

**WSR 11-23-068**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**EARLY LEARNING**

[Filed November 14, 2011, 3:48 p.m., effective March 31, 2012]

Effective Date of Rule: March 31, 2012.

Purpose: Adopting new chapter 170-296A WAC, Licensed family home child care standards, and repealing all sections of chapter 170-296 WAC.

The adopted rules represent the first comprehensive revision of the family home child care (FHCC) rules since 2004. Most of the current chapter 170-296 WAC was adopted in 2004 when child care licensing was under the department of social and health services (DSHS) division of child care and early learning.

In 2006, the legislature enacted chapter 265, Laws of 2006 (the act) creating the department of early learning (DEL) as a separate state agency. The act transferred various child care, early learning and child care subsidy programs to DEL from DSHS, the former community, trade and economic development department, and the office of superintendent of public instruction. Among the programs and authorities transferred from DSHS to DEL under the act was the licensing of child care agencies.

The 2006 act established what is now chapter 43.215 RCW, and certain child care licensing statutes were recodified from chapter 74.15 RCW to chapter 43.215 RCW. Child care licensing rules were transferred from DSHS to DEL in July 2006, including the rules that became DEL chapter 170-296 WAC, Child care business regulations for family home child care (see the "recodification" of chapter 388-296 WAC to chapter 170-296 WAC, filed as WSR 06-15-075).

**Statutory Authority:** RCW 43.215.200 establishes the DEL director's duty and authority to, in part:

*"(2) In consultation and with the advice and assistance of parents or guardians, and persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed under this chapter;*

*(3) In consultation with law enforcement personnel, the director shall investigate the conviction record or pending charges of each agency and its staff seeking licensure or relicensure, and other persons having unsupervised access to children in care;*

*(4) To issue, revoke, or deny licenses to agencies pursuant to this chapter. Licenses shall specify the category of care that an agency is authorized to render and the ages and number of children to be served;*

*(5) To prescribe the procedures and the form and contents of reports necessary for the administration of this chapter and to require regular reports from each licensee;*

*(6) To inspect agencies periodically to determine whether or not there is compliance with this chapter and the requirements adopted under this chapter;*

*(7) To review requirements adopted under this chapter at least every two years and to adopt appropriate changes after consultation with affected groups for child day care requirements; and*

*(8) To consult with public and private agencies in order to help them improve their methods and facilities for the care and early learning of children."*

These broad duties and authorities are delineated in greater detail in other sections of chapter 43.215 RCW.

Under RCW 43.43.832(6) the DEL director must adopt rules and conduct criminal history and other civil adjudication proceedings background checks for child care licensees, staff, volunteers, individuals living on the premises of a child care and others who would or may have unsupervised access to children in care. RCW 43.215.060 and 43.215.070 provide authority to adopt rules to implement chapter 43.215 RCW and to qualify for federal funds. Most of state's funding for child care licensing and monitoring activities is derived from the federal child care and development fund.

In RCW 43.215.005(4), the legislature states its intent that the purpose of adopting chapter 43.215 RCW is:

*"(a) To establish the Department of Early Learning;*

*(b) To coordinate and consolidate state activities relating to child care and early learning programs;*

*(c) To safeguard and promote the health, safety, and well-being of children receiving child care and early learning assistance, which is paramount over the right of any person to provide care;*

*(d) To provide tools to promote the hiring of suitable providers of child care by:*

*(i) Providing parents with access to information regarding child care providers;*

*(ii) Providing parents with child care licensing action histories regarding child care providers; and*

*(iii) Requiring background checks of applicants for employment in any child care facility licensed or regulated under current law*

*(e) To promote linkages and alignment between early learning programs and elementary schools and support the transition of children and families from prekindergarten environments to kindergarten;*

*(f) To promote the development of a sufficient number and variety of adequate child care and early learning facilities, both public and private; and*

*(g) To license agencies and to assure the users of such agencies, their parents, the community at large and the agencies themselves that adequate minimum standards are maintained by all child care and early learning facilities."*

Due to the state's interest in safeguarding the safety, health and wellbeing of children in care outside the child's home, child care in Washington state is a closely regulated industry. DEL is obligated to establish and adopt standards for: Who may be licensed; who may work in child care or have unsupervised access to children; how a licensed child care facility is laid out, equipped and maintained; and how the licensee provides supervision, developmentally appropriate early learning activities, a safe and healthy environment, nurture and guidance and other aspects of care. The department is also obligated to monitor and inspect licensed child care facilities to assure that the adopted standards are being met, to work with licensees to improve when standards are not being met, and to take appropriate action if the licensing standards are violated. These legislatively mandated responsibilities frame the scope and content of the adopted rules.

