2) and (4) of this Paragraph, shall meet the requirements of this Rule;
  - (4) Taught in North Carolina prior to August 1, 2010, and accredited by US EPA or by a state with a US EPA authorized program shall be deemed accredited for certification purposes of the Program.
- (b) A training provider may apply for initial and refresher training course accreditation for the following disciplines: renovator and dust sampling technician. Training providers applying for course accreditation shall submit a completed training course application to the Program for review and evaluation, pursuant to Paragraph (e) of this Rule. Once a training course is accredited, any changes in curriculum, hands-on exercises, examination, training manual or materials, or quality control plan from the original course accreditation application shall be submitted and approved by the Program prior to implementation.
- (c) For all courses, the training provider shall administer a closed book examination. Initial courses shall include a hands-on skills assessment. Initial and refresher course examinations shall consist of a minimum of 25 multiple choice questions.
- (d) Training courses shall be evaluated for accreditation purposes by the Program for course administration, course length, curriculum, training methods, instructors' teaching effectiveness, technical accuracy of written materials and instruction, examination, and training certificate. The evaluation shall be conducted using 40 CFR Part 745 Subpart L.
- (e) Training course providers shall submit the following for evaluation by the Program:
- (1) A completed application on a form provided by the Program, along with supporting documentation. The form and supporting documentation shall include the following:

- (A) name, address including city, state, and zip code, and telephone number of the training provider, and name and signature of the contact person, training manager, and principal instructor;
  - (B) course title, location, and the language in which the course is to be taught;
  - (C) course agenda;
  - (D) a copy of all written instructional material to be used;
  - (E) learning or performance objectives for each topic to be taught;
  - (F) a copy or description of all audio/visual materials to be used;
  - (G) a description of each hands-on training activity and skills assessment, including criteria for determining student proficiency;
  - (H) a description of instructional facilities and equipment;
  - (I) a copy of a sample exam with correct answers marked and exam blueprint; and
  - (J) a written policy for administration of oral exams.
- (2) A sample course certificate with the following information:
- (A) name and address, including city, state, and zip code of the student;
  - (B) training course title specifying "initial" or "refresher" of training course completed;
  - (C) inclusive dates of course and applicable examination;
  - (D) a statement that the student successfully completed the course and hands-on skills assessment and passed the required examination;
  - (E) unique certificate number;
  - (F) student photo;
  - (G) printed name and signature of the training course manager and printed name of the principal instructor;
  - (H) name, address including city, state, and zip code, and telephone number of the training provider;
  - (I) training course location; and
  - (J) for training courses taught in languages other than English, the certificate shall indicate the language of the course;
- (3) A list of accredited lead training courses being offered for certification;
- (4) A list of instructors who will teach in North Carolina and their qualifications in accordance with 40 CFR 745 Subpart L Subsection .225(c)(2); and
- (5) A copy of the course quality control plan that meets the requirements of 40 CFR 745 Subpart L Subsection .225(c)(9).
- (f) An application for course accreditation by the Program shall be processed as follows:
- (1) The Program shall review the application and supporting documentation and advise the applicant of any deficiencies. If the deficiencies are not corrected within 12 months from the date of application, the application and any supporting documentation shall be returned to the applicant and the applicant shall re-submit a completed application. Approval of submitted documentation does not constitute course accreditation;
  - (2) If the submitted documentation meets all applicable requirements of this Rule, the Program shall notify the applicant of this and also advise the applicant that it may contact the Program to schedule an on-site audit. The on-site audit shall be of a class of at least two student attendees and taught in North Carolina;
  - (3) If the Program determines, as a result of the on-site audit, that the training course meets all applicable requirements of this Rule, it shall issue course accreditation. If the course does not meet these requirements, the Program shall notify the applicant of the deficiencies and advise the applicant that it may request one additional on-site audit, which shall be held no more than six months from the date of the first audit; and
  - (4) If the Program determines, as the result of the second audit, that the training course meets all applicable requirements of this Rule, it shall issue course accreditation. If the course does not meet all these requirements, the Program shall notify the applicant of the deficiencies, return all the application materials, and advise the applicant that it may not reapply for course accreditation for the audited course for a period of six months from the date of the last audit.
- (g) Training course providers shall perform the following in order to maintain accreditation of all initial and refresher courses:

- (1) Issue a certificate of training meeting the requirements of Subparagraph (e)(2) of this Rule to any student who successfully completes the required training and the hands-on skills assessment, and passes the applicable examination;
  - (2) Submit to the Program written notice of intention to conduct a training course for North Carolina lead certification purposes, if the course is to be taught in North Carolina. Notices for training courses shall be postmarked or received 10 working days before the training course begins. If the training course is canceled or there is a change of instructors or course location, the training course provider shall notify the Program at least two working days prior to the scheduled start date. Notification of intent to conduct a training course shall be made using a form provided by the Program and shall include the following:
    - (A) training provider name, address including city, state, and zip code, telephone number, and contact person;
    - (B) training course title;
    - (C) inclusive dates of course and applicable exam;
    - (D) start and completion times;
    - (E) location of the course facility and directions to the course facility;
    - (F) language in which the course is taught; and
    - (G) signature of the training manager;
  - (3) Notify the Program, in writing, at least 10 working days prior to the scheduled course start date, of any changes to course length, training methods, training certificate, or training course manager;
  - (4) Submit to the Program information and documentation for any course accredited pursuant to this Rule if requested by the Program;
  - (5) Ensure that all training courses covered under this Rule meet the requirements of 40 CFR Part 745 Subpart L, Subsection .225(c), (d), and (e) and the following requirements:
    - (A) the instructor must follow the curriculum that was approved by the Program, US EPA, or a state, tribe, or territory with whom the Program has a reciprocity agreement. The schedule may be adjusted, but all curriculum elements shall be covered;
    - (B) all initial and refresher training courses shall have a maximum of 30 students;
    - (C) a day of training shall include at least eight training hours;
    - (D) a training course shall be completed within a two-week period;
    - (E) instructor ratio for hands-on training shall be no more than 10 students per instructor;
    - (F) all course materials shall be in the language in which the course is being taught;
    - (G) each training course shall be discipline specific;
    - (H) students shall be allowed to take an examination no more than twice for each course. The exam used for retesting shall be different from the previous exam. After two failures, the student shall retake the full course before being allowed to retest; and
    - (I) training providers shall provide examination security to prevent student access to the examination materials before and after the exam. Training providers shall take measures to preclude cheating during the exam, such as providing space between students, prohibiting talking, and monitoring students throughout the exam.
  - (6) Verify, by photo identification, the identity of any student requesting training;
  - (7) Submit a completed renewal application on a form provided by the Program for each course accredited by the Program, and taught in North Carolina, for which the training provider is seeking renewal;
  - (8) Conduct work practice and worker protection demonstrations and hands-on exercises presented in all training courses covered under this Rule in accordance with Rule .0906 of this Section and 29 CFR 1926.62, which is hereby incorporated by reference, including any subsequent amendments and editions; and
  - (9) Teach the course at least once every five years in North Carolina.
- (h) Training course providers shall permit Program representatives to attend, evaluate and monitor any training course, take the course examination, and have access to records of training courses without charge or hindrance to the Program for the purpose of evaluating compliance with these Rules. The Program shall perform periodic and unannounced on-site audits of training courses.
- (i) In accordance with G.S. 130A-23, the Program may suspend, revoke, or deny accreditation for a training course for any violation of G.S. 130A, Article 19B or the Rules of this Section and shall revoke accreditation upon revocation of accreditation by the US EPA or by any state with a US EPA authorized accreditation program. The



Program shall also revoke course accreditation for all courses taught by a training provider upon a finding that the training course provider has issued one or more certificates to an individual who did not actually attend the course, successfully complete the hands-on exercises, and pass the examination. When course accreditation is revoked for improper issuance of certificates, the training course provider is not eligible for reaccreditation for a period of 36 months from the date of revocation.

*History Note:* Authority G.S. 130A-453.26; 130A-453.31; 130A-23;  
Temporary Adoption Eff. January 1, 2010;  
Eff. November 1, 2010;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.

