

**Impact Analysis – Proposed Rule Changes  
April 2023**

**Agency:** DHHS/Division of Child Development & Early Education

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**RULE CITATIONS:**

10A NCAC 09 .0102	DEFINITIONS
10A NCAC 09 .0601	SAFE ENVIRONMENT
10A NCAC 09 .1707	BUILDING REQUIREMENTS
10A NCAC 09 .1725	SANITATION REQUIREMENTS FOR FAMILY CHILD CARE HOMES
10A NCAC 09 .2204	PROVISIONAL CHILD CARE FACILITY LICENSE OR PROVISIONAL NOTICE OF COMPLIANCE
10A NCAC 09 .2206	SUSPENSION
10A NCAC 09 .2209	REVOCATION OF A CHILD CARE FACILITY LICENSE OR AN ORDER TO CEASE OPERATION

**Statutory Authority:** G.S. 110-85; 110-86(3); 110-88; 110-88(6); 110-90; 110-90(9); 110-90.2; 110-91; 110-91(3), (6); 110-99; 110-102.2

**Impact Summary:**

State Government:	<b>Yes</b>
Local Government:	<b>No</b>
Substantial Impact:	<b>No</b>
Private Sector:	<b>Yes</b>

### **Executive Summary**

The proposed rules are complementary to rules recently adopted by the Division of Public Health that established a program for the inspection, testing, remediation, and abatement of asbestos, lead paint, and lead in water hazards in public schools and licensed child care facilities. Session Law 2021-180, Section 9G.8.(a) required that the Division of Public Health (DPH) serve as the lead agency for this program, with collaboration by DCDEE and Department of Public Instruction (DPI). The proposed rules apply to asbestos inspections/abatement and inspections for lead in water in licensed child care centers and family child care homes. They do not apply to public schools, nor do they address lead paint hazards.

The proposed rule changes related to **asbestos** inspection and abatement are complementary to the Division of Public Health Rules and will not result in any additional costs or benefits. Impacts associated with the asbestos inspection and abatement requirements were accounted for in a recent DPH fiscal analysis.

The proposed rule changes related to exposure to **lead** in water are expected to reduce children's risk of exposure to lead in NC family child care homes by requiring inspection/testing for this hazard and, if a hazard is detected, requiring action to protect children from the hazard by restricting access to the hazard. Remediating lead hazards is expected to have immediate and long-term benefits due to the prevention of harm to children, including avoided healthcare costs and loss of IQ and lifetime earnings. Total estimated **one-time** quantified costs of the proposed testing and remediation of lead in water are between \$214,903 and \$323,295, depending on the number of FCCHs with lead levels requiring remediation. These are the inspection and abatement costs that are expected to be borne by the State and paid for using State and Local Fiscal Recovery Funds (SLFRF). Once SLFRF funds are exhausted, costs will then be the responsibility of the family child care homes. This should serve as an incentive for family child care homes to pursue testing and remediation as soon as possible. Additional **one-time** opportunity costs to all FCCHs are estimated at \$43,911. These costs include staff time being trained and collecting water samples. This is an overestimate because it assumed all 1,245 FCCHs still need to undergo this

training and collect samples. Total **annual** cost for water filter replacements was estimated at between \$3,221 and \$8,591, depending on the number of facilities with lead levels above 10ppb.

Lastly, there are changes to clarify what is meant by exit at grade and to bring the definition of “North Carolina Early Childhood Credential” in line with recent session law. These changes will not result in any additional costs or benefits other than improved clarity.

## **Background**

Despite dramatic improvements over the past 40 years, lead and asbestos exposure remain a serious hazard for thousands of young children across North Carolina. Lead and asbestos are well known to be hazardous to human health and particularly the health of children, whose bodies are still developing and who are therefore uniquely vulnerable to the risks posed by lead and asbestos.

- **Lead** is a naturally occurring heavy metal that is toxic to humans.<sup>1</sup> There is no safe amount of lead exposure for children and exposure to lead can have long term impacts on a child's health by causing damage to the brain and central nervous system, slowed growth and development, and challenges related to learning, behavior, hearing, and speech.<sup>2</sup>
- **Asbestos** is a naturally occurring fibrous mineral that has been determined to be a human carcinogen. Although research on the health effects of asbestos have largely focused on adults who are exposed in the workplace, the United States Centers for Disease Control and Prevention (CDC) has stated that “It is likely that health effects seen in children exposed to high levels of asbestos will be similar to the effects seen in adults.”<sup>3</sup>

Although the use of certain materials containing lead and asbestos has been banned in the United States, exposure to both lead and asbestos hazards can still occur in the built environment through things like deteriorating lead-based paint, lead-containing pipes, plumbing, fixtures, and solder that are used to carry drinking water, asbestos ceiling and floor tiles, asbestos insulation, and other products and materials containing lead or asbestos. Exposure to lead and asbestos hazards can be prevented by inspecting facilities and then restricting access to, remediating, or abating any hazards that are identified through the inspection process.

Session Law 2021-180, Section 9G.8.(a) appropriated \$150 million in non-recurring funds, allocated from the American Rescue Plan Act, State and Local Fiscal Recovery Funds (SLFRF) for lead and asbestos testing and remediation. These funds must be obligated by December 31, 2024, and expended by December 31, 2026. It is expected that there will be sufficient SLFRF funds to cover the cost of testing/inspecting for hazards. However, there may not be sufficient SLFRF funds to cover all costs associated with remediation/abatement. Once SLFRF funds are expended, the remaining remediation/abatement costs, as well as any ongoing maintenance costs, will fall to the child care facility. In that circumstance, a child care facility may choose to restrict access to an identified hazard rather than pursue full abatement as a cost saving measure or even a zero-cost alternative, in many cases.

## **Proposed Rule Amendments and Impacts**

The proposed rule changes and associated impacts are as follows:

**10A NCAC 09 .0102(4)** - A definition for “asbestos hazard” is being added to this section to define a term used throughout the rest of the section. There is no impact from this change.

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<sup>1</sup> United States National Institute of Environmental Health Sciences, "Lead," available at: <https://www.niehs.nih.gov/health/topics/agents/lead/index.cfm>.

<sup>2</sup> CDC, “Childhood Lead Poisoning Prevention: Health Effects of Lead Exposure,” available at: <https://www.cdc.gov/nceh/lead/prevention/health-effects.htm>.

<sup>3</sup> CDC, Agency for Toxic Substances and Disease Registry, "Asbestos," available at: <https://wwwn.cdc.gov/TSP/substances/ToxSubstance.aspx?toxid=4>.

**10A NCAC 09 .0102(33)** – The proposed changes to .0102 (33) are limited to those changes necessary to bring the rule into compliance with S.L. 2022-71, which increased the options for individuals to receive their early childhood qualifications from DCDEE. As compared to the regulatory baseline, which includes S.L. 2022-71, none of these changes will require the State implementing agency DCDEE or local governments to revise their existing procedures or to procure additional staff. As such, there will be no economic cost or benefit to state agencies or local governments. Similarly, there will be no economic cost or benefit to the regulated community, which includes individuals seeking a “North Carolina Early Childhood Credential.” There could be a minimal benefit to the regulated community from regulatory clarity and consistency with applicable session law.

**10A NCAC 09 .0601(f)** - Rule .0601(f) is being updated to include the specific requirement that child care centers must be free of asbestos hazards. This is in addition to the existing specific requirement that they be free of lead poisoning hazards.