**Negotiated Rule Making:** When DEL was created in 2006, the legislature also passed chapter 54, Laws of 2006 (later codified in part as RCW 43.215.350 and 43.215.355) requiring DEL to engage in "negotiated rule making" with FHCC providers, their exclusive bargaining representative - the Service Employees International Union Local 925 (SEIU) - and other affected interests before revising and adopting FHCC rules. Negotiated rule making is a process briefly described in RCW 34.05.310 (the Washington Administrative Procedure Act) where the individuals or businesses regulated by the rules of a state agency participate directly with the state in developing or revising the rules. Negotiated rule making is considered appropriate in situations where relations between the government and the regulated entities is strained, there is or would be substantial controversy, or a potential exists for legal action arising from the proposed or adopted rules (see the state office of financial management (OFM) *Guide to Negotiated Rule Making*).

In autumn 2006, DEL staff began discussions with SEIU on reviewing the FHCC rules to respond to several rule-making petitions filed on the 2004 chapter 388-296 WAC<sup>1</sup>, and on using a negotiated rule-making process. DEL and SEIU held joint public forums in January 2007 on how the rule development process should proceed. A joint decision was made to review the entire FHCC WAC chapter, rather than review only the sections subject to the 2004-2005 rule-making petitions. A thirty-five member negotiated rule-making team (NRMT) was formed comprised of:

Eleven SEIU-member FHCC licensees and SEIU staff; eleven DEL staff; one FHCC licensee representing the Washington state family child care association; one licensee (provider) advocate; one parent advocate; and up to: Four other FHCC licensees to provide cultural/geographic/linguistic diversity; two Washington state child care resources and referral network (CCR&R) representatives; and five parents.

See the *NRMT Roster* for a list of members as of November 2009. (The five parent seats remained unfilled during this process. The NRMT tried to recruit parents to participate, but parents found it daunting to attend the dozens of evening and weekend meetings of the full NRMT and its subteams. The "other FHCC licensee" and CCR&R seats were partly filled, but not to their listed capacity.)

The NRMT's charge was to review the current FHCC rules, research child development and child health and safety resources plus other state laws and regulations, and make comprehensive recommendations for revising chapter 170-296 WAC.

There were no examples found of negotiated rule making used by other Washington state agencies to develop regulations - so the NRMT was faced with developing a process. DEL and SEIU used the state OFM *Guide to Negotiated Rule Making* as a resource. However, the process for reviewing, researching and making recommendations about the DEL FHCC rules was developed by the NRMT. Due to a history of strained relations, achieving a working dialog was slow. DEL and SEIU unsuccessfully attempted in spring 2007 to conduct NRMT meetings jointly without an independent facilitator. The 2007 legislature appropriated funds to contract with an independent facilitator and to provide a NRMT

process coordinator - funding which ended in December 2009.

The facilitator was instrumental in helping the NRMT in structuring its meetings, developing action-oriented agendas, and in adopting:

- A protocol for respectful communication and orderly decision making (signed by the members);
- A set of guiding principles that recommendations would be based upon (including that the rules must support a "*child's right to have safe and healthy child care*"); and
- Other organizing procedures.

**Rule Review Process:** From March 2007 through December 2009, the full NRMT met in person on twenty-nine Saturdays to discuss and vote on recommendations. In addition, three regional subteams of NRMT members met more than one hundred times (most by conference call) during this period to conduct the detailed research and to make preliminary recommendations to the full NRMT. The NRMT divided the work into thirteen major topic areas, and more than two hundred subtopics. The major topic areas included:

- Infant care.
- Food and nutrition.
- Staff qualifications.
- Licensing process.
- Indoor environment.
- Outdoor environment.
- Health.
- Nurture and guidance.
- Recordkeeping, reporting and posting.
- Program.
- Emergency preparedness.
- Enforcement actions.
- Special programs.

