



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

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Children's Environmental Health

FAQs for amendment to Rule 15A NCAC 18A .2816 (water lead testing in licensed child care centers)

1. Will the child care rules be opened for revision/updating or will the revision be limited to .2816?

This rule amendment is limited to .2816. We will go through the same rules review process as the rest of the Section, which will open all .2800 rules for review, because they were all commented on last summer. All of our rules will be reviewed for revision over the next few years.

2. Has a lab been chosen to do the testing?

RTI International has been selected to coordinate the initial sampling and analysis. They began enrolling open Child Care Centers in June 2020.

3. How are we going to get the new rule (water sampling) information out to child care centers?

The contract laboratory will electronically enroll all licensed centers. This is already in the works. Instructional videos will be available online. The Division of Child Development and Early Education (DCDEE) is also spreading the word in addition to Children's Environmental Health.

4. Is DCDEE aware of the new rule requirements?

Yes. DCDEE has been a part of the process from the beginning.

5. What action do child care centers need to take now that the law is in effect?

Unless the center wants to incur the cost of testing at a certified commercial laboratory, they should wait until they are contacted by RTI International to enroll.

6. When a proposed center is applying for a license or a temporary license, where do we direct them to get the water tested?

RTI International has started contacting new centers who were previously reported by Regional EHS staff. Contact your Regional EHS to get the new center put on the list to be enrolled. Since October 1, 2019, DCDEE has given new centers an extended window to complete testing. If the child care center wishes to have the testing done by a commercial laboratory, any North Carolina-certified laboratory may be used. The State Laboratory maintains a listing of certified laboratories on its website. Laboratories must use the 3Ts methodology, which requires 250 ml sample bottles. Do not send samples to the State Laboratory, as they are not involved with the initial testing. However, confirmation samples collected by Division of Public Health or local health department staff will be sent to the State Laboratory for analysis.

7. If the center has already had a sanitation inspection but the license has not been issued yet, would they need to have the testing done prior to a license being issued?

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DCDEE has to make that call. If not tested initially, the center will still need to complete testing by October 1, 2020.

8. If a center has changed ownership and a temporary license has been issued, would the testing need to be done prior to a permanent license being issued?

Yes, or by October 1, 2020.

9. Since we do not issue licenses, and the child care rules require us to do an inspection within 30 days of the date requested, is it safe to assume that DCDEE will not issue the license if the applicant/owner has not provided us with testing data and can we communicate that on the “open” sheet?

It is not safe to assume, but that is how it is supposed to work.

10. For new centers, if they have to sample and go to a commercial laboratory what sampling locations are required?

All water fixtures that will be used for drinking, food prep or cooking, but not handwash sinks.

11. How will a center that is open for 24 hours 7 days a week do their testing?

The operator will need to work with the EHS to develop a testing procedure that will meet the 3Ts protocol.

12. When a center has a change in ownership and is operating on a temporary license can they use the water lead testing conducted by the previous owner?

Yes, if conducted within the last three years.

13. If during a routine child care sanitation inspection, it is determined that no water sampling has been conducted (after October 1, 2020), the center would go into provisional status until sampling is completed. If the child care center is not working with the Department in accordance with the timeline, then would they be moved to disapproved? Once the center completes sampling and results come back, assuming there is not a hazard, would you still conduct a full sanitation inspection since the center is in provisional status?

Not initially and no. Verify the new documentation. We will general comment the lack of sampling compliance until April 1, 2021.

14. Would religious sponsored child care centers fall under the water rule.

Yes.

15. What happens if a child care center fails to take a water sample within a timely manner?

General comment on the addendum sheet the first time, followed by a 6-point demerit on subsequent inspections if sampling has not been conducted.

16. After October 1, 2020, if no water sampling has been conducted for a new center that requires an opening sanitation inspection, would a 6-point demerit be marked at the opening inspection?

General comment the first time, then mark a 6-point demerit on subsequent routine inspections.

17. If the center has a main kitchen that prepares food (e.g., a pre-K program at a school), will the food prep sinks in this kitchen need to be tested?

Yes, and any other sinks or equipment that provide water for drinking, food preparation or cooking.

18. I know that the usual process for rule amendments has been to make the changes mandatory in child care centers but wait a period of time before instituting the changes in other types of facilities. Is that the case with this rule change?

No. That is not the usual process. This rule only applies to licensed child care centers. It does not apply to licensed family child care homes or any other facilities.

19. When food is catered from another licensed child care center, will the catering center need to be tested?

All licensed child care centers are required to be tested. However, the results from the catering center do not apply to sanitation inspections at centers catered to.

20. Is there any requirement that these water samples be a first draw sample?

Yes. EPA 3Ts Guidance must be followed, which requires first draw samples with a minimum 8 hours stagnation.

21. Are first draw samples collected after 8 hours?

The EPA 3Ts Guidance indicates a minimum of 8 hours stagnation is required. A deviation included in amended Rule .2816 allows water stagnation periods of up to 72 hours, so a sample can be taken on Monday morning. The 3Ts Guidance is designed specifically for schools and child care centers.