This change updates Rule .0601 to make it consistent with current DCDEE and Environmental Health procedures and Rule 10A NCAC 41C .1003 (Asbestos Inspections and Abatement in North Carolina Public Schools and Licensed Child Care Facilities). Previously, if asbestos was suspected, we would have collaborated with EHS for testing and abatement based on language in the current version of Rule .0601(a) which reads “A safe indoor and outdoor environment shall be provided for the children in care. . .” This process will continue under this clarification.

The Division of Public Health conducted a comprehensive fiscal analysis of changes to their asbestos abatement and remediation rules for complementary Rule 10A NCAC 41C .1003. That analysis included impacts to licensed child care centers. The estimated costs for asbestos inspections in 4,291 licensed child care centers was \$15,675,023.<sup>4</sup> This cost assumed that 100% of child care centers would need an inspection and would not qualify for an exemption. This is highly unlikely, so this cost estimate is almost certainly an overestimate.

Due to uncertainties and lack of data, they were unable to quantify the maximum potential cost for asbestos hazard abatement in child care centers collectively. To provide an idea of magnitude of costs per facility, the analysis reported average remediation costs in NC public schools which ranged from \$3,498 for a door frame at a single school to \$663,235 to replace floor and ceiling tile, surfacing material, and pipe insulation across seven schools.

Licensed child care centers would be eligible for 100% reimbursement of their costs from State and Local Fiscal Recovery Fund (SLFRF). This may provide incentive for them to pursue abatement. It is important to note that costs associated with asbestos hazards inspections and abatement in child care centers were accounted for under the fiscal analysis for Rule 10A NCAC 41C .1003, and they will not be a result of the current proposed change to Rule .0601.

As compared to the regulatory baseline, which includes Rule 10A NCAC 41C .1003, the change to Rule .1707(2) will not require the State or local governments to revise their existing procedures or procure additional staff. As such, there will be no additional cost or benefit to state agencies or local governments. Similarly, there will be no additional cost or benefit to the regulated community other than from the incremental improvement to regulatory clarity and consistency.

**10A NCAC 09 .1707(1)** - The proposed change to Rule 10A NCAC 09 .1707 is for the purpose of resolving a perceived contradiction with Rule .1719. Read on its own, Rule .1707(1) could be interpreted such that a family care home would have to be built on a slab and have no steps leading up to a porch or to a front door. This may be perceived as contradicting Rule .1719 (a)(29) which lays out safety requirements for family child care homes which have outdoor stairs (“Indoor and outdoor stairs with more than two steps that are used by the children shall be railed.”) This could be incorrectly perceived as a barrier to licensure for persons interested in licensing a family care home. Upon realizing this potential contradiction, DCDEE consulted with the Department of Insurance, who advised that Rule .1707 needed to be changed to clarify that family care homes are not required to have an “exit at grade.” The new language is supported by the Department of Insurance.

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<sup>4</sup> Division of Public Health Fiscal Note for Lead and Asbestos Testing and Remediation: [DHHS\\_2022-10-31.pdf \(ncdhhs.gov\)](https://www.ncdhhs.gov/sites/default/files/2022-10/DHHS_2022-10-31.pdf)

DCDEE has never implemented Rule .1707 such that outdoor stairs are prohibited, and licensure has not been denied on this basis. The proposed rule changes will resolve a perceived contradiction in the child care rules and align Rule .1707 with current DCDEE licensure practices. The change will provide clarity for those seeking licensure, but this is not expected to result in any appreciable economic impact.

**10A NCAC 09 .1707(2)** - Rule .1707(2) is being updated to include the requirement that family child care homes must be free of asbestos hazards (in addition to lead poisoning hazards). The term “asbestos hazard” is defined in Rule 10A NCAC 41C .1003 (Asbestos Inspections and Abatement in North Carolina Public Schools and Licensed Child Care Facilities) which became rule on April 1, 2023. It will also be defined in child care rule section .0100 as part of this package. The purpose of this rule edit is to add language supportive of asbestos language in the occupational health rules 10A NCAC 41C .1003 and .1004 and current policies that require child care environments be free of lead and asbestos.

The Division of Public Health conducted a comprehensive fiscal analysis of changes to their asbestos abatement and remediation rules for Rule 10A NCAC 41C .1003. That analysis included impacts to family child care homes. The estimated costs for asbestos inspections in 1,254 licensed family child care homes was \$2,910,784.<sup>5</sup> This cost assumed that 100% of family child care homes would need an inspection and would not qualify for an exemption. This is highly unlikely, so this cost estimate is almost certainly an overestimate.

Due to uncertainties and lack of data, they were unable to quantify the maximum potential costs for asbestos hazard abatement in family child care homes collectively. To provide an idea of magnitude of costs, the analysis reported average remediation costs in NC public schools which ranged from \$3,498 for a door frame at a single school to \$663,235 to replace floor and ceiling tile, surfacing material, and pipe insulation across seven schools. Family child care homes would be eligible for 100% reimbursement of their costs from State and Local Fiscal Recovery Fund (SLFRF). This may provide incentive for them to pursue abatement. It is important to note that costs associated with asbestos hazards inspections and abatement in family child care homes were accounted for under the fiscal analysis for Rule 10A NCAC 41C .1003, and they will not be a result of the current proposed change to Rule .1707(2).

As compared to the regulatory baseline, which includes Rule 10A NCAC 41C .1003, the change to Rule .1707(2) will not require the State or local governments to revise their existing procedures or procure additional staff. As such, there will be no additional cost or benefit to state agencies or local governments. Similarly, there will be no additional cost or benefit to the regulated community other than from the incremental improvement to regulatory clarity and consistency.

**10A NCAC 09 .1725(2)** – Rule .1725(2) is being revised to require that drinking water be tested for lead in licensed family care homes within 12 months of the effective date of the rule.

Testing for lead in water was already required in licensed child care centers under rule 15A NCAC 18A .2816, with testing paid for through the EPA WIIN Grant. Under that work, it was found that approximately 3.3% of outlets were producing lead in water at or above the lead hazard level. This proposed rule requires similar testing in family child care homes. Similar to child care centers, the prevalence of lead hazards is expected to vary depending largely on the age of infrastructure.

It is expected that there will be sufficient SLFRF funds to cover the cost of testing/inspecting for lead hazards for all family child care homes. However, there may not be sufficient SLFRF funds to cover all costs associated with remediation/abatement. Once SLFRF funds are expended, the remaining remediation/abatement costs, as well as any ongoing maintenance costs, will fall to the family child care home. In that circumstance, a family child care home may choose to restrict access to an identified hazard rather than pursue full abatement as a cost saving measure or even a zero-cost alternative. Prospective family child care

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<sup>5</sup> Division of Public Health Fiscal Note for Lead and Asbestos Testing and Remediation: [DHHS\\_2022-10-31.pdf \(ncdhhs.gov\)](#)

homes will be required to have pre-licensure water testing ensuring there is no lead or asbestos hazards as noted below in Rule .1725, not post licensure. It is important to note that costs to state agencies and local governments for implementing testing and remediation programs have already been accounted for in the DPH fiscal analysis.<sup>6</sup>

Costs for Testing Lead in Water

Table 1 shows the estimated one-time costs to family child care homes for testing lead in water. Costs related to water lead testing include sample collection materials, shipping, and laboratory analysis for lead. Based on a Google search, costs can range from \$59-149 per water sample, depending upon the number of water samples submitted for testing and the state certified laboratory chosen to complete the lead analysis, for an average estimated cost of \$99.45.<sup>7</sup> On average, family child care homes have 1-2 water outlets used for drinking or food preparation that are subject to lead testing. With the assumed average testing cost per sample of \$99.45 and the estimated average number of taps as 1.5, the cost for 1,245 family child care homes is estimated to be \$185,722, as set out in Table 1. DCDEE anticipates this will be fully paid for by the State using SLFRF funds appropriated for this purpose.