The subteams organized their work on matrixes that included the: Current chapter 170-296 WAC content if any; child development or safety research and other state regulations; possible alternatives to the current rules discussed; potential concerns or areas of controversy; and finally the subteam's recommended rule changes to the full NRMT. During the process the full NRMT also invited and heard experts on: Fire safety; infant care; outdoor activities/play; diversity; disaster planning; onsite septic systems and drinkin[g] water wells. The NRMT decided to use *Caring for Our Children - Health and Safety Standards: Guidelines for Out-of-Home Child Care Programs, 2nd edition*, as the group's primary reference, although many other research sources were used and referenced. (This guide has since been replaced by a 3rd edition released in June 2011.)

The full NRMT reviewed each subteam's work, discussed issues and member concerns, and then voted on in-concept recommendations to DEL for changing most of the current rules. In some instances, achieving a substantial majority vote took several meetings over several months. More than two hundred separate recommendations were voted on. The content of and votes on each recommendation were compiled in notes that are available on-line at <http://www.del.wa.gov/publications/laws/>. In some

instances the NRMT recommended that certain existing FHCC requirements in chapter 170-296 WAC remain, but with revised structure or wording (an early team recommendation was to rewrite the FHCC rules without the question-and-answer and pronoun format of the 2004 chapter 170-296 WAC).

Using the NRMT's in-concept recommendations, a drafting team comprised of one FHCC licensee and one DEL staff person wrote a NRMT working draft of the new WAC chapter. A rule review group consisting of three FHCC licensees, two DEL staff and a CCR&R representative plus the two NRMT rule drafters (and the NRMT coordinator as a WAC technical consultant) reviewed the working draft WAC for consistency with the NRMT recommendations and current law. The rule review group/rule writers made decisions on a consensus basis and did not use a voting process.

As significant portions of the NRMT preliminary working draft rules were completed in 2009, nearly forty small forums were held statewide to gather preliminary input, most sponsored by the local and statewide FHCC associations or by SEIU, with participation at several forums by DEL staff and other NRMT members.

The 2009 state legislature discontinued funding for the NRMT process (including meeting costs, the contracted independent facilitator, and DEL coordination and support) effective December 31, 2009. Newly appointed DEL director Bette Hyde asked the team to prioritize work on remaining topic areas and suggest to DEL how to complete review of any unfinished topics. In response, the full NRMT and its subteams stepped up the pace of the work and met more frequently - see the NRMT notes from the May 6, 2009, through December 5, 2009, meetings at <http://www.del.wa.gov/publications/laws/>.

By the last full NRMT working meeting on December 5, 2009, the group completed recommendations on eleven of the thirteen topic areas, as well as most of the health topic and a portion of nurture and guidance. The rule review committee was tasked to complete work on those two topics as well as review of the writing team's draft rules, and did so by February 2010. The process culminated in a NRMT-recommended preliminary working draft of the new FHCC WAC that was circulated for public input in March and April 2010. See this link to read the NRMT's recommended WAC changes <http://www.del.wa.gov/publications/laws/docs/FHCCDraft.pdf>.

**DEL Responds to the NRMT's Draft:** Dr. Hyde reviewed the three hundred page NRMT recommendations and preliminary draft rules. She met with the NRMT members on March 27, 2010, to personally present nearly thirty pages of her observations of the NRMT's working draft rules. She noted that about ninety percent of the NRMT's concept recommendations DEL could enact with little or no substantive change. But Dr. Hyde said the remainder of NRMT recommendations DEL would need to revise further into more robust standards to protect the safety, health and wellbeing of children in care. She directed DEL staff to gather more public and staff input on the NRMT working draft before the department would begin writing the next drafts of the FHCC WAC.