#### **10A NCAC 41C .0905 ACCREDITATION OF TRAINING PROVIDERS**

(a) To become accredited, training providers shall meet the following requirements:

- (1) Submit a completed application on a form provided by the Program including:
  - (A) the name, address including city, state and zip code, and telephone number of the training provider;
  - (B) a statement that all courses taught in North Carolina for certification will comply with all of the requirements of the rules in this Section;
  - (C) a statement that the training provider is responsible for maintaining the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics;
  - (D) a statement that the training provider is responsible for maintaining the validity and integrity of the course examination to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics;
  - (E) documentation for the training manager, pursuant to Rule .0904 of this Section; and
  - (F) the original signature, title, and printed name of an official of the training provider.
- (2) Training Providers accredited by US EPA or by a state with a US EPA authorized program shall submit documentation of their accreditation to the Program.

(b) In accordance with G.S. 130A-23, the Program may suspend, revoke, or deny accreditation of a training provider for any violation of G.S. 130A, Article 19B or the rules of this Section and shall revoke accreditation upon revocation of accreditation by the US EPA or by any state with a US EPA authorized accreditation program. A training provider whose course accreditation has been revoked by the Program is not eligible for accreditation for a period of 12 months from the date of revocation. The Program shall also revoke a training provider's accreditation upon a finding that the training course provider has falsified training documents or issued one or more certificates to an individual who did not actually attend the course, complete the hands-on exercises, and pass the examination. When accreditation is revoked for falsification of documents or improper issuance of certificates, the training course provider shall not be eligible for reaccreditation for a period of 36 months from the date of revocation.

*History Note:* Authority G.S. 130A-453.26; 130A-453.31; 130A-23;  
Temporary Adoption Eff. January 1, 2010;  
Eff. November 1, 2010;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.

#### **10A NCAC 41C .0906 STANDARDS FOR CONDUCTING LEAD-BASED PAINT RENOVATION ACTIVITIES**

(a) All lead-based paint renovation activities performed for compensation in target housing and child-occupied facilities shall be conducted in accordance with 40 CFR 745 Subpart E, Subsections .85 and .90.

(b) The following shall be maintained on site during renovation activities and be available for review by the Program:

- (1) A copy of the Program issued firm certification;
- (2) A copy of the Program issued certification letter for the certified renovator assigned to the project;  
and

- (3) Photo-identification cards issued by the Department for inspectors, risk assessors and dust sampling technicians performing dust wipe sampling or clearance sampling as applicable.

*History Note:* Authority G.S. 130A-453.28; 130A-453.31;  
Temporary Adoption Eff. January 1, 2010;  
Eff. November 1, 2010;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.

#### **10A NCAC 41C .0907 STANDARDS FOR RECORDS RETENTION, INFORMATION DISTRIBUTION, AND REPORTING REQUIREMENTS**

- (a) All certified renovation firms shall comply with the records retention, information distribution, and reporting requirements related to lead-based paint renovation activities, in accordance with 40 CFR 745 Subpart E, Subsections .84 and .86.
- (b) All certified renovation firms using USEPA-recognized test kits prior to conducting renovation activities in target housing and child-occupied facilities must provide in writing to the person who contracted for the renovation the identifying information as to the manufacturer and model of the test kits used, a description of the components that were tested including their locations, and the test kit results. This information must be provided prior to the start of the renovation activities.
- (c) All accredited training providers shall comply with the training program recordkeeping requirements in accordance with 40 CFR 745 Subpart L, Subsection .225(i).

*History Note:* Authority G.S. 130A-453.29; 130A-453.31;  
Temporary Adoption Eff. January 1, 2010;  
Eff. November 1, 2010;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 16, 2019.

### **SECTION .1000 – LEAD AND ASBESTOS INSPECTION, TESTING, ABATEMENT, AND REMEDIATION IN NORTH CAROLINA PUBLIC SCHOOLS AND LICENSED CHILD CARE FACILITIES**

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

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

- (1) "Department" means the North Carolina Department of Health and Human Services.
- (2) "Licensed child care facility" means a child care facility as defined at G.S. 110-86(3).
- (3) "Public school" means a public school unit as defined at G.S. 115C-5(7a).
- (4) "Program" means the North Carolina Department of Health and Human Services, Division of Public Health, Environmental Health Section.
- (5) "Responsible individual" means the superintendent of a public school operated by a local school administrative unit, as defined in G.S. 115C-5(6), or the superintendent's designee(s); the governing body of any charter school or school operated under Article 7A or Article 9C of G.S. 115C or that body's designee(s); or the operator of a licensed child care facility or the operator's designee(s), as applicable.

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

#### **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 or an inspection for lead-based paint or asbestos is conducted by May 1, 2024 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 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 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. 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 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 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. 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 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 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.
- (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.

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

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

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

*History Note:* G.S. 130A-453.03; 130A-453.05; S.L. 2021-180, s. 9G.8;  
 Temporary Adoption Eff. April 29, 2022;  
 Eff. April 1, 2023.

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

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 by reference, including any subsequent amendments or editions, and available free of charge at [www.ecfr.gov/](http://www.ecfr.gov/).

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

### **SUBCHAPTER 41D – METHAMPHETAMINE DECONTAMINATION**

#### **SECTION .0100 – DECONTAMINATION OF METHAMPHETAMINE SITES**

##### **10A NCAC 41D .0101 GENERAL**



(a) The rules of this Subchapter implement the provisions of G.S.130A-284 by establishing decontamination standards for property that has been used for the manufacture of methamphetamine. The contaminated property shall not be occupied prior to decontamination of the property in accordance with these Rules.

(b) A responsible party shall, prior to habitation of the property:

- (1) perform a pre-decontamination assessment to determine the level of contamination and scope of remediation;
- (2) decontaminate the property; and
- (3) document the activities of this Paragraph. The Division shall develop a template that can be used for this purpose.

(c) As used in this Subchapter the term "responsible party" means an owner, lessee, operator, or other person in control of a residence or place of business or any structure appurtenant to a residence or place of business who has knowledge that the property has been used for the manufacture of methamphetamine.

(d) When law enforcement officials have posted a notice on property signifying that the property had been used as a clandestine methamphetamine laboratory, the law enforcement officials shall immediately notify the local health department of the presence of the laboratory. The local health department shall immediately inform the property owner of record or his agent that the property has been used as a methamphetamine laboratory, inform him that the property must be vacated, and inform him of the requirement placed upon a responsible party to remediate the property in accordance with these rules prior to the property being reoccupied.

*History Note: Authority G.S. 130A-284;  
Temporary Adoption Eff. January 1, 2005;  
Eff. April 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **10A NCAC 41D .0102 PRE-DECONTAMINATION ASSESSMENT**

The responsible party shall conduct a pre-decontamination assessment in accordance with the following:

- (1) Contact hazardous materials (HAZMAT) team member(s) or law enforcement personnel to collect specific methamphetamine lab information including:
  - (a) the drugs manufactured;
  - (b) the chemicals found;
  - (c) the manufacture ("cook") recipes/methods used at the lab site;
  - (d) duration of lab operation;
  - (e) chemical equipment found; and
  - (f) the location of contaminated cooking and storage areas.
- (2) Determine whether the heating, ventilation, air conditioning (HVAC) system serves more than one unit or structure such as motels, apartments, row houses or multiple-family dwellings to determine whether contamination entered other residences or rooms.
- (3) Assess the plumbing system for visible contamination such as chemical etching or staining and for the presence of chemical odors coming from the drain.
- (4) Conduct a visual assessment of the severity of contamination inside and outside of the structure where the lab was located:
  - (a) document any visible chemical spills;
  - (b) assess adjacent rooms, units, apartments or structures for contamination, e.g. chemical odors, staining, chemical spills; and
  - (c) determine whether disposal methods used by the "cooks" at and near the lab site (e.g., dumping, burning, burial, venting, and drain disposal) caused contamination of soil, groundwater, on-site sewage disposal systems, or other environmental contamination.
- (5) Develop a plan for waste disposal in accordance with the rules and statutes administered by the North Carolina Department of Environment and Natural Resources, Division of Waste Management for materials removed from the structure and wastes produced during cleaning, including solid wastes, hazardous wastes, and household hazardous wastes.
- (6) Determine whether the severity and type of contamination creates a risk of explosion or fire and thereby requires disconnection of power sources to the structure until after decontamination is complete.
- (7) Determine the necessary personal protective equipment needed for cleanup workers.

- (8) Notify the local health director of potential contamination of septic systems, soil, or groundwater.
- (9) Notify the lead law enforcement agency for the site if lab remnants or other evidence of methamphetamine manufacturing is discovered that may have been overlooked during bulk decontamination.
- (10) Document and retain for three years findings of the pre-decontamination assessment and provide a copy to the local health department in accordance with Rule .0104 of this Section.