**Table 1. Estimated One-Time Costs to Test for Lead in Water in Family Child Care Homes**

Estimated number of Family Child Care Homes	1,245
Average number of water outlets per FCCH for drinking or food preparation	1.5
Estimated average per sample cost of lead analysis at a certified laboratory	\$99.45
<b>Estimated total cost of testing for lead in water in Family Child Care Homes</b>	<b>\$185,723</b>

The total cost in Table 1 is an overestimate since it assumes that every licensed family child care home will need to complete testing. According to Jennifer Redmon, Senior Environmental Health Scientist with RTI, 213 family child care homes completed testing in 2022. This testing was part of a partnership between RTI International and DPH through the Clean Water for Carolina Kids™ program.<sup>8</sup>

The RTI team also report that a lower percentage of family child care homes have above-acceptable levels of lead in their tap water than licensed centers. Out of 213 family child care homes that have completed the program in 2022, 2.7% of family child care homes have at least one tap that is at or above the lead hazard level of 10 parts per billion (ppb). They also show that 1.9% of all family child care home samples are at or above the lead hazard level of 10 ppb. This trend is similar with licensed centers and shows variability in elevated lead levels within taps in the same home, indicating that it is important to test for lead at every tap used for drinking and cooking. They do not have regional information that is applicable, but their statewide licensed center findings (Redmon et al., 2022, AJPH, in press) show that well water, building age, and being a Head Start program are associated with a higher risk of having at least one tap with elevated lead. For the most up-to-date data please check:

[www.cleanwaterforcarolinakids.org/programsummary](http://www.cleanwaterforcarolinakids.org/programsummary).

Costs for Remediation/Abatement of Lead in Water

Regarding fixing the issue of lead in water, it is usually addressable in many cases with a faucet fixture replacement and/or installation and maintenance of a filter that is certified to remove lead. Labor represents the largest overall remediation or abatement cost. The high and low estimated costs to remediate lead in water in family child care homes are shown in Table 2. The costs were taken from the DPH fiscal analysis.<sup>9</sup>

<sup>6</sup> Division of Public Health Fiscal Note for Lead and Asbestos Testing and Remediation: [DHHS\\_2022-10-31.pdf \(ncdhhs.gov\)](https://www.dhhs.gov/ncd/ncd/2022-10-31.pdf)

<sup>7</sup> Sourced from DPH fiscal analysis. Original source is Google search of comparable companies conducting mail-out, kit-based testing for lead in water (average of Safe Home Lead: \$89.95, MyTapScore: \$149, 120Water: \$59.40) conducted on 9/27/2022.

<sup>8</sup> [Clean Water for Carolina Kids™ - Program Summary](http://www.cleanwaterforcarolinakids.org/programsummary)

<sup>9</sup> Division of Public Health Fiscal Note for Lead and Asbestos Testing and Remediation: [DHHS\\_2022-10-31.pdf \(ncdhhs.gov\)](https://www.dhhs.gov/ncd/ncd/2022-10-31.pdf)

Labor costs will vary depending on the complexity of each job and the number of water outlets exceeding the hazard level. The most realistic scenario is somewhere between these two estimates as each facility will have a different distribution of fountains, fixtures, filters and different labor costs. In addition, these estimates rely on static assumptions around the overall rate of exceedances, which may vary considerably.

**Table 2. Estimated One-Time Costs to Remediate Lead in Water in Family Child Care Homes**

Number of family child care homes (FCCH)	1,245	
Average number of water outlets per FCCH used for drinking or food preparation	1.5	
Estimated % of outlets exceeding 10 ppb and needing remediation or abatement	Low estimate: 1.5%	High estimate: 4%
Estimated number of outlets exceeding 10ppb needing remediation or abatement	28	75
Estimated cost of remediation per outlet (does not include labor)	\$775	
Estimated cost of labor per facility	Low estimate: \$400	High estimate: \$1,600
Estimated number of facilities with at least one outlet needing remediation or abatement (assumes 1.5% - 4% of total FCCHs will have an outlet that exceeds 10 ppb)	19	50
<b>Total estimated cost to remediate lead in water outlets used for drinking and food preparation in FCCH</b>	<b>Low estimate: \$29,180</b>	<b>High estimate: \$137,573</b>

As discussed above, it is anticipated that initial remediation or abatement costs will be borne by the State and paid for using SLFRF funds appropriated for this purpose. The state-funded program expects to cover all initial remediation or abatement costs as funding allows, providing the family child care home with materials and a plumber (if requested) to install replacement outlets for each outlet that exceeds the lead poisoning hazard level.

The total estimated costs to test for and remediate lead in water in family child care homes is between **\$214,903 - \$323,295** (Table 3), with the range depending on labor costs and the percent of outlets needing remediation. Once SLFRF funds are exhausted, any remaining remediation needs become a cost to the family care home.

**Table 3. Total Estimated One-Time Costs to Test for and Remediate Lead in Water in Family Child Care Homes**

Estimated total cost of testing water outlets used for drinking or food preparation in FCCH	\$185,723
Estimated Costs to Remediate Lead in Water in FCCH	\$29,180 - \$137,573
<b>Total Estimated Testing and Remediation Costs*</b>	<b>\$214,903 - \$323,295</b>
*These costs are likely to be fully covered by SLFRF funds, provided the FCCHs pursue testing and remediation in a timely manner.	

Opportunity Cost to FCCHs

Under the proposed rules, the family child care home operator would be responsible for collecting the samples. A vendor will provide customized training, results reporting, personalized technical support, and coordination with

state or local environmental health specialists as part of the per sample testing costs, which is covered in the vendor section below. Based on the experience with child care centers (under rule 15A NCAC 18A .2816), it is estimated that this training will take one person approximately **2 hours** to complete.

Based on DPH staff experience, the collection of samples is estimated to take 8 minutes per water outlet. With an estimated average of 1.5 water outlets, it is estimated that collection will take one person approximately **12 minutes** to complete.

If a test reveals that a water outlet used for drinking or food preparation in a family child care home is producing lead in the water at or above the lead poisoning hazard level, the family child care home will need to take additional steps. The immediate steps include restricting access to the water outlet, ensuring children and staff have access to an alternate water source, providing written notice to parents and staff, and making the test results available to the public. Family child care homes having 2 or more water outlets with only 1 water outlet impacted may choose to permanently restrict access to the impacted water outlet or to remediate that outlet. In this situation, there may be minimal costs to family child care homes in providing alternate water. For family child care homes with only 1 water outlet used for drinking or food preparation which is determined to be producing lead in the water at or above the lead poisoning hazard level, the family child care home must remediate the water outlet. This is usually addressable with a faucet fixture replacement which costs a few hundred dollars or less and/or installation and maintenance of a filter that is certified to remove lead (costs for under sink filters shown here [Get The Lead Out.pdf \(cwusk-cms.s3.amazonaws.com\)](#) which can cost \$100-\$250). There are also potential labor costs for a plumber if family child care homes need assistance with installation. Testing completed through September 2022 by the Clean Water for Carolina Kids™ program, a partnership between RTI International and NC Division of Public Health, found that family child care homes have lower levels of lead than licensed centers. Out of 213 FCCH that have completed the program in 2022, 2.7% of family child care homes have one tap that is at or above the lead hazard level of 10 parts per billion (ppb) and 1.9% of all family child care home samples are at or above the lead hazard level of 10 ppb.<sup>10</sup>

There will also be a minimal cost to family child care homes in providing written notice to parents and staff to inform of test results and the alternate water source, in the form of staff time spent writing and distributing the written notice, and office supplies. The cost to provide public access is expected to be minimal, as family child care homes may satisfy this requirement by posting a notice that is easily accessible to parents and staff within the family child care home. If remediation is pursued, family child care home operators will need to coordinate with the state to schedule a remediation vendor as well as to provide a report to the state within 30 days of remediation detailing the remediation that took place. It is estimated that these administrative functions will take one person approximately **1 hour**.