**Public Input on NRMT Working Draft Rules:** DEL held eight forums statewide in April 2010 to take input on the

NRMT draft WAC recommendations, in Tumwater, Vancouver, Everett, Seattle, Kent, Spokane, Pasco, and Wenatchee. Comments were also received on the DEL rules comment web site, by e-mail, fax and postal mail. In all, DEL received more than three hundred pages of comments, which are summarized at this link <http://www.del.wa.gov/publications/laws/docs/NRMTPublicComments.pdf>.

**DEL Develops Proposed Rules:** Upon reviewing the NRMT working draft and comments on the draft, DEL began to:

- Reorganize and revise the NRMT's working draft into WAC format.
- Repeal of the current chapter 170-296 WAC and replace it with new chapter 170-296A WAC.
- Make the changes recommended by Dr. Hyde and many other suggested revisions from the public and DEL staff.
- Postpone proposing some changes recommended by the NRMT that would have required resources that were and remain unavailable to DEL in the state's current budget climate, including but not limited to: Developing comprehensive preservice training prior to an applicant receiving a new FHCC license; establishing new specialty licenses (and required training) for infant-toddler only child care, age two to five only care, and school-age-only care; and creating a comprehensive guidebook to accompany the new rules. DEL plans to continue pursuing these elements as resources permit, and the department may propose additional rules as appropriate at a later date.
- Do additional research on a variety of child safety, health and development topics, including but not limited to: Fire safety, playground safety, causes of child injury and death, and other states' child care licensing laws and rules.
- Draft a small business economic impact statement (SBEIS) to accompany the proposed rules. An SBEIS is an analysis required under chapter 19.85 RCW when a new or revised requirement in rule may create "more than minor" costs (as defined in the statute) for businesses that must comply with the rules. An SBEIS is not required for proposed WAC sections where the underlying requirement has not changed from the previous version of the WAC. An SBEIS is filed with the state code reviser with a state agency's proposed rules, and is subject to public review and comment.

**SEIU/Licensees Seek More Discussion:** DEL planned to file the proposed FHCC rules and SBEIS in October 2010 for public review and formal comment. However, SEIU and licensees requested more time to discuss changes that DEL made to the rules since the NRMT working draft. DEL agreed to postpone the formal rule proposal. On October 29, 2010, Dr. Hyde and SEIU Local 925 President Kim Cook signed a joint letter to FHCC licensees around the state explaining what was occurring during this interim. From October through December 2010, SEIU and licensees submitted concerns about the department's draft proposed rules, and the department and SEIU staff worked out a process for discussing the concerns. On January 7, 2011, DEL staff,

SEIU staff, and former NRMT rule review committee members met to discuss twenty-six draft WAC sections that SEIU and licensees identified as the top concerns. From this discussion, DEL agreed to make some of the SEIU/licensee's requested changes, did not agree to make others, and offered to gather more research on selected topics before completing the proposed rules.

As a result, DEL filed the proposed new chapter 170-296A WAC and SBEIS with the state code reviser as required by RCW 34.05.320 on April 20, 2011, filing number WSR 11-09-081.

**Public Comment Process:** DEL must hold at least one public hearing on a rule proposed for permanent adoption under RCW 34.05.320. From June 11 through June 25, 2011, the department held public hearings in Everett, Renton, Tumwater, Vancouver, Yakima, Spokane, and Pasco. An additional hearing was held in Seattle on July 9, 2011, when it was found that equipment failed to record the June 11, 2011, public hearing held at Renton and Everett by video conference - see the continuance notice filed as WSR 11-14-037. Written comments were also accepted at the public hearings, at the DEL rules comment web site, and by e-mail, fax or postal mail through the June 26, 2011, comment deadline. The department also accepted written comments submitted at the continued July 9, 2011, hearing. The concise explanatory statement (CES) prepared for final adoption of new chapter 170-296A WAC describes the issues raised in hearing testimony or written comments on the proposed rules.

The adopted rules reflect the department's careful consideration of the comments received, further research suggested by commenters, and where appropriate, changes from the proposed to the final adopted version of chapter 170-296A WAC.