*History Note:* Authority G.S. 130A-284;  
 Temporary Adoption Eff. January 1, 2005;  
 Eff. April 1, 2005;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41D .0103 DECONTAMINATION**

Decontamination shall be performed in accordance with the pre-decontamination assessment report prepared pursuant to .0102 of this Subchapter. The responsible party shall document all activities related to the cleanup and retain this documentation for three years. The cleanup shall include all of the items listed in this Rule.

- (1) Site ventilation shall include:
  - (A) not operating the HVAC system until cleanup is completed;
  - (B) venting the structure by opening doors and windows or using equipment such as fans, blowers and negative air machines for a minimum of two days prior to cleaning and throughout the cleanup process; and
  - (C) preventing vented contaminants from entering air intakes of adjacent structures.
- (2) Any syringes or other drug paraphernalia that may be contaminated with blood or other bodily fluids shall be disposed of in puncture proof containers.
- (3) Chemical remnants and spills shall be remediated as follows:
  - (A) determine pH of liquid spills with litmus (pH) paper;
  - (B) neutralize liquid acids and bases to a pH of 6 through 8;
  - (C) absorb liquids with a non-reactive material and package for waste disposal; and
  - (D) package solids for waste disposal.
- (4) Machine washable porous materials such as draperies, bed coverings, and clothing in rooms assessed as contaminated and rooms serviced by the same HVAC system as the room where methamphetamine was manufactured shall be washed two times with detergent and water or disposed of in accordance with the waste disposal plan. Non-machine washable porous materials, such as upholstered furniture and mattresses, in rooms assessed as contaminated and rooms serviced by the same HVAC system as the room where methamphetamine was manufactured shall be disposed of in accordance with the waste disposal plan. All carpeting in rooms serviced by the same HVAC system as the room where methamphetamine was manufactured and all carpet that is part of the same dwelling unit shall be disposed of in accordance with the waste disposal plan.
- (5) Plumbing and HVAC systems shall be remediated as follows:
  - (A) Plumbing fixtures that are visibly contaminated (chemical etching or staining or chemical odors present) beyond normal household wear and tear shall be removed and disposed, and the attached plumbing shall be flushed; plumbing fixtures that are not removed shall be cleaned; and
  - (2) HVAC systems shall have: all filters in the system replaced; supply diffusers and intake vents removed and cleaned; and the surfaces near system inlets and outlets cleaned. Any system that is constructed of non-porous material such as sheet metal or the equivalent shall be high efficiency particulate air (HEPA) vacuumed and washed two feet into the ductwork from the opening. Internally insulated ductwork shall be removed two feet from the opening and replaced.
- (6) All appliances (such as refrigerators, stoves, hot plates, microwaves, toaster ovens, and coffee makers) used in the manufacture of methamphetamine or storage of associated chemicals shall be disposed in accordance with the waste disposal plan. Appliances that are not used in the manufacture of methamphetamine shall be cleaned.
- (7) Ceilings, walls, floors and non-porous materials in rooms where methamphetamine was manufactured, rooms serviced by the same HVAC system as the room where methamphetamine was manufactured, and in other rooms assessed as contaminated shall be scrubbed using a

household detergent solution and rinsed with clear water. Scrub and move non-porous materials to an area that is free of contamination. Then scrub the ceiling first, then the walls and then the floors. This procedure shall be repeated two additional times using fresh detergent solution and fresh rinse water with each cleaning of each surface (ceilings, walls, and floors). If a surface has visible contamination or staining, or if an odor emanates from a surface, that surface shall be rewashed, painted with a non-water based paint until the odor and visible contamination is no longer observable. If staining or odors persist the surface must be removed. After cleaning, room(s) used for the manufacture of methamphetamine shall have ceilings and walls painted with a non-water based paint. Resilient floor covering(s), such as sheet, laminate or tile vinyl, in the room(s) used for the manufacture of methamphetamine shall be removed and replaced or after cleaning, covered in place with new floor coverings. Ceramic or stone tiled surfaces, (floors, countertops, walls, or other ceramic or stone tiled surfaces) in the room(s) used for the manufacture of methamphetamine shall be removed after cleaning, re-glazed or have grout stained using an epoxy-based stain. Wooden materials (floors, walls, ceilings, cabinets, or other wooden materials) in the room(s) used for the manufacture of methamphetamine shall be removed or after cleaning, sealed with a non-water based coating.

- (8) After cleaning is complete, the property shall be aired out for at least three days to allow for remaining volatiles to disperse. Open all windows and use exhaust fans to exhaust air out of the house. During this time, the property shall remain off limits unless it is necessary to make visits to check on the site.
- (9) Outdoor cleanup shall be completed in accordance with applicable rules administered by the North Carolina Department of Environment and Natural Resources.

*History Note:* Authority G.S. 130A-284;  
Temporary Adoption Eff. January 1, 2005;  
Eff. April 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41D .0104 POST-DECONTAMINATION**

The responsible party shall notify the local health department upon completion of the decontamination process. The responsible party shall provide a copy of the pre-decontamination assessment and the decontamination activity documentation to the local health department. The local health department shall review the documentation to determine if the responsible party has documented activities addressing all requirements of the rules. The health department shall immediately notify the responsible party in writing if it determines that the documentation is incomplete. The local health department shall retain this documentation for three years.

*History Note:* Authority G.S. 130A-284;  
Temporary Adoption Eff. January 1, 2005;  
Eff. April 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41D .0105 ENFORCEMENT**

The local health department may inspect the property prior to, during or after decontamination to enforce the provisions of these Rules. The local health department may enforce the provisions of these Rules in accordance with G.S. 130A, Article 2.

*History Note:* Authority G.S. 130A-284;  
Temporary Adoption Eff. January 1, 2005;  
Eff. April 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

## SUBCHAPTER 41E - MCCAIN ANNEX

<b>10A NCAC 41E .0101</b>	<b>RESERVED FOR FUTURE CODIFICATION</b>
<b>10A NCAC 41E .0102</b>	<b>ADMISSION CRITERIA</b>
<b>10A NCAC 41E .0103</b>	<b>ADMISSION PROCEDURE</b>
<b>10A NCAC 41E .0104</b>	<b>IN-PATIENT POLICIES</b>
<b>10A NCAC 41E .0105</b>	<b>DISCHARGE CRITERIA</b>
<b>10A NCAC 41E .0106</b>	<b>DISCHARGE PROCEDURE</b>
<b>10A NCAC 41E .0107</b>	<b>INFECTION CONTROL REQUIREMENTS</b>
<b>10A NCAC 41E .0108</b>	<b>ADMINISTRATION OF THE MCCAIN ANNEX</b>

*History Note:* Authority G.S. 130A177;  
Eff. October 1, 1983;  
Amended Eff. September 1, 1990;  
Repealed Eff. January 14, 2014 pursuant to G.S. 150B-21.7.

## SUBCHAPTER 41F – PESTICIDE-RELATED ILLNESS OR INJURY SURVEILLANCE

### SECTION .0100 – PHYSICIAN REPORTING OF PESTICIDE-RELATED ILLNESS OR INJURY

#### **10A NCAC 41F .0101 GENERAL: DEFINITIONS**

(a) In order to identify, prevent and control health hazards pursuant to G.S. 130A-5(2), the rules of this Subchapter establish standards for reporting pesticide-related illnesses or injuries that are named in this subchapter and are hereby considered harmful to the public's health.

(b) The following definitions apply throughout this section:

- (1) "Acute pesticide-related illness or injury" means any confirmed or suspected case of systemic, ophthalmologic or dermatologic illness or injury resulting from inhalation, ingestion, dermal exposure or ocular contact with a pesticide, where symptoms occur within eight hours of exposure.
- (2) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. Pesticides include but are not limited to insecticides, fungicides, herbicides, defoliants, desiccants, plant growth regulators, nematocides, and rodenticides.

*History Note:* Authority G.S. 130A-5(2);  
Eff. April 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41F .0102 REPORTING OF PESTICIDE-RELATED ILLNESS OR INJURY**

Physicians shall report the following named pesticide-related illness or injuries that are considered harmful to the public's health within the time period specified after the illness or injury is diagnosed:

- (1) Acute pesticide-related illness or injury - 48 hours
- (2) Acute pesticide-related illness or injury resulting in death – immediately

*History Note:* Authority G.S. 130A-5(2);  
Eff. April 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41F .0103 METHOD OF REPORTING**

(a) A report of a pesticide-related illness or injury shall be submitted to the Occupational and Environmental Epidemiology Branch on a form provided by or approved by the Branch according to these Rules. The form shall include the following information:

- (1) The name, address, telephone number, date of birth, race, ethnicity, gender, and occupation of the affected person;
- (2) The physical location of the affected person at the time of exposure to the pesticide, if known (be as specific as possible and include address and telephone number);
- (3) The name of the pesticide, if known; and
- (4) The name, address, and telephone number of the physician or medical facility.