#### Costs not covered by SLFRF funds

Largely, the costs for testing sample and remediating outlets are expected to be covered by the state, to the extent SLFRF funds are available. However, as discussed above, beyond the initial remediation costs, the cost of maintaining filters will fall to family child care homes at a cost of approximately \$115 per filter per year.

In the event that sufficient funds are no longer available for remediation, the family child care home would be responsible for the cost of remediation. A family child care home may choose to restrict access to an identified hazard rather than pursue full abatement as a cost saving measure. In the space of water outlet remediation, this may include taking an outlet out of service, such as by removing the handle of the faucet. This outcome is more likely if SLFRF funds are not available.

The estimated costs not covered by SLFRF funds for the lead-in water testing and remediation is reflected in Table 4.

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<sup>10</sup> [Clean Water for Carolina Kids™ - Program Summary](#)

**Table 4. Estimated One-Time Opportunity Costs to Family Child Care Homes for Testing for and Remediating Lead in Water (These costs are not covered by SLFRF Funds.)**

Staff Activity	Estimated Hours	Estimated Net Hourly Rate*	Estimated One-Time Cost Per Family Child Care Home
Estimated opportunity cost to receive training	2 hours	\$10.82	\$21.64
Estimated opportunity cost to collect samples	.26 hours	\$10.82	\$2.81
Estimated opportunity cost for administrative functions	1 hour	\$10.82	\$10.82
<b>Total One-Time Opportunity Cost per FCCH.....\$35.27</b>			
<b>Total One-Time Opportunity Cost for all FCCHs = \$35.27 x 1245 FCCHs = \$43,911</b>			
* Median net hourly earnings in 2019 were \$9.09, based on a 2019 workforce study, p. 11 <sup>11</sup> . Hourly net earnings were estimated by subtracting monthly expenses from monthly earnings and dividing the result by the number of hours each FCCH was open (median hours worked per week was 53.75 hrs). Monthly earnings include tuition fees paid by parents, subsidy payments, and Child and Adult Care Food Program reimbursements. Expenditures include items such as food, toys, substitute care, advertising, training fees, diapers, crafts, transportation, supplies, field trips, cleaning supplies, and gifts for the children. Hourly rate was adjusted from 2019 dollars to current year equivalents using Consumer Price Index Inflation Calculator. Hourly rate does not include benefits. According to the 2019 workforce study, FCCH providers were less likely than other early care and education center staff to receive paid benefits.			

**Table 5. Estimated Annual Costs to Purchase Water Filters for Family Child Care Homes (These costs are not covered by SLFRF Funds.)**

Estimated cost of one filter	\$115
Estimated # of Impacted Outlets per FCCH	1.5
Estimated Cost per FCCH per Year	\$172.50
Estimated number of facilities with at least one outlet needing remediation or abatement	Low: 19 High: 50
<b>Total Annual Cost for Water Filters for FCCHs.....</b>	<b>\$3,221 - \$8,591</b>

**Benefits**

Revenue to Private Laboratories

There is an expected benefit to laboratories and other professionals who will be hired to complete the testing/inspection and mitigation/abatement work (estimated \$29,180 to \$137,573, with abatement revenue unquantifiable).

<sup>11</sup> Child Care Services Association, 2019. Working in Early Care and Education in North Carolina: 2019 Workforce Study. Accessible at [https://www.childcareservices.org/wp-content/uploads/CCSA\\_2020\\_Statewide\\_WorkStudyRprt-FINAL-web.pdf](https://www.childcareservices.org/wp-content/uploads/CCSA_2020_Statewide_WorkStudyRprt-FINAL-web.pdf)

<sup>11</sup> Child Care Services Association, 2019. Working in Early Care and Education in North Carolina: 2019 Workforce Study. Accessible at [https://www.childcareservices.org/wp-content/uploads/CCSA\\_2020\\_Statewide\\_WorkStudyRprt-FINAL-web.pdf](https://www.childcareservices.org/wp-content/uploads/CCSA_2020_Statewide_WorkStudyRprt-FINAL-web.pdf)



There will be an impact to private accredited laboratories that perform analyses for water samples. Based on those calculations, it is anticipated that state certified private laboratories would receive approximately \$29,180 to \$137,573.

### Public Health Benefit

The proposed rule will reduce children's risk of exposure to lead in family child care homes by requiring testing for this hazard and either restricting access or remediating. Investing in lead hazard remediation will also lead to an increase in the public's trust that licensed child care facilities are safe environments for children and staff.

The public health benefits of this one-time testing and remediation effort are potentially substantial. The adverse effects of lead have been well documented, even at low levels. The magnitude of the expected benefits for this effort is dependent upon the frequency and severity of lead hazards occurring at North Carolina's child care facilities, and the contribution of these hazards to the child's overall exposure from all environmental sources.

The primary benefits of reduced lead exposure include avoided healthcare costs for each averted case of elevated blood lead levels and avoided losses in lifetime earnings. Any potential benefits from reduced special education and criminal justice system costs are likely to be small. The public health benefits associated with reducing lead exposure in children is detailed in the DPH fiscal analysis.<sup>12</sup>

This work to detect and abate hazards will have significant long-term benefits for children attending child care that will very likely outweigh the costs, gaining greater information about hazards and removing hazards, where present, to help ensure a healthier start for many of NC's most at-risk children. The benefit of avoiding exposure to lead hazards will be a benefit both to current and future cohorts of children who will inhabit the same spaces.

**10A NCAC 09 .2204(3)** – This rule is being updated to clarify that the time period permitted for a facility to correct a hazard applies to asbestos as well as lead. This is an existing rule with provisions already in place to allow time for a facility to correct lead poisoning hazards. This rule addition is supportive of current policies and practices already in place regarding administrative actions for lead poisoning hazards in support of sanitation rule 15A NCAC 18A .2816. If asbestos concerns were suspected, we would have collaborated with EHS for testing and abatement as we do for lead poisoning hazards. A provisional license or notice of compliance would be issued to give the operator time to correct the hazard.

**10A NCAC 09 .2206(4)** – This rule is being updated to include lead and asbestos separately to clarify action taken when a facility has not completed the required testing for lead and asbestos. The existing rule has provisions already in place to meet this requirement, but it is generally stated as part of correcting a violation of building, fire, or sanitation requirements. The additional language is supportive of current practice and policy for the Division and Environmental Health and provides clarification to providers.

