

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.

10A NCAC 41C .0602 ACCREDITATION

(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 refreshers 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;
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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
 - (I) 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/.

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