(b) To minimize cost and to avoid duplicate reporting, the physician is not required to report a case of a pesticide-related illness or injury to the Occupational and Environmental Epidemiology Branch if the physician has already reported that case to the state poison control center. The state poison control center shall report all such cases to the Occupational and Environmental Epidemiology Branch.

(c) Reporting forms are available at the Occupational and Environmental Epidemiology Branch, Division of Public Health, 1931 Mail Service Center, Raleigh, NC 27699-1931 or at <http://www.epi.state.nc.us/epi/oii.html>.

*History Note:* Authority G.S. 130A-5(2);  
Eff. April 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

## **SUBCHAPTER 41G - VETERINARY PUBLIC HEALTH**

### **SECTION .0100 - VETERINARY PUBLIC HEALTH PROGRAM**

#### **10A NCAC 41G .0101 TIME OF RABIES VACCINATION**

(a) When rabies vaccine is administered by a certified rabies vaccinator to a dog or cat, the dog or cat shall be re-vaccinated annually.

(b) When rabies vaccine is administered by a licensed veterinarian to a dog or cat, the dog or cat shall be re-vaccinated one year later and every three years thereafter, if a rabies vaccine licensed by the U.S. Department of Agriculture as a three-year vaccine is used. Annual re-vaccination shall be required for all rabies vaccine used other than the U.S. Department of Agriculture three-year vaccine. However, when a local board of health adopts a resolution stating that in order to control rabies and protect the public health annual vaccination is necessary within the area over which they have jurisdiction, then the dog or cat must be vaccinated annually regardless of the type vaccine used, until the resolution is repealed.

*History Note:* Authority G.S. 130A-5(3); 185;  
Eff. February 1, 1976;  
Amended Eff. May 10, 1976;  
Readopted Eff. December 5, 1977;  
Amended Eff. September 1, 1990; January 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

#### **10A NCAC 41G .0102 FEES FOR RABIES TAGS, LINKS, AND RIVETS**

*History Note:* Authority G.S. 130A-190;  
Eff. January 1, 1982;  
Amended Eff. September 1, 1990;  
Temporary Amendment Eff. July 22, 1997;  
Amended Eff. August 1, 1998;  
Temporary Amendment Eff. May 4, 2001;  
Temporary Amendment Expired February 26, 2002;  
Codifier Objected to findings of need on February 11, 2003;

*Temporary Amendment Eff. February 24, 2003;*  
*Amended Eff. August 1, 2004;*  
*Repealed Eff. July 1, 2014.*

#### **10A NCAC 41G .0103 APPROVED RABIES VACCINES**

Any animal rabies vaccine licensed by the United States Department of Agriculture is approved for use on animals in North Carolina.

*History Note: Authority G.S. 130A-185;*  
*Eff. January 1, 1983;*  
*Temporary Amendment Eff. March 17, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;*  
*Amended Eff. July 1, 1993; September 1, 1990; December 1, 1988; June 1, 1988;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

### **SUBCHAPTER 41H - VITAL RECORDS**

#### **SECTION .0100 - GENERAL PROVISIONS**

#### **10A NCAC 41H .0101 ADMINISTRATION**

The staff of the Vital Records Section of the Division of Public Health is authorized to administer the statewide vital records program outlined in Article 4 of Chapter 130A of the North Carolina General Statutes.

*History Note: Authority G.S. 130A-92(7);*  
*Eff. February 1, 1976;*  
*Readopted Eff. November 15, 1977;*  
*Amended Eff. September 1, 1990; January 1, 1984;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0102 DEFINITIONS**

As used in Article 4 of Chapter 130A of the General Statutes and in these Rules:

- (1) "Vital events" means births, deaths, fetal deaths, marriages, divorces;
- (2) "Vital statistics" or "vital records" means records of birth, death, fetal death, marriage, divorce, and data related thereto;
- (3) "Filing" means the presentation of a certificate, report, or other record provided for by the statute or these regulations of a birth, death, fetal death, adoption, marriage, or divorce for registration;
- (4) "Registration" means the acceptance and the incorporation in official records of certificates, reports or other records provided for in the statutes or these regulations of births, deaths, fetal deaths, adoptions, marriages, or divorces;
- (5) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached;
- (6) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles;
- (7) "Dead body" means a lifeless human body or parts of such body or bones thereof from the state of which it reasonably may be concluded that a death has occurred;

- (8) "Final disposition" means the burial, interment, cremation, or other disposition of a dead body or fetus;
- (9) "Physician" means a person authorized or licensed to practice medicine pursuant to the laws of North Carolina.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. January 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

#### **10A NCAC 41H .0103 FORMS**

All forms, certificates, and reports used in the registration of vital events are the property of the State Registrar and shall be surrendered to him on demand. The forms prescribed and distributed by the State Registrar for reporting vital events shall be used only for official purposes. No forms shall be used in the reporting of vital events except those furnished or approved by the State Registrar.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

#### **10A NCAC 41H .0104 GENERAL REQUIREMENTS FOR PREPARATION OF CERTIFICATES**

In order for certificates to be considered complete and acceptable for registration, each certificate shall:

- (1) be filed on forms prescribed and distributed by the State Registrar,
- (2) not be marked "copy" or "duplicate",
- (3) not be a duplicate copy except for marriage and divorce certificates,
- (4) not contain improper or inconsistent data,
- (5) be prepared in conformity with these regulations, or instructions issued by the State Registrar.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. September 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

#### **10A NCAC 41H .0105 MONTHLY VITAL STATISTICS REPORT**

The local registrar shall include with each mailing of vital records to the State Registrar, a monthly vital statistics report on a form prescribed by the State Registrar which will be a tally of all records by type of record, by month and year of occurrence, and other information directly related to the registration of vital events.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

### **SECTION .0200 - LOCAL REGISTRARS, DEPUTY REGISTRARS, SUBREGISTRARS**

#### **10A NCAC 41H .0201 APPOINTMENTS OF LOCAL, DEPUTY LOCAL, AND SUBREGISTRARS**

- (a) All appointments of deputy and sub-registrars shall be made in accordance with G.S. 130A-96.
- (b) Each local registrar shall be notified in writing of his appointment, and shall inform the State Registrar in writing of his acceptance of the appointment.

- (c) Each local registrar shall notify the State Registrar in writing of his appointed deputy.
- (d) Each local registrar, subject to the written notification and approval of the State Registrar, may appoint subregistrars.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

#### **10A NCAC 41H .0202 REMOVAL/RESIGNATION OF LOCAL: DEPUTY: OR SUBREGISTRAR**

- (a) Failure to carry out the provisions of the law relating to vital statistics and regulations adopted thereunder or conduct that may impair operation of the vital statistics system shall be considered reasonable cause for removal of a local registrar, deputy registrar, or subregistrar.
- (b) The termination of employment of a local registration official shall constitute the termination of his position of local registrar, deputy registrar, or subregistrar.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. September 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

### **SECTION .0300 - BIRTH REGISTRATION**

#### **10A NCAC 41H .0301 GENERAL REQUIREMENTS**

In addition to the requirements specified in 10A NCAC 41H .0104, no birth certificate shall be considered complete, correct, and acceptable for registration:

- (1) that does not have the certifier's name typed or printed legibly under his signature,
- (2) that does not supply all items of information called for thereon or satisfactorily account for their omission, and
- (3) that contains any data relative to the putative father of a child born out of wedlock unless it is accompanied by the written consent of both parents under oath or a certified copy of a decree determining paternity.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

#### **10A NCAC 41H .0302 LATE CERTIFICATES NOT SIGNED BY ATTENDANT**

Certificates of birth filed after ten days but within one year from the date of birth which are signed by someone other than the attendant must be accompanied by a statement from the local registrar stating why the certificate cannot be signed by the attendant. The State Registrar may require additional evidence in support of the facts of birth or an explanation for the delay in filing.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. February 1, 1990; April 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.



#### **10A NCAC 41H .0303 PHYSICIAN'S SIGNATURE**

A birth certificate must be completed and signed by the physician or other person in attendance at birth within ten days after birth. If the certificate has not been completed by the physician or other person in attendance within ten days, the hospital administrator may complete and sign the certificate.