**10A NCAC 09 .2209(10)** - Child care rule .2209 is being updated to include lead and asbestos separately to clarify action that will be taken when a facility license has been suspended and they have not corrected the violation of lead and/or asbestos testing after twelve months. The existing rule has provisions already in place to meet this requirement, but it is generally stated as part of correcting a violation of building, fire, or sanitation requirements. The additional language is supportive of current practice and policy for the Division and Environmental Health and provides clarification to providers.

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<sup>12</sup> Division of Public Health Fiscal Note for Lead and Asbestos Testing and Remediation: [DHHS\\_2022-10-31.pdf \(ncdhhs.gov\)](#)

## **Attachment of rules**

**10A NCAC 09 .0102 is proposed for amendment as follows:**

**10A NCAC 09 .0102 DEFINITIONS**

The terms and phrases used in this Chapter are defined as follows except when the context of the rule requires a different meaning. The definitions prescribed in G.S. 110-86 also apply to these Rules.

- (1) "Activity area" means a space that is accessible to children and where related equipment and materials are kept in accordance with G.S. 110-91(12).
- (2) "Agency" as used in this Chapter means Division of Child Development and Early Education, Department of Health and Human Services located at 333 Six Forks Road, Raleigh, North Carolina 27609.
- (3) "Appellant" means the person or persons who request a contested case hearing.
- (4) "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)-(6).
- ~~(4)~~ (5) "Basic School-Age Care" training (BSAC training) means the training on the elements of quality afterschool care for school-age children, developed by the North Carolina State University Department of 4-H Youth Development and subsequently revised by the North Carolina School-age Quality Improvement Project.
- ~~(5)~~ (6) "Biocontaminant" means blood, bodily fluids, or excretions that may spread infectious disease.
- ~~(6)~~ (7) "Child Care Center" means an arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care. This does not include arrangements described in Item (18) of this Rule regarding Family Child Care Homes.
- ~~(7)~~ (8) "Child Care Facility" means child care centers, family child care homes, and any other child care arrangement not excluded by G.S. 110-86(2), that provides child care, regardless of the time of day, wherever operated, and whether or not operated for profit.
- ~~(8)~~ (9) "Child care provider" as defined by G.S. 110-90.2(a)(2) includes the following employees who have contact with the children in a child care program:
  - (a) facility directors;
  - (b) child care administrative staff;
  - (c) teachers;
  - (d) teachers' aides;
  - (e) substitute providers;

- (f) uncompensated providers;
- (g) cooks;
- (h) maintenance personnel; and
- (i) drivers.

~~(9)~~(10) "Child Development Associate Credential" means the national early childhood credential administered by the Council for Early Childhood Professional Recognition.

~~(10)~~(11) "Curriculum" means a curriculum that has been approved as set forth in these Rules by the NC Child Care Commission as comprehensive, evidenced-based, and with a reading component.

~~(11)~~(12) "Developmentally appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.

~~(12)~~(13) "Division" means the Division of Child Development and Early Education within the Department of Health and Human Services.

~~(13)~~(14) "Domains" means the developmental areas of learning described in the North Carolina Foundations for Early Learning and Development © 2013, available on the Division's website at [https://ncchildcare.nc.gov/providers/pv\\_foundations.asp](https://ncchildcare.nc.gov/providers/pv_foundations.asp). This instrument is incorporated by reference and does not include subsequent editions. The domains address children's emotional and social development, health and physical development, approaches to play and learning, language development, and communication and cognitive development.

~~(14)~~(15) "Drop-in care" means a child care arrangement where children attend on an intermittent, unscheduled basis.

~~(15)~~(16) "Early Childhood Environment Rating Scale - Revised Edition" (Harms, Clifford, and Cryer, 2005, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of children in the group are two and a half years old through five years old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and does not include subsequent editions. A copy of the scale is available for purchase on the Teachers College Press website at [http://www.teacherscollegepress.com/assessment\\_materials.html](http://www.teacherscollegepress.com/assessment_materials.html). [https://www.tcpres.com/search?search\\_term=assessment+materials](https://www.tcpres.com/search?search_term=assessment+materials). The cost of this scale is ~~twenty-four~~ twenty-five dollars and ninety-five cents (~~\$24.95~~). (\$25.95). A copy of this instrument is on file at the Division at the address given in Item (2) of this Rule and is available for public inspection during regular business hours. For the purposes of this

Rule, "regular business hours" for the Division means 8 a.m. to 5 p.m. during weekdays, excluding state holidays.

~~(16)~~(17) "Experience working with school-age children" means working with school-age children as a child care administrator, program coordinator, group leader, assistant group leader, lead teacher, teacher or aide.

~~(17)~~(18) "Family Child Care Environment Rating Scale – Revised Edition" (Harms, Cryer and Clifford, 2007, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by children in family child care homes to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and does not include subsequent editions. A copy of the scale is available for purchase on the Teachers College Press website at ~~[http://www.teacherscollegepress.com/assessment\\_materials.html](http://www.teacherscollegepress.com/assessment_materials.html)~~ [https://www.tcpres.com/search?search\\_term=assessment+materials](https://www.tcpres.com/search?search_term=assessment+materials). The cost of this scale is ~~twenty-four~~ twenty-five dollars and ninety-five cents (~~\$24.95~~). (\$25.95). A copy of this instrument is on file at the Division at the address given in Item (2) of this Rule and is available for public inspection during regular business hours.

~~(18)~~(19) "Family Child Care Home" means a child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care. Family child care home operators must reside at the location of the family child care home.

~~(19)~~(20) "First aid kit" is a collection of first aid supplies (such as bandages, tweezers, disposable nonporous gloves, micro shield or face mask, liquid soap, cold pack) for treatment of minor injuries or stabilization of major injuries.

~~(20)~~(21) "Group" means the children assigned to a specific caregiver or caregivers, to meet the staff/child ratios set forth in G.S. 110-91(7) and in this Chapter, using space the Division has identified for each group.

~~(21)~~(22) "Health care professional" means:

- (a) a physician licensed in North Carolina;
- (b) a nurse practitioner approved to practice in North Carolina; or
- (c) a licensed physician assistant.

~~(22)~~(23) "Household member" means a person who resides in a family home as evidenced by factors including maintaining clothing and personal effects at the household address, receiving mail at the household address, using identification with the household address, or eating and sleeping at the household address on a regular basis.

~~(23)~~(24) "If weather conditions permit" means:

- (a) temperatures that fall within the guidelines developed by the Iowa Department of Public Health and specified on the Child Care Weather Watch chart. These guidelines shall be used when determining appropriate weather conditions for taking children outside for outdoor learning activities and playtime. This chart may be downloaded free of charge from <http://idph.iowa.gov/Portals/1/Files/HCCI/weatherwatch.pdf>; and is incorporated by reference and includes subsequent editions and amendments;
- (b) following the air quality standards as set out in 15A NCAC 18A .2832(d). The Air Quality Color Guide can be found on the Division's web site at <https://xapps.ncdenr.org/eq/ForecastCenterEnvista> or call 1-888-RU4NCAIR (1-888-784-6224); and
- (c) no active precipitation. Caregivers may choose to go outdoors when there is active precipitation if children have appropriate clothing such as rain boots and rain coats, or if they are under a covered area.

~~(24)~~(25) "Infant" means any child from birth through 12 months of age.