22. Who will collect the initial water samples?

The child care operator.

23. Are public water systems required to conduct the sampling or are the schools/child care centers responsible for the sampling?

Child care operators are responsible for initial testing not the utility operator.

24. Will re-samples collected by EHSs go the State Laboratory or a commercial laboratory?

Follow-up samples will go to the State Laboratory for analysis.

25. Where do counites get bottles for follow-up testing?

Sample bottles will be available for free from the State Laboratory. You should contact the State Laboratory and let them know that you are requesting the bottles for lead testing at a child care center.

26. How will child care centers get sample bottles and sampling protocols?

Both will be provided during the enrollment process by the contract laboratory, RTI International.

27. Do centers need to drive the samples to the lab? Do samples need to be driven to the lab the day of collection?

No. Samples will be mailed in containers provided by RTI International.

28. Who will determine which point of use sinks/drinking water taps need sampling? The center or EH?

Sampling locations will be determined based on information provided during the electronic enrollment process. However, if during a sanitation inspection the local EHS identifies additional faucets used for drinking water or food preparation, those faucets will also need to be tested.

29. Will the water in steamers in schools be tested for lead?

Yes, if the steamer is used for preparation of foods consumed by children attending a licensed child care center.

30. How do we know that the operator or owner will sample correctly?

Methods and training will be provided on how to sample by RTI International. Epidemiologists will review sampling data and look for patterns in the data. At some point in the future, additional sampling may be conducted by regional EHSs at a random sample of centers that have no reported elevations.

31. In follow-up sampling conducted by regional or local EHSs, will there be any specific requirements?

The EPA 3Ts Guidance must be followed for initial and follow-up water sampling. An 8-hour stagnation period is required.

32. Will a sink in the infant toddler room need to be tested? What if they use the sink to get water to make formula bottles?

Only sinks and fixtures used to obtain drinking water or for food preparation will be tested. If a sink is used for water to mix formula and cereal, then it must be tested. If a child care center is using a food preparation handwash sink to obtain water for formula bottles, it is in violation of Rule .2810(f).

33. What taps and water fountains are required to be tested in school buildings that have a licensed child care center?

Faucets used for drinking water and food preparation that are part of the licensed child care center must be tested.

34. If child care center staff are collecting water samples, what are the directions for sampling the water? We need a one-page fact sheet: What, Who, When, How... with certified laboratories and video link on how to collect.

The rule references the EPA 3Ts sampling guidelines and North Carolina certified laboratories (a current listing is available on the State Laboratory website). In addition, RTI International has online video training available.

35. How often would they need to do this sampling?

Periodic sampling is required every 3 years.

36. Is the EHS collecting follow-up samples required to be authorized in child care or lead?

No. Any EHS who currently collects water samples can collect these samples. However, the EHS should review the EPA 3Ts Guidance methodology prior to collection. For example, smaller 250 ml sample bottles are required.

37. Is there an age of the facility for water testing or is it any facility (pre-1978 or any age)?

All licensed child care centers regardless of age are required to test.

38. Who will keep up with the sampling results and when the center samples?

RTI International and NCLEAD (State blood lead and environmental data system).

39. What if there is elevated lead in plumbing, what are the choices for repair?

A filter at each point of use is usually the least expensive treatment option. For more permanent plumbing repairs, an environmental consultant would need to be contacted.

40. Currently, filters are not considered a permanent remediation under the childhood lead program. If a center uses filtration as the remediation option, would annual monitoring be required? Would testing be

required before the 3-year interval to ensure that the filters are being properly maintained and lead levels are still below 15 ppb?

Yes. Once a lead poisoning hazard is identified at a child care center, the .3100 rules also apply

41. If a well pump is replaced, is that considered something that needs follow-up sampling per the rule?

No. Replacing a well pump is not considered a major repair or renovation.

42. Is there a time limit to fix the problem after it has been identified?

Up to six months; however, alternative drinking water will need to be provided until the problem has been mitigated.

43. What action would be taken if all taps have results over 15 ppb?

The center will immediately need to provide alternative drinking water until mitigated. Filtration at each point of use is usually the least expensive remediation option.

44. How are the operators going to be notified? Will DCDEE be involved or will the state send out a notice to all centers. If it's all centers I am assuming it would also include centers located in a residence is that correct? Is there any thought to family child care homes?

The contract laboratory, RTI International, is in the process of electronically enrolling all licensed centers and has made instructional videos available online. DCDEE has also notified centers. Child care centers located in a residence are included in the rule amendment, but Family Child Care Homes are not required to test.

45. Will the EHS be notified by the State Laboratory of sample results? How about by commercial laboratories?

The state childhood lead poisoning prevention program (CLPPP) will be notified by the State laboratory of all follow-up sample results. RTI International will also be reporting all initial test results to CLPPP and will be making all test results publicly available online.