*History Note: Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. February 1, 1990; April 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0304 MOTHER'S SIGNATURE**

Certificates of live birth shall be completed by the hospital and signed by the mother before she is discharged unless she is physically unable to sign, the child is going to be given up for adoption, or unless she refuses to sign. After signing, the mother shall be given a carbon copy of the certificate. In no cases shall the mother be asked to sign a blank certificate except that she may sign the certificate before the attendant has signed it if the attendant's name is typed or printed in the proper location.

*History Note: Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0305 MEDICAL AND HEALTH INFORMATION**

The local registrar shall delete all information labeled "For Medical and Health Use Only" from the copies of Certificates of Live Births which are to be forwarded to the registers of deeds.

*History Note: Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

### **SECTION .0400 - DELAYED REGISTRATION OF BIRTHS**

#### **10A NCAC 41H .0401 GENERAL REQUIREMENTS**

All certificates registered one or more years after the date of birth are to be registered on a Delayed Certificate of Birth Form prescribed by the State Registrar. Any living person born in this state whose birth is not recorded, or his parent, or guardian may apply to the register of deeds in the county of birth on a form prescribed by the State Registrar. Such completed application form shall be retained by the register of deeds.

*History Note: Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. July 1, 1992; June 16, 1980;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0402 DOCUMENTARY EVIDENCE: FACTS TO BE ESTABLISHED**

- (a) The minimum facts which must be established by documentary evidence shall be:
- (1) the full name of the person at the time of birth;
  - (2) the date and place of birth;
  - (3) the full maiden name of the mother; and
  - (4) the full name of the father, except for births as specified in G.S. 130A-101(f).

Documents presented, other than personal affidavits, to establish these facts must be from independent sources and shall be in the form of an original official record (record created by or for a business or publically-funded agency or organization during the normal course of business) or a duly certified copy thereof or a signed statement from the custodian. These documents must have been established at least five years prior to the date of application. However, documents established less than five years prior to date of application shall be accepted if created prior to the applicant's fifth birthday.

(b) An affidavit of personal knowledge, to be acceptable, must be signed by one of the parents, or a person older than the registrant having knowledge of the facts of birth before an official authorized to administer oaths.

(c) For applicants, three pieces of evidence are required, only one of which may be an affidavit. All three must prove name and date of birth, two must prove place of birth, and one must prove parentage.

(d) All evidence shall be abstracted or included with the application and must be signed by the appropriate official. The application and affidavits of personal knowledge shall be retained by the register of deeds for one year. Other supporting documents may be returned to the applicant upon completion of the certificate.

*History Note: Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. September 1, 1992; September 1, 1990; June 16, 1980;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0403 COMPLETION OF THE CERTIFICATE**

(a) Upon proper submission of application and supporting evidence, the register of deeds shall abstract on the delayed certificate of birth a description of each document submitted to support the facts shown on the delayed birth certificate. The description shall include:

- (1) the title or description of the document;
- (2) the name and address of the affiant, if the document is an affidavit; or of the custodian, if the document is an original or certified copy of a record or a signed statement;
- (3) the date of the original filing of the document being abstracted; and
- (4) the information regarding the birth facts supported by the document.

(b) Each delayed certificate of birth shall be signed and sworn to before an official authorized to administer oaths by the person whose birth is to be registered if such person is 18 years of age and is competent to sign. Otherwise, the certificate shall be signed and sworn to by one of the parents or guardians of the registrant.

*History Note: Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. July 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0404 FINAL CERTIFICATION**

(a) The register of deeds shall, by his signature, certify that he has reviewed the evidence submitted to establish the facts of birth and that the abstract of the evidence appearing on the delayed certificate of birth accurately reflects the nature and content of the document. He shall enter the date of his signature.

(b) The State Registrar has final authority to determine acceptability of evidence. Upon receipt and approval, the State Registrar or his designated representative, shall, by his signature, certify that no prior birth certificate is on file for the person whose birth is to be recorded. He shall also enter the date of his signature.

*History Note: Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0405 DISMISSAL AFTER ONE YEAR**

Applications for delayed certificates which are not completed within one year may be dismissed at the discretion of the register of deeds. Upon dismissal, all documents may be returned to the applicant.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

#### **10A NCAC 41H .0406 DELAYED BIRTH CERTIFICATES FOR DECEASED PERSONS**

Applications for delayed birth certificates shall not be accepted and delayed birth certificates shall not be filed for persons who have died.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

### **SECTION .0500 - DEATH REGISTRATION**

#### **10A NCAC 41H .0501 HOSPITAL ASSISTANCE IN PREPARATION OF DEATH CERTIFICATES**

Hospitals and institutions shall establish and follow a procedure for assisting funeral directors in completing death certificates. As a minimum, the procedure will ensure that the funeral director is provided with the name of the deceased, the name of the attending physician or medical examiner who is responsible for the medical certification, and the date of death.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. September 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

#### **10A NCAC 41H .0502 ACCEPTANCE OF INCOMPLETE DEATH CERTIFICATE**

If the funeral director is unable to obtain the personal information about the deceased within the prescribed statutory time period, the funeral director shall file a death certificate form completed with all available information, except that no certificate shall be filed without proper medical certification and signature of attending physician or medical examiner.

The information missing shall be provided to the local registrar by the funeral director as soon as possible, but in all cases within 30 days. Such information shall be entered by the local registrar on the original death certificate or forwarded to the State Registrar.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

#### **10A NCAC 41H .0503 DEATH REGISTRATION: MEDICAL CERTIFICATION**

Except for deaths caused by conditions under the jurisdiction of the medical examiner, the physician who last treated the deceased is responsible for completing the medical certification of the death certificate, unless there is evidence or indication that the cause of death is unrelated to the previous diagnosis and treatment. If the attending physician is unavailable, the certificate shall be signed by the physician who pronounced death (if he can reasonably determine the cause) or by an associate physician or physician on call for the attending physician if medical records of the

deceased are available and if the cause of death is reasonably ascertainable from the records and circumstances preceding death.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. September 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

#### **10A NCAC 41H .0504 NO DEATH CERTIFICATE FOR MISSING PERSONS**

No death certificate shall be filed nor shall any death certificate be accepted for filing by a local registrar or the State Registrar unless there is a body or some remains such as ashes or decomposed organic substance determined to be human. Deaths in which bodies are lost in lakes, rivers, and oceans may not be registered until and unless the body is recovered.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

#### **10A NCAC 41H .0505 DISINTERMENT-REINTERMENT PERMITS**

A permit for disinterment-reinterment shall be issued by the local registrar or deputy registrar only upon receipt of a written authorization signed by:

- (1) the spouse if living; otherwise,
- (2) by the next-of-kin and the person who is to perform the disinterment; or
- (3) upon receipt of an order of a court of competent jurisdiction directing such disinterment.

A dead body which has been deposited in a receiving vault shall not be considered a disinterment when removed from the vault for final burial.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. September 1, 1990; November 1, 1978;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

#### **10A NCAC 41H .0506 REMOVAL OF BODIES**

Before removing a dead body or fetus from the place of death, the funeral director or person acting as such shall:

- (1) obtain assurance from the attending physician that death is from natural causes and that the physician will assume responsibility for certifying to the cause of death or fetal death, or
- (2) notify the medical examiner if the case comes within his jurisdiction and receive authorization from him to remove the body.

*History Note:* Authority G.S. 130A-92(7);  
Eff. October 1, 1977;  
Readopted Eff. November 15, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

### **SECTION .0600 - CERTIFIED COPIES**

#### **10A NCAC 41H .0601 BIRTH CERTIFICATES**

(a) There shall be three forms of copies of birth certificates:

- (1) a photocopy of the original record excluding medical and health related information with facsimile of the signature of the State Registrar and raised seal and date issued; and
- (2) a typed copy prepared on a form printed on safety paper with facsimile of the signature of the State Registrar and raised seal; the form shall provide at least the following items of information:
  - (A) name and sex of child;
  - (B) date and place of birth;
  - (C) names, ages (at time of birth), and birthplaces of father and mother;
  - (D) date filed with local registrar;
  - (E) certificate number; and
  - (F) date of issue; and
- (3) a typed wallet-size card with facsimile of the signature of the State Registrar providing as a minimum the following items of information:
  - (A) name and sex of child;
  - (B) date and place of birth;
  - (C) date filed with local registrar;
  - (D) certificate number;
  - (E) date of issue; and
  - (F) changes of names by court order noted on back for persons older than 15 years unless good cause (including cases of illegitimacy, fostercare, etc., but not necessarily limited to those cases) is shown for deleting the notation.