~~(25)~~(26) "Infant/Toddler Environment Rating Scale - Revised Edition" (Harms, Cryer, and Clifford, 2003, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of children in the group are younger than 30 months old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and does not include subsequent editions. A copy of the scale is available for purchase on the Teachers College Press website at [http://www.teacherscollegepress.com/assessment\\_materials.html](http://www.teacherscollegepress.com/assessment_materials.html). [http://www.tcpress.com/search?search\\_term=assessment+materials](http://www.tcpress.com/search?search_term=assessment+materials). The cost of this scale is ~~twenty-four~~ twenty-five dollars and ninety-five cents (~~\$24.95~~). (\$25.95). A copy of this instrument is on file at the Division at the address given in Item (2) of this Rule and is available for public inspection during regular business hours.

~~(26)~~(27) "ITS-SIDS Training" means the Infant/Toddler Safe Sleep and SIDS Risk Reduction Training developed by the NC Healthy Start Foundation and administered by the North Carolina Child Care Health and Safety Resource Center for the Division of Child Development and Early Education for caregivers of children ages 12 months and younger. Information regarding trainer and training availability can be found on the Division's website at [http://ncchildcare.ncdhhs.gov/providers/pv\\_itsidsproject.asp](http://ncchildcare.ncdhhs.gov/providers/pv_itsidsproject.asp).

~~(27)~~(28) "Lead Teacher" means an individual who is responsible for planning and implementing the daily program of activities for a group of children in a child care facility. A lead teacher is counted in staff/child ratio, has unsupervised contact with children, and is monetarily compensated by the facility.

~~(28)~~(29) "Licensee" means the person or entity that is granted permission by the State of North Carolina to operate a child care facility. The owner of a facility is the licensee.

~~(29)~~(30) "Lockdown drill" means an emergency safety procedure in which occupants of the facility remain in a locked indoor space and is used when emergency personnel or law enforcement determine a dangerous person is in the vicinity.

~~(30)~~(31) "North Carolina Early Childhood Administration Credential" means the state early childhood administration credential that is based on completion of required early childhood coursework taken at any NC Community College. Other post secondary curriculum coursework shall be approved as equivalent if the Division determines that the content of the other post secondary curriculum coursework offered is substantially equivalent to the NC Early Childhood Administration Credential Coursework. A copy of the North Carolina Early Childhood Administration Credential requirements is on file at the Division at the address given in Item (2) of this Rule and is available for public inspection or copying at no charge during regular business hours. This information can be found on the Division's website at <http://ncchildcare.ncdhhs.gov/providers/credent.asp>.

~~(31)~~(32) "North Carolina Early Educator Certification (certification)" is an acknowledgement of an individual's verified level of educational achievement based on a standardized scale. The North Carolina Institute for Child Development Professionals certifies individuals and assigns a certification level on two scales:

- (a) the Early Care and Education Professional Scale (ECE Scale) in effect as of July 1, 2010; or
- (b) the School Age Professional Scale (SA Scale) in effect as of May 19, 2010.

Each scale reflects the amount of education earned in the content area pertinent to the ages of children served. The ECE Scale is designed for individuals working with or on behalf of children ages birth to five. The SA Scale is designed for individuals working with or on behalf of children ages 5 to 12 who are served in school age care settings. Information on the voluntary certification process can be found on the North Carolina Institute for Child Development Professionals website at <http://ncicdp.org/certification-licensure/eec-overview/>.

~~(32)~~(33) "North Carolina Early Childhood Credential" means the state early childhood credential that is based on completion of required early childhood coursework taken at any ~~NC~~ North Carolina Community College. Other ~~post-secondary curriculum coursework~~ equivalences shall be approved by the Division as equivalent if the Division determines that the content of ~~the other post-secondary curriculum coursework~~ or other pathways are offered is substantially equivalent to the ~~NC~~ North Carolina Early Childhood Credential ~~Coursework~~ coursework. Equivalent coursework shall include, but not be limited to:

- (a) a currently active Child Development Associate Credential from the Council for Professional Recognition, a Certified Child Care Professional Credential from the National Early Childhood Program Accreditation, or a Montessori Credential from any of the Montessori Accreditation Council for Teacher Education, American Montessori Society, National Center for Montessori Education, or Association Montessori Internationale; or
- (b) a passing score on a test developed by the early childhood faculty of the North Carolina Community College System designed to demonstrate an individual's mastery of the concepts taught in early childhood coursework taken at any North Carolina community college.

A copy of the North Carolina Early Childhood Credential requirements is on file at the Division at the address given in Item (2) of this Rule and is available for public inspection or copying at no charge during regular business hours. This information can be found on the Division's website at <http://ncchildcare.ncdhhs.gov/providers/credent.asp>.

~~(33)~~(34) "Operator" means the owner, director, or other person having responsibility for operation of a child care facility subject to licensing.

~~(34)~~(35) "Owner" means any person with a five percent or greater equity interest in a child care facility; however, stockholders of corporations who own child care facilities shall not be subject to mandatory criminal history checks pursuant to G.S. 110-90.2 unless they are a child care provider.

~~(35)~~(36) "Parent" means a child's parent, legal guardian, or full-time custodian.

~~(36)~~(37) "Passageway" means a hall or corridor.

~~(37)~~(38) "Person" means any individual, trust, estate, partnership, corporation, joint stock company, consortium, or any other group, entity, organization, or association.

~~(38)~~(39) "Premises" means the entire child care building and grounds including natural areas, outbuildings, dwellings, vehicles, parking lots, driveways and other structures located on the property.



- ~~(39)~~(40) "Preschooler" or "preschool-age child" means any child who is at least three years of age and does not fit the definition of school-age child in this Rule.
- ~~(40)~~(41) "Reside" refers to any person that lives at a child care facility location. Factors for determining residence include:
- (a) use of the child care facility address as a permanent address for personal identification or mail delivery;
  - (b) use of the child care facility to store personal belongings such as furniture, clothing, and toiletry items; and
  - (c) names listed on official documents such as criminal records or property tax records.
- ~~(41)~~(42) "School-Age Care Environment Rating Scale, Updated Edition" (Harms, Jacobs, and White, 2014, published by Teachers College Press) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of the children in the group are older than five years, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and does not include subsequent editions. A copy of the scale is available for purchase on the Teacher College Press website at [https://www.teacherscollegepress.com/assessment\\_materials.html](https://www.teacherscollegepress.com/assessment_materials.html). [https://www.tcpres.com/search?search\\_term=assessment+materials](https://www.tcpres.com/search?search_term=assessment+materials). The cost of this scale is ~~twenty-four~~ twenty-five dollars and ninety-five cents (~~\$24.95~~). (\$25.95). A copy of this instrument is on file at the Division at the address given in Item (2) of this Rule and is available for public inspection during regular business hours.
- ~~(42)~~(43) "School-age child" means any child who is attending or who has attended a public or private grade school or kindergarten and meets age requirements as specified in G.S. 115C-364.
- ~~(43)~~(44) "Seasonal Program" means a recreational program as set forth in G.S. 110-86(2)(b).
- ~~(44)~~(45) "Shelter-in-Place drill" means staying in place to take shelter rather than evacuating. It involves selecting a small interior room, with no or few windows, and used when emergency personnel or law enforcement determine there is an environmental or weather related threat.
- ~~(45)~~(46) "Staff" or "staff member" as used in this Chapter includes child care providers, substitute providers, and uncompensated providers. Volunteers, as defined in this Rule, are not staff members.

~~(46)~~(47) "Substitute provider" means any person who temporarily assumes the duties of a staff person for a time period not to exceed two consecutive months and may or may not be monetarily compensated by the facility. Any substitute provider must be at least 18 years of age and literate.