46. When and how will the EHS and centers be notified of sample results?

EHSs will be notified by CLPPP, and all sample results will be made publicly available on the RTI International website. Centers will be notified by the laboratory they use.

47. It would seem that if the water is found to be high in lead it would fall under Rule .3103(a), and we must notify all parents/guardians of the identified hazard. Just double checking to make sure that there is nothing in the new law that would negate Rule .3103(a).

Yes, but not based on Child Care Operator samples. Department (likely the regional staff unless the LHD prefers) will collect confirmatory samples, which would trigger childhood lead statutes and rules if elevated. In addition, notification of parents and employees by operators is required directly under the amended Rule .2816. So, hopefully, by the time the childhood lead statutes and rules are triggered, the notification has already occurred.

48. How will notification to parents or guardians be done by the center? How does the center operator document and verify that notification?

Notification will be according to EPA 3Ts Guidance. There is a whole section on communication. The EHS should ask for documentation that parents/guardians have been notified as is similarly required under the .3100 rules.

49. Can a child care center use a newspaper if they do not have a website? How about other social media?

Yes, as outlined in the EPA 3Ts Guidance communication section.

50. If a child care center has a website but runs a public notice in the local paper, how long would they need to run it?

Just once; however, if RTI International is used for analysis, all test results will be made publicly available online.

51. If a lead hazard in water is confirmed by Department follow-up testing, will counties be required to send a “notice of lead poisoning hazards” and a “submission of names” to the facility as required in the lead rules? And if so, is a certified letter required or will a signed list at the child care center verifying receipt by the parent or guardian be adequate?

Yes, per Rule .3103, counties will need to send a notice of lead poisoning hazards. Documentation by certified mail return receipt or a signed list is adequate. In addition, notification of parents and employees by operators is required directly under the amended Rule .2816. So, hopefully, by the time the childhood lead statutes and rules are triggered, the notification has already occurred.

52. If while conducting a routine inspection at a child care center, water sampling documentation is provided indicating ≥ 15 ppb lead, does the center immediately go into provisional status or do we wait until confirmatory sampling is conducted and results come back?

Wait for the confirmatory sample results.

53. Let’s say we get notified (before a sanitation inspection is completed that the child care center has ≥ 15 ppb lead in drinking water. Do we go out and conduct the sanitation inspection ASAP or conduct confirmatory sampling first and wait for results to come back and then conduct the inspection?

Conduct confirmatory sampling first.

54. Do you have a copy of information/email that was sent out to child care centers once this amendment was approved/passed?

It went out on the EHL list serve and is available.

55. Do you have a copy of the new child care center inspection form (with the date slot for water testing)?

Yes, the changes have been made on the new forms and is available on our website.
<https://ehs.ncpublichealth.com/hhccehb/cehu/ccs/docs/EHS-1617-ChildcareInspectionForm9-2019.pdf>.

56. Will CDP be contacted for the inspection sheet revision?

Yes, this has been completed.

57. Is there any way to contact the child care center if they do not respond to sampling and who will do that?

The contract laboratory, RTI International, is responsible for reporting all sample results to CLPPP and will make all sample results available online. Encourage operators to respond when they receive enrollment information and instructions from RTI International. If they do not want to wait, they need to make sure the laboratory they use is following EPA 3Ts Guidance (including the smaller 250 ml sample bottles).

58. What, if any, cost will there be to the local health department?

There should be no additional cost to local health departments unless you choose to conduct follow-up testing and then the only cost would be employee time and travel. Of course, if elevated water lead levels are confirmed there will be additional time involved related to remediation enforcement.

59. With regards to retesting, will there be any grant funds available three years from now?

We're anticipating funding for testing at least through September 2023. In addition, testing may get rolled into sampling compliance for the EPA Lead and Copper Rule if proposed federal rule amendments are adopted. The burden for testing under the proposed federal rule amendments is on the local water utility serving the child care center. Centers using wells are already subject to periodic testing under the Lead and Copper Rule.

60. During a lead investigation will the EPA 3Ts method be used for water sampling or will we continue to use the 1-liter bottles we are currently using?

We will continue to use the current testing method including 1-liter bottles during lead investigations. The decision of whether or not to switch to the EPA 3Ts Guidance for other lead investigations will be made at a later time and will likely mirror the federal Lead and Copper Rule requirements.

61. If there is a new child care owner, are they required to have a sanitation inspection? Change of ownership?

Yes, if a new license is issued.

62. If a center is disapproved, what does DCDEE do?

Administrative action is initiated and may result in license revocation.

63. If a center receives a provisional sanitation score, are they supposed to be closed?

No.

64. If the center is under provisional status due to construction, what is an acceptable period if given more than 7 days?

Up to six months.

65. If the center is disapproved and the center receives an action letter from DCDEE, what is the timeline?

The timeline is determined by DCDEE.

66. Can a child care center get a temporary license without building and fire inspections?

That is a question for DCDEE.

67. Does a child care center have to correct lead issues in order to get a temporary license?

The operator should contact the DCDEE licensing consultant.