(b) A wallet-size card shall be issued when specifically requested.

(c) A typed copy shall be issued when specifically requested, when the original certificate cannot be photocopied, when the original has been corrected or amended, or when the record is that of an adopted or legitimated person.

(d) A photocopy shall be issued when specifically requested or whenever it is most convenient except in cases in which a typed copy is required.

(e) In cases when the individual is known to be deceased, the word "DECEASED" shall be added to the certificate in a prominent location. This procedure shall apply to copies issued by the Vital Records Section and to each register of deeds or local health department that issues certified copies of birth certificates.

*History Note: Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Amended Eff. October 1, 1977;  
Readopted Eff. November 15, 1977;  
Amended Eff. July 1, 1992; January 1, 1992; May 1, 1991;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0602 DELAYED BIRTH CERTIFICATES**

A certified copy of a birth certificate shall be a photocopy unless it cannot be copied. If not reproducible, a typed copy shall be made, giving all data which appears on the original certificate, on a form similar to the form on which the original certificate was filed.

*History Note: Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0603 BIRTH CERTIFICATES FOR OUT-OF-WEDLOCK BIRTHS**

When issuing a certified copy of a birth certificate for a child born out of wedlock, which names the father of the child without the father's acknowledgment of paternity and without judicial determination of paternity, the information pertaining to the father shall not be included except in cases when the person named on the certificate specifically requests that the copy show the father's name and when the person named on the certificate properly identifies the name of the father as shown on the original certificate of birth.

*History Note: Authority G.S. 130A-92(7);*

*Eff. February 1, 1976;*  
*Readopted Eff. November 15, 1977;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0604 DEATH CERTIFICATES**

Whenever it is physically possible, a certified copy of a death certificate shall be a photocopy. Otherwise, it shall be typed on a form which approximates the form on which the original certificate was filed. When supplemental causes of death are attached, the information contained thereon shall be included.

*History Note: Authority G.S. 130A-92(7);*  
*Eff. February 1, 1976;*  
*Readopted Eff. November 15, 1977;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

### **SECTION .0700 - FEES AND REFUNDS**

#### **10A NCAC 41H .0701 ROUTINE REQUESTS FOR CERTIFIED COPIES**

(a) The fee for a non-expedited search for a certificate of birth, death, marriage or divorce is twenty-four dollars (\$24.00), which includes the cost of a search of the year indicated and if necessary the year immediately prior to and subsequent to the indicated year. This fee also covers issuance of a copy if the record is found. If the record is not located, the fee shall be retained for providing the search.

(b) If expedited service is specifically requested, an additional fee of fifteen dollars (\$15.00), in addition to all shipping and commercial charges, shall be charged in accordance with G.S. 130A-93.1(a)(2).

*History Note: Authority G.S. 130A-92(a)(7); 130A-93; 130A-93.1;*  
*Eff. February 1, 1976;*  
*Amended Eff. October 1, 1977;*  
*Readopted Eff. November 15, 1977;*  
*Amended Eff. August 24, 2009; June 1, 2005; January 1, 1992; October 1, 1985;*  
*Emergency Amendment Eff. September 14, 2009;*  
*Temporary Amendment Eff. December 1, 2009;*  
*Amended Eff. November 1, 2010;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0702 RESEARCH REQUESTS**

(a) The State Registrar may permit the use of data from vital records for research purposes. The State Registrar shall require the applicant to specify in writing the conditions under which the records or data will be used, stored, and disposed of; the purpose of the research; the research protocol; access limitations; and security precautions.

(b) A fee of twenty-four dollars (\$24.00) shall be charged per name searched. If expedited service is specifically requested, an additional fee of fifteen dollars (\$15.00), in addition to all shipping and commercial charges, shall be charged in accordance with G.S. 130A-93.1(a)(2).

(c) Vital records or data provided under this Rule shall be used only for the purposes described in the application.

*History Note: Authority G.S. 130A-92(a)(7); 130A-93; 130A-93.1;*  
*Eff. February 1, 1976;*  
*Readopted Eff. November 15, 1977;*  
*Amended Eff. August 24, 2009; June 1, 2005; February 1, 1994; February 1, 1992; September 1, 1990; October 1, 1985;*  
*Emergency Amendment Eff. September 14, 2009;*  
*Temporary Amendment Eff. December 1, 2009;*  
*Amended Eff. November 1, 2010;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0703 FEES FOR CORRECTIONS AND AMENDMENTS**

The fee for correcting or amending a birth or death certificate shall be fifteen dollars (\$15.00) per request. No fee shall be charged for amending a cause of death on a death certificate.

*History Note: Authority G.S. 130A-92(a)(7); 130A-118;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1977;  
Readopted Eff. November 15, 1977;  
Amended Eff. June 1, 2005; August 1, 1991; October 1, 1985;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0704 FEES FOR PREPARING NEW CERTIFICATE: ADOPTION AND LEGITIMATION**

A fee of fifteen dollars (\$15.00) shall be charged for preparing a new birth certificate for adoptions and legitimations.

*History Note: Authority G.S. 48-9-107; 130A-92(a)(7); 130A-118;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1977;  
Readopted Eff. November 15, 1977;  
Amended Eff. June 1, 2005; August 1, 1991; October 1, 1985;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

### **SECTION .0800 - CHANGE OF NAMES**

#### **10A NCAC 41H .0801 NORTH CAROLINA COURT ORDERS**

For court orders changing a name issued under the authority of North Carolina law, and if the name has not been previously changed, the name on the certificate shall be lined out, and the new name entered. The face of the certificate shall be noted, "Name changed by court order" with the date of the change. The register of deeds in the county of occurrence shall be notified.

*History Note: Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0802 OUT-OF-STATE COURT ORDERS**

If the court order originates in another state and the name has not been previously changed by court order, the change shall be made in the same manner as those originating in North Carolina. If the name has been previously changed by court order, the statutory authority for the second change from the other state shall be required.

*History Note: Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. September 1, 1990; May 15, 1979;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0803 FEDERAL WITNESS PROTECTION PROGRAM**

When a court order is issued under the United States Department of Justice Witness Protection Program the certification of birth shall be amended and the court order shall be placed in the sealed file. The register of deeds in the county of birth shall not be notified of changes made pursuant to this Regulation.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. May 15, 1979;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

#### **10A NCAC 41H .0804 FILING COURT ORDERS**

If the court order is submitted on a form furnished by the State Registrar, it shall be attached to the back of the certificate. Otherwise, the court order shall be retained in permanent files.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. May 15, 1979;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

#### **10A NCAC 41H .0805 JUDICIAL DETERMINATION OF PATERNITY**

For cases in which a court determines the paternity of an illegitimate child, the father's name shall be added and a copy of the amended certificate shall be forwarded to the register of deeds in the county where the birth occurred. In cases where the mother is married and the court determines the husband is not the father, the husband's name will be lined out, and if also determined by the court, the natural father's name will be added.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Amended Eff. October 1, 1977;  
Readopted Eff. November 15, 1977;  
Amended Eff. August 1, 1991;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

### **SECTION .0900 - CORRECTIONS AND AMENDMENTS**

#### **10A NCAC 41H .0901 ERRORS**

(a) The State Registrar may correct errors by his own observation and by request from the individual or institution responsible for filing the original certificate, the informant, or the local registrar or his/her deputized agent. The register of deeds or other office of that county that maintains and certifies records shall be provided all such corrections either by the State Registrar or through the local registrar as provided in Paragraph (b) of this Rule.

(b) Prior to such time as the certificate has been officially registered by the Vital Records Section, each local registrar or his/her deputized agent is empowered to and shall correct errors on a certificate. After such time as the certificate has been officially registered by the Vital Records Section, only the Vital Records Section is empowered to correct errors on a certificate. The local registrar or his/her deputized agent shall be responsible for determining whether the record has been officially registered by the Vital Records Section.

(c) In order to ensure that the county copy of the certificate provides the same information as the original certificate filed in the Vital Records Section, the local registrar or the State Registrar, whomever makes the correction, shall file with the local register of deeds or local health department, whichever maintains and certifies the records, a copy of the certificate in its corrected form. Although the county copies of certificates corrected in this manner shall not be marked "Amended," the words "Corrected Certificate" shall be placed upon the face of the corrected certificate along with a notation indicating the items or sections corrected; the date of the correction; and the signature of the local registrar, the local registrar's deputized agent, or the State Registrar as appropriate.

(d) When a certificate has been corrected as provided in this Rule and has been filed in the appropriate county office, that certificate shall become the official county record. Only the official county record may then be certified.