~~(47)~~(48) "Teacher" means an individual who assists the Lead Teacher in planning and implementing the daily program of activities for a group of children in a child care facility. A teacher is counted in staff/child ratio, has unsupervised contact with children, and is monetarily compensated by the facility.

~~(48)~~(49) "Teacher's aide" or "Aide" means a person who assists the lead teacher or the teacher in planning and implementing the daily program. A teacher's aide shall be at least 16 years old and less than 18 years old, shall be literate, and may count in staff/child ratio as long as there is also a credentialed staff person who is at least 21 years of age present in the room and available to respond to the needs of the teacher's aide and children in care.

~~(49)~~(50) "Toddler" means any child ages 13 months to 35 months of age.

~~(50)~~(51) "Track-Out Program" means any child care provided to school-age children when they are out of school on a year-round school calendar.

~~(51)~~(52) "Uncompensated provider" means a person who works in a child care facility and is counted in staff/child ratio or has unsupervised contact with children, but who is not monetarily compensated by the facility. Any uncompensated provider must be at least 18 years of age and literate.

~~(52)~~(53) "Volunteer" means a person who works in a child care facility and is not counted in staff/child ratio, does not have unsupervised contact with children, and is not monetarily compensated by the facility. A person who is at least 13 years of age, but less than 16 years of age, may work on a volunteer basis, as long as he or she is supervised by and works with a staff person who is at least 21 years of age and meets staff qualification requirements.

*History Note: Authority G.S. 110-85; 110-88; 110-90.2; 143B-168.3;*

*Eff. January 1, 1986;*

*Amended Eff. April 1, 1992; October 1, 1991; October 1, 1990; November 1, 1989;*

*Temporary Amendment Eff. January 1, 1996;*

*Amended Eff. March 1, 2015; May 1, 2013; September 1, 2012; July 3, 2012; July 1, 2012;*

*November 1, 2007; May 2006; May 1, 2004; April 1, 2003; July 1, 2000; April 1, 1999;*

*July 1, 1998; April 1, 1997;*

*Readopted Eff. October 1, 2017;*

*Amended Eff.* \_\_\_\_\_; *February 1, 2022; February 1, 2021; September 1, 2019.*

## SECTION .0600 - SAFETY REQUIREMENTS FOR CHILD CARE CENTERS

### 10A NCAC 09 .0601 SAFE ENVIRONMENT

- (a) A safe indoor and outdoor environment shall be provided for the children in care in accordance with rules in this Section.
- (b) All equipment and furnishings shall be in good repair. All commercially manufactured equipment and furnishings shall be assembled and installed according to procedures specified by the manufacturer. For equipment and furnishings purchased after September 1, 2017, the manufacturer's instructions shall be kept on file or electronically accessible, if available.
- (c) Equipment and furnishings shall be sturdy, stable, and free of hazards that may injure children including sharp edges, lead based or peeling paint, rust, loose nails, splinters, protrusions (excluding nuts and bolts on sides of fences), and pinch and crush points.
- (d) All equipment and furnishings not meeting the requirements of Paragraphs (b) and (c) of this Rule shall be removed from the premises immediately or made inaccessible to the children.
- (e) Each child care center shall provide equipment and furnishings that are child-size or that can be adapted use by children. Chairs and tables shall be of appropriate height for the children who will be using them.
- (f) Each child care center shall be free of lead poisoning hazards as defined in G.S. ~~130A-131.7(7)~~; 130A-131.7(7) and asbestos hazards.

*History Note: Authority G.S. 110-91(3),(6); 143B-168.3;*

*Eff. January 1, 1986;*

*Amended Eff. January 1, 1996; January 1, 1991;*

*Readopted Eff. October 1, 2017;*

*Amended Eff. \_\_\_\_\_; February 1, 2021.*

## 10A NCAC 09 .1707 BUILDING REQUIREMENTS

The applicant shall ensure that the family child care home complies with the following requirements:

- (1) all children are kept on the ground level of exit discharge; ~~with an exit at grade~~;
- (2) all family child care homes must be free of lead poisoning hazards as defined in G.S. ~~130A-131.7(7)~~; 130A-131.7(7) and asbestos hazards;
- (3) all homes are equipped with an electrically operated (with a battery backup) smoke detector, or one electrically operated and one battery operated smoke detector located next to each other;
- (4) all homes are provided with at least one five pound 2-A: 10-B: C type extinguisher for every 2,500 square feet of floor area;
- (5) heating appliances shall be installed and maintained according to the NC Building Code;
- (6) all indoor areas used by children are heated when the temperature is below 65 degrees and ventilated when the temperature is above 85 degrees;
- (7) pipes or radiators that are hot enough to be capable of burning children and are accessible to the children are covered or insulated; and
- (8) children are cared for in space designated as the caregiving area on a floor plan provided by the operator to the Division as specified in 10A NCAC 09 .1709. Changes to the designated caregiving space shall be submitted to the Division 30 days prior to the new space being used by children.

*History Note: Authority G.S. 110-85; 110-86(3); 110-91; 143B-168.3;*

*Eff. October 1, 2017;*

*Amended Eff. \_\_\_\_\_; February 1, 2021.*

**10A NCAC 09 .1725 SANITATION REQUIREMENTS FOR FAMILY CHILD CARE HOMES**

(a) To assure the health of children through proper sanitation, the family child care home operator shall:

- (1) collect and submit samples of water from each well used for the children's water supply for bacteriological analysis to the local health department or a laboratory certified to analyze drinking water for public water supplies by ~~the North Carolina Division of Laboratory Services~~ the North Carolina State Laboratory of Public Health every two years. Results of the analysis shall be on file in the home;
- (2) ~~(2)~~ collect and submit samples of water from each water outlet used for drinking or food preparation for lead analysis to the local health department or a laboratory certified to analyze for lead in drinking water by the North Carolina State Laboratory of Public Health. Results of the analysis shall be on file in the home. For operators that submit an application for licensure after the effective date of this Rule, water samples shall be collected by the operator and tested during the application process. For all other family child care homes, water samples shall be collected by the operator and tested within 12 months of the effective date of this Rule;
- ~~(3)~~ ~~(2)~~ wash his or her hands prior to caring for children each day;
- ~~(4)~~ ~~(3)~~ ensure that each child's hands are washed upon arrival at the home each day;
- (5) ~~(4)~~ have sanitary toilet, diaper changing and hand washing facilities as follows:
  - (A) diaper changing areas shall be separate from food preparation areas;
  - (B) toileting areas shall have toilet tissue available at all times;
  - (C) all toilet fixtures shall be cleanable and in good repair;
  - (D) handwashing areas shall have soap and paper towels or other drying devices available at all times;
  - (E) diapering surfaces shall be smooth, intact, nonabsorbent and cleanable; and
  - (F) potty chairs and diapering surfaces shall be cleaned after each use.
- (6) ~~(5)~~ use sanitary diapering procedures. Diapers shall be changed whenever they become soiled or wet. The operator shall:
  - (A) gather all supplies before placing a child on the diapering surface;
  - (B) wash his or her hands before, as well as after, diapering each child;
  - (C) ensure the child's hands are washed after diapering the child; and
  - (D) place soiled diapers in a covered, leak proof container which is emptied and cleaned daily;
- (7) ~~(6)~~ use sanitary procedures when preparing and serving food. The operator shall:
  - (A) wash his or her hands before and after handling food and feeding the children; and

- (B) ensure the child's hands are washed before and after the child is fed;
  - ~~(8)~~ (7) wash his or her hands, and ensure the child's hands are washed, after toileting or handling bodily fluids;
  - ~~(9)~~ (8) handwashing procedures shall include:
    - (A) using liquid soap and water;
    - (B) rubbing hands vigorously with soap and water for 15 seconds;
    - (C) washing all surfaces of the hands, to include the backs of hands, palms, wrists, under fingernails and between fingers;
    - (D) rinsing well for 10 seconds;
    - (E) drying hands with a paper towel or other hand drying device; and
    - (F) turning off faucet with a paper towel or other method without recontaminating hands;
  - ~~(10)~~ (9) refrigerate all perishable food and beverages. The refrigerator shall be in good repair and maintain a temperature of 45 degrees Fahrenheit or below. A refrigerator thermometer is required to monitor the temperature;
  - ~~(11)~~ (10) have a house that is free of rodents;
  - ~~(12)~~ (11) screen all windows and doors used for ventilation; and
  - ~~(13)~~ (12) store garbage in waterproof containers with tight fitting covers.
- (b) If reusable, cloth diapers are used, place soiled cloth diaper, after disposing of feces in toilet without rinsing, in a tightly closed plastic bag or other equivalent container approved by the Division, stored out of reach of children and sent daily to the child's home to be laundered or to a laundry service.
- (c) The operator shall not force children to use the toilet and the operator shall consider the developmental readiness of each child when toilet training. The operator shall provide assistance to each child to ensure proper hygiene, as needed.
- (d) The operator shall ensure that clean clothes are available in the event that a child's clothes become wet or soiled. The change of clothing may be provided by the operator or by the child's parents.

*History Note: Authority G.S. 110-85; 110-88; 110-91; 143B-168.3;*  
*Eff. October 1, 2017;*  
*Amended Eff. \_\_\_\_\_; September 1, 2019.*

**10A NCAC 09 .2204 PROVISIONAL CHILD CARE FACILITY LICENSE OR PROVISIONAL NOTICE OF COMPLIANCE**

A provisional child care facility license or provisional notice of compliance may be issued to an operator for any period of time not to exceed 12 months in accordance with the factors listed in 10A NCAC 09 .2201(b) for, among other things, the following reasons:

- (1) a substantiation of one or more violations as a result of a complaint that do not meet the criteria for a maltreatment finding pursuant to G.S. 110-105.3(b)(3) but for which more than three months is needed to monitor for corrective action implementation;
- (2) to allow a time period for correcting a violation of the building, fire, or sanitation requirements;
- (3) to allow a time period for remediation of an identified lead poisoning hazard as defined in G.S. ~~130A-131.7(7)~~, 130A-131.7(7) or remediation of an asbestos hazard, regardless of whether a provisional sanitation classification has been issued;
- (4) to allow a time period for correction of an administratively dissolved corporation status from the North Carolina Secretary of State;
- (5) when the compliance history of the facility drops below the minimum requirement set forth in G.S. 110-90;
- (6) change of location of a child care facility without proper notification to the Division as specified in Rules 10A NCAC 09 .0204(b), .0403(a), and .1702(d); or
- (7) pattern of noncompliance.

*History Note: Authority G.S. 110-88(6); 110-90; 110-99; 143B-168.3;  
Eff. February 1, 2019;  
Amended Eff. \_\_\_\_\_; February 1, 2021.*



**10A NCAC 09 .2206 SUSPENSION**

A suspension of a license or suspension of a notice of compliance may be issued to an operator in accordance with the factors listed in 10A NCAC 09 .2201(b) for a time period not to exceed one year for the following reasons:

- (1) the operator of the child care facility is a corporate entity that has been placed under revenue suspension by the North Carolina Secretary of State;
- (2) when the Division has issued a provisional child care facility license or notice of compliance related to building, fire, or sanitation requirements and the operator has failed to comply;
- (3) to allow a specific time period for correcting a violation of building, fire, or sanitation requirements, provided that the appropriate inspector documents that closure of the child care facility is necessary to protect health or safety of children during correction; ~~or~~
- (4) when a facility is required to test for lead poisoning hazards as defined in G.S. 130A-131.7(7) or asbestos hazards or the Division has requested such testing to determine compliance with 10A NCAC 09 .0601(f) or 10A NCAC 09 .1707(2) and an operator has failed to test for lead poisoning hazards as defined in G.S. 130A-131.7(7) or asbestos hazards; or
- ~~(4)~~(5) when a disapproved sanitation classification is issued to a child care facility.

The suspension of a child care facility license or suspension of a notice of compliance shall not be stayed during the pendency of an appeal.

*History Note: Authority G.S. 110-88; 110-90; 110-102.2; 143B-168.3; 150B-3;  
Eff. July 1, 1988;  
Amended Eff. April 1, 2001; November 1989;  
Readopted Eff. February 1, 2019 (Transferred from 10A NCAC 09 .2205);  
Amended Eff. \_\_\_\_\_; February 1, 2021.*

**10A NCAC 09 .2209    REVOCATION OF A CHILD CARE FACILITY LICENSE OR AN ORDER  
TO CEASE OPERATION**

Revocation of a child care facility license or an order to cease operation may be issued to an operator in accordance with the factors listed in 10A NCAC 09 .2201(b) for the following reasons:

- (1) child maltreatment has occurred in a child care facility and harm occurred as set forth in Rule .2201(c)(2) of this Section;
- (2) more than two determinations of child maltreatment have occurred at a child care facility within three years;
- (3) violation of any section of G.S. 110, Article 7 or the Rules of this Chapter or 10A NCAC 10 has been willful or continual as evidenced by:
  - (a) a pattern of noncompliance, and the operator has not made efforts to correct repeated violations or is unable to comply; or
  - (b) the operator has failed to comply with the terms of a corrective action plan issued with a special provisional or probationary license or notice of compliance;
- (4) violation of any section of G.S. 110, Article 7 or the Rules of this Chapter or 10A NCAC 10 is hazardous to health or safety of children;
- (5) the operator fails to comply with an implemented protection plan as set forth in G.S. 110-105.3(e);
- (6) the operator falsifies information in violation of G.S. 110-91(14);
- (7) the compliance history of the facility drops below the minimum requirement set forth in G.S. 110-90 and the conditions at the facility are hazardous to the health and safety of the children or staff;
- (8) receipt of a disapproved sanitation classification that is not corrected with a superior or approved sanitation classification within 12 months of issuance of a Suspension as set forth in Rule .2206 of this Section; ~~or~~
- (9) the operator of the child care facility is a corporate entity that has been placed under revenue suspension from the North Carolina Secretary of State that has not been corrected within one year of issuance of a Suspension as set forth in Rule .2206 of this ~~Section~~.  
Section; or
- (10) the Division has suspended the child care license or notice of compliance and the violation has not been corrected after 12 months. The revocation of a child care facility license or a notice of compliance pursuant to this Section shall not be stayed during the pendency of an appeal.

*History Note: Authority G.S. 110-88; 110-90; 110-102.2; 143B-168.3; 150B-3;  
Eff. July 1, 1988;  
Amended Eff. April 1, 2001; August 1, 1990; November 1, 1989;  
Readopted Eff. February 1, 2019 (Transferred from 10A NCAC 09 .2206);  
Amended Eff. \_\_\_\_\_; February 1, 2021.*