*History Note:* Authority G.S. 130A-92(7);



*Eff. February 1, 1976;*  
*Readopted Eff. November 15, 1977;*  
*Amended Eff. January 1, 1992;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0902 MINOR CORRECTIONS**

The following items may be corrected by the State Registrar upon written application on forms provided by the State Registrar properly dated, notarized, and signed by the registrant if of legal age, or one or both of the parents or guardians of a minor child:

- (1) any obvious clerical error,
- (2) addresses,
- (3) occupation,
- (4) birth order,
- (5) spelling of informant's name, and
- (6) spelling of given names of child within four years of birth.

Records corrected as above shall not be marked "amended" but the notarized amendment application will be attached to the back of the original certificate.

*History Note: Authority G.S. 130A-92(7);*  
*Eff. February 1, 1976;*  
*Readopted Eff. November 15, 1977;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0903 CORRECTIONS REQUIRING PROOF**

The following items may be corrected upon written request on forms prescribed by the State Registrar properly notarized and signed by the registrant if of legal age or by one or both parents or guardians of a minor child provided that the request is supported by at least one piece of documentary evidence:

- (1) state of birth (deaths),
- (2) birthplace of parents (births),
- (3) county of birth,
- (4) spelling of given names of child (births) after four years of birth,
- (5) spelling of father's or mother's name,
- (6) age of parents,
- (7) sex of child if incorrectly recorded,
- (8) date of birth, and
- (9) hour of birth.

For these corrections, except sex of child and hour of birth, the certificates shall be marked "amended" as shall certified copies subsequently issued. All available evidence including any which might not have been submitted by the applicant shall be evaluated by the State Registrar. The existence of inconsistent or conflicting evidence may be considered cause for denying any request for correction in which case the applicant shall be duly advised.

*History Note: Authority G.S. 130A-92(a)(7);*  
*Eff. February 1, 1976;*  
*Readopted Eff. November 15, 1977;*  
*Amended Eff. February 1, 1994; July 1, 1992;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0904 ADDING NAMES**

(a) If a birth certificate does not indicate a given name, the State Registrar shall add the name when requested on a form prescribed by the State Registrar, properly notarized and signed by the registrant if of legal age or by one or both parents or guardians of a minor child. If a person is over five years of age, the request must be supported by at least one piece of documentary evidence. If a person is five years old or younger, the documentary evidence shall be requested but shall not be required if medical or school records have not been established.

(b) If a birth certificate does not indicate a surname, the State Registrar shall add the surname on receipt of a request properly notarized and signed by both parents or guardians if the child was born in wedlock or by the mother or both guardians if born out of wedlock. If the request is supported by documentary evidence, only one signature shall be required. After the child has reached his sixth birthday, documentary evidence of the established surname shall be required to add the surname.

*History Note: Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. April 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0905 CORRECTING FALSIFIED BIRTH CERTIFICATES**

(a) For cases in which the mother claims to have falsified information for the birth certificate regarding her marital status or the name of her husband, she shall be required to sign an affidavit to the effect that the original information given at birth was false and provide appropriate proof of the facts to be added to the record. The State Registrar reserves the right to withhold issuance of copies of records known to be falsified (except to a court or other official agency) until the necessary corrections have been made.

(b) If the mother alleges that she was not married at the time of conception or birth the marital status shall be changed, information regarding the father shall be lined through, and the child shall be given the established surname.

(c) If the mother alleges that she had a different husband from the one on the original birth certificate, and the whereabouts of the true husband is unknown or he is dead, the name of the husband shall be lined through and the child will be given the established surname, provided that the mother shows proof of the marriage and proof that the child has been using the surname to be added. The name of the alleged father may be added if his sworn statement that he was married to the mother at the time of conception or birth is furnished, and if no objection is raised by the man who was originally named as the father.

(d) A copy of all such corrected records will be forwarded to the register of deeds in the county of birth.

*History Note: Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Amended Eff. October 1, 1977;  
Readopted Eff. November 15, 1977;  
Amended Eff. September 1, 1990; April 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0906 AMENDED CAUSES OF DEATH**

When the physician or medical examiner who signed the original death certificate chooses to change or add information regarding the cause of death, the information will be submitted on a form provided for that purpose by the State Registrar. For medical examiner cases, the State Medical Examiner or a member of his staff authorized by him, may sign and submit changes to the cause of death using the same form. Upon receipt of the form, properly signed, the State Registrar will mark the face of the certificate "cause amended" and the date, and affix the form to the back of the original death certificate. The State Registrar will send a photocopy of the amended death certificate to the register of deeds in the county where death occurred.

Whenever a certified copy of an amended death certificate is issued by the State Registrar, the copy will include the original certificate and all amendments attached thereto.

*History Note: Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .0907 CORRECTIONS TO DELAYED BIRTH CERTIFICATES**

- (a) Except for the year of birth, items on delayed birth certificates may be corrected in accordance with the procedures described in 10A NCAC 41H .0901 to .0903. The year of birth cannot be changed on a delayed birth certificate which was established from records submitted at the time of filing.
- (b) If the year of birth is disputed, the State Registrar may cancel the original delayed birth certificate and file a new one based on new evidence, all of which was established prior to the filing date of the first delayed certificate. The applicant may be required to present such proof directly to the State Registrar.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

#### **10A NCAC 41H .0908 PROCEDURES FOR HANDLING DUPLICATE CERTIFICATES**

- (a) When two or more certificates for the same event are detected before numbering, determination must be made as to which one is the most complete and accurate. The register of deeds shall be notified as to which one is not to be filed. If duplicates are identical, the one with the earliest filing date will be retained.
- (b) When duplicates are detected after the records are numbered, one must be voided. A note shall be made on the certificate indicating "Void," the date and reason for voiding, and the certificate number of the record which supersedes it.
- (c) For cases in which the record must be filed under a different number, a blank certificate shall be placed where the certificate was removed, and the following items shall be noted on the blank certificate; registration district number, certificate number, name, the word "Void," the date and reason for voiding, and the certificate number of the record which supersedes it.
- (d) A note shall be made on the back of any certificate which supersedes another record referencing the certificate number of the superseded record.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

#### **10A NCAC 41H .0909 AMENDMENTS TO BIRTH CERTIFICATES REQUIRING COURT ORDER**

Unless otherwise provided by law or regulation, the following amendments may be made on a birth certificate only upon receipt of an order from a court of competent jurisdiction:

- (1) change in the surname of the registrant,
- (2) change in parentage.

*History Note:* Authority G.S. 130A-92(7);  
Eff. October 1, 1977;  
Readopted Eff. November 15, 1977;  
Amended Eff. November 1, 1978;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

#### **10A NCAC 41H .0910 VITAL RECORDS AMENDMENT PROCEDURES**

- (a) A representative of the State Registrar shall evaluate the evidence submitted in support of any amendment of a vital record. He may accept or reject the amendment. If the amendment is rejected, he shall advise the applicant of the reasons for this action. The existence of inconsistent or conflicting evidence may be considered cause for denying any request for amendment.
- (b) If a request to amend a record is rejected, the applicant may request an opportunity to meet with the State Registrar to present data in support of the requested amendment. The applicant may be represented by legal counsel.
- (c) Examples of documentary evidence which may be used to support vital record amendment requests are: early school records, census records, marriage certificates, birth certificates of family members, rolls of federal or state recognized Indian tribes, baptismal records.

(d) The Head of the Vital Records Section after reviewing all the evidence, both written and oral, presented on behalf of the applicant to support a vital record amendment shall render a decision and shall inform the applicant in writing of the decision and the reasons therefor within 45 days. If the decision rendered is not in favor of the applicant, the applicant may request a hearing under the provisions of the North Carolina Administrative Procedure Act.

*History Note:* Authority G.S. 130A-92(7);  
Eff. November 1, 1978;  
Amended Eff. December 6, 1991; January 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

## **SECTION .1000 - NEW CERTIFICATES**

### **10A NCAC 41H .1001 NEW CERTIFICATES OF BIRTHS FOLLOWING ADOPTIONS**

(a) When a new certificate of birth is prepared by the State Registrar as prescribed in G.S. 48-29, all copies of the original certificate and all other information concerning the original certificate in the possession of any register of deeds shall be forwarded to the State Registrar, who shall file them in accordance with the provisions of G.S. 48-29. In the event such data have been computerized or otherwise automated, a paper copy of the identifying data shall be prepared and sent to the State Registrar. The automated data shall then be removed from the index or otherwise rendered unusable in a manner approved by the State Registrar.

(b) The record pertaining to an adoption shall not be sealed until after the adopting parents are furnished a full certified copy or until they or their legal representatives are notified of the information entered on the new certificate, so that errors can be identified or corrected prior to the sealing of the file. After the file is sealed, corrections and amendments shall be made in accordance with same rules which pertain to birth records of non-adopted persons, except that a copy of the adoption order will be required to correct the name.

*History Note:* Authority G.S. 48-29(c); 130A-92(7); 130A-118(e);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. May 1, 1991;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

### **10A NCAC 41H .1002 NEW CERTIFICATES OF BIRTH FOLLOWING LEGITIMATIONS**

When a new certificate of birth is prepared by the State Registrar as prescribed in G.S. 49-13 and G.S. 130A-118, the register of deeds in the county where birth occurred shall send the original birth certificate to the State Registrar for filing in the sealed file and shall replace it with a copy of the new certificate prepared by the State Registrar.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

### **10A NCAC 41H .1003 ADOPTIONS AND LEGITIMATIONS: NEW DELAYED CERTIFICATES**

For persons whose births are filed on Delayed Certificate of Birth forms who are adopted or legitimated, new Delayed Certificates of Birth shall be prepared by the State Registrar in the same manner as prescribed for regular birth certificates. When certified copies are issued, they shall be typed on regular certified copy forms with the term "Delayed" added.

*History Note:* Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .1004 ACCESS TO ORIGINAL RECORDS**

Sealed files of adoptions or legitimations shall be opened by the State Registrar upon receipt of a court order or may be opened to verify that the correct record has been placed in the file if there is reason to suspect that the wrong record was placed in the sealed file.

*History Note: Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

### **SECTION .1100 - LEGITIMATIONS**

#### **10A NCAC 41H .1101 GENERAL**

For all legitimations, a new birth certificate shall be prepared. The new birth certificate may reflect a new surname when the conditions of G.S. 130A-118(c) have been met. The new birth certificate shall reflect the mother's or father's surname unless otherwise directed by court order. A copy shall be forwarded to the register of deeds of the county of occurrence who shall return the original copy to the Vital Records Section. All materials pertaining to the legitimation shall be placed in a sealed file.

*History Note: Authority G.S. 49-13; 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. September 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

#### **10A NCAC 41H .1102 LEGITIMATION BY SUBSEQUENT MARRIAGE**

- (a) Paragraphs (b) through (h) of this Rule establish the requirements for legitimations by subsequent marriage.
- (b) If no name of the father is shown on the original certificate, affidavits of the mother and father on a form provided by the Vital Records Section, necessary information about the father and child, and proof of marriage are required.
- (c) If the father's name appears on the original birth certificate and it is the man whom the mother married, only proof of marriage is required.
- (d) If the father died before signing an affidavit, court determination of paternity or proof shall be required in lieu of the father's affidavit. Such proof may be hospital records, medical records, tax records, service records, or affidavits from close relatives of the father indicating that the man was the reputed father of the child.
- (e) If the birth certificate shows a father other than the one the mother married, a court determination of paternity will be required.
- (f) If the mother is legally married at the time of conception or birth, but claims that another man is the father and she later marries the natural father, a court determination of paternity shall be required in addition to proof of marriage.
- (g) If the parents of an illegitimate child marry after the child reaches the age of six, additional proof of parentage shall be required such as school or medical records showing the child has used the surname of the father, hospital records or bills paid by the reputed father, or affidavits from relatives of the reputed father.
- (h) For legitimating a child under G.S. 49-12 when another man's name appears on the birth record, proof must be submitted showing that the man named on the certificate is not the father of the child or a court order shall be required to remove the name of one man in order to add the name of another.

*History Note: Authority G.S. 49-13; 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. September 1, 1990;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

## **SECTION .1200 - REMOVAL OF GRAVES**

### **10A NCAC 41H .1201 REGISTRATION OF GRAVES REMOVED**

(a) Removal of Graves Certificate and Filing. The party removing or causing the removal of a grave shall, within 30 days of completion of the reinterment of the grave, submit to the Register of Deeds in the county of disinterment and the counties of reinterment the following:

- (1) a Removal of Graves Certificate containing the elements set out in G.S. 65-106 and provided by the State Registrar. The Certificate shall be typed or completed in black ink with continuation sheets of the same format if necessary to list all decedents;
- (2) maps as set forth in Paragraph (b) of this Rule; and
- (3) a fee set out in G.S. 161-10.

(b) Maps. The party effecting removal shall prepare a map of both the disinterment and reinterment sites. The map must describe the disinterment and reinterment sites in such a manner that a layman can identify the location of each site. The maps shall include county, nearest city or town, public road or intersection of roads in the vicinity, and any other information which would be helpful in locating the sites. The graves must be noted and numbered. The names must be listed on the certificate by number, which corresponds with the numbers on the map.

(c) Filing and Indexing. The register of deeds shall:

- (1) cross index the certificates by name of cemetery of disinterment and reinterment; This requirement does not preclude additional cross indexing of the Removal of Graves Certificates by name of decedent when known; provided, that such cross indexing shall be an option of the register of deeds and imposes no extra charge to the party effecting removal; and
- (2) retain the certificates and attachments permanently. In counties using microfilm for recording various documents such as deeds and deeds of trust, these certificates may be processed as the other records.

*History Note: Authority G.S. 65-106; 130A-92(7); 161-10;  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. September 1, 1990;  
Readopted Eff. July 1, 2020.*

### **10A NCAC 41H .1202 FORMS**

Source of Forms. The Removal of Graves Certificate may be obtained from the local register of deeds office. Additional supplies of these forms may be ordered from Vital Records Section.

*History Note: Authority G.S. 130A-92(7);  
Eff. February 1, 1976;  
Readopted Eff. November 15, 1977;  
Amended Eff. January 1, 1992; September 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.*

## **SECTION .1300 - ACCESS TO RECORDS**

### **10A NCAC 41H .1301 INFORMATION NEEDED FOR LOCATING RECORDS**

A person wishing to obtain a copy of a vital record or obtain a copy therefrom shall be required to furnish at least the minimum amount of information needed to locate the record. The following minimum amount of information is required to locate a record:

- (1) Births. Registrant's name, father's name (if born in wedlock), mother's full maiden name, date of birth and place of birth;
- (2) Deaths. Name of deceased, age, date of death and place of death;
- (3) Marriages. Name of bride or groom, date of marriage and county where license was issued;
- (4) Divorces. Name of plaintiff or defendant, date of divorce and place of divorce.

*History Note:* Authority G.S. 130A-92(a)(7);  
Eff. October 1, 1977;  
Readopted Eff. November 15, 1977;  
Amended Eff. January 1, 2005; May 1, 1991; January 1, 1984;  
Transferred and Recodified from 10 NCAC 7G .1301 Eff. April 4, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

#### **10A NCAC 41H .1302 ISSUANCE OF CERTIFIED COPIES**

The State Registrar shall require applicants for certified copies of vital records to complete and sign an application form before issuing such copies. Applicants may also be required to produce identification.

*History Note:* Authority G.S. 130A-92(7);  
Eff. October 1, 1977;  
Readopted Eff. November 15, 1977;  
Transferred and Recodified from 10 NCAC 7G .1303 Eff. April 4, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.

### **SECTION .1400 - DIVORCE AND ANNULMENT**

#### **10A NCAC 41H .1401 RESERVED FOR FUTURE CODIFICATION**

#### **10A NCAC 41H .1402 REGISTRATION OF DIVORCES AND ANNULMENTS**

(a) The report of divorce and annulment required by G.S. 130A-111 shall be on the certificate of divorce and annulment form furnished by the State Registrar. The certificate of divorce and annulment shall contain as a minimum those items specified on the standard certificate of divorce and annulment prepared by the federal agency responsible for national vital statistics. No certificate of divorce and annulment shall be complete and acceptable for filing that does not contain all information required on the certificate or that does not contain an explanation for its omission.

(b) The certificate shall be completed by the Clerk of Superior Court following the granting of a decree of absolute divorce or annulment. The information necessary to prepare the report shall be furnished to the clerk by the parties or their legal representatives. The original copy of all certificates shall be forwarded to the State Registrar on or before the 15th of the month following the month in which the decree was granted. The carbon copy may be retained by the Clerk of Superior Court for his record of the action.

*History Note:* Authority G.S. 130A-92; 130A-111;  
Eff. January 1, 1984;  
Amended Eff. October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018.