Adoption of these rules is consistent with OFM guidance regarding Executive Order 10-06 suspending noncritical rule making, but permitting rules to proceed that "...*have been the subject of negotiated rule making or pilot rule making that involved substantial participation by interested parties before the development of the proposed rules...*"

<sup>1</sup> One hundred thirty-eight rule-making petitions were filed under RCW 34.05.330 from November 2004 through March 2005 seeking to amend or repeal several sections of DSHS chapter 388-296 WAC that was newly adopted in August 2004. DSHS had agreed to review the 2004 FHCC rules for possible revision, but substantive work on revising chapter 388-296 WAC had not begun by July 2006 when DEL was created. Chapter 388-296 WAC was transferred to DEL in July 2006 and became chapter 170-296 WAC.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 170-296-0010, 170-296-0020, 170-296-0110, 170-296-0120, 170-296-0125, 170-296-0130, 170-296-0140, 170-296-0160, 170-296-0170, 170-296-0180, 170-296-0200, 170-296-0210, 170-296-0215, 170-296-0220, 170-296-0230, 170-296-0240, 170-296-0250, 170-296-0260, 170-296-0270, 170-296-0280, 170-296-0290, 170-296-0300, 170-296-0315, 170-296-0320, 170-296-0330, 170-296-0340, 170-296-0350, 170-296-0360, 170-296-0370, 170-296-0380, 170-296-0390, 170-296-0400, 170-296-0410, 170-296-0420, 170-296-0430, 170-296-0440, 170-296-0450, 170-296-0460, 170-296-0470, 170-296-0480, 170-296-0490, 170-296-0500, 170-296-0510, 170-296-0520, 170-296-0530, 170-296-0540, 170-296-0550, 170-296-0560, 170-296-0570, 170-296-0580,

170-296-0590, 170-296-0600, 170-296-0610, 170-296-0620, 170-296-0630, 170-296-0640, 170-296-0650, 170-296-0700, 170-296-0710, 170-296-0720, 170-296-0730, 170-296-0740, 170-296-0750, 170-296-0760, 170-296-0770, 170-296-0780, 170-296-0790, 170-296-0800, 170-296-0810, 170-296-0820, 170-296-0830, 170-296-0840, 170-296-0850, 170-296-0860, 170-296-0870, 170-296-0880, 170-296-0890, 170-296-0900, 170-296-0910, 170-296-0920, 170-296-0930, 170-296-0940, 170-296-0950, 170-296-0960, 170-296-0970, 170-296-0980, 170-296-0990, 170-296-1000, 170-296-1010, 170-296-1020, 170-296-1030, 170-296-1040, 170-296-1050, 170-296-1060, 170-296-1070, 170-296-1080, 170-296-1090, 170-296-1100, 170-296-1110, 170-296-1120, 170-296-1130, 170-296-1140, 170-296-1150, 170-296-1160, 170-296-1170, 170-296-1180, 170-296-1190, 170-296-1200, 170-296-1210, 170-296-1220, 170-296-1230, 170-296-1240, 170-296-1250, 170-296-1260, 170-296-1280, 170-296-1290, 170-296-1300, 170-296-1320, 170-296-1330, 170-296-1340, 170-296-1350, 170-296-1360, 170-296-1370, 170-296-1380, 170-296-1390, 170-296-1400, 170-296-1410, 170-296-1420, 170-296-1430, 170-296-1440, and 170-296-1450.

Statutory Authority for Adoption: RCW 43.215.060 and 43.215.070 are authority for each new WAC section adopted in this order; RCW 43.43.832(6) and chapter 293, Laws of 2011 (HB 1903) are additional authority for the following new WAC 170-296A-0010, 170-296A-1200, 170-296A-1250, 170-296A-1325, 170-296A-1450, 170-296A-1975, 170-296A-2075, 170-296A-2100, and 170-296A-8175.

Other Authority: Chapter 43.215 RCW is other authority for all new WAC sections adopted in this order; chapter 50, Laws of 2011, 1st sp. sess. (ESHB 1087, subsection 617(2)) is additional other authority for new WAC 170-296A-1325; chapter 299, Laws of 2011 (SB 5005) is additional other authority for new WAC 170-296A-3300; chapter 296, Laws of 2011 (SB 5504) is additional other authority for new WAC 170-296A-8050, 170-296A-8350 and 170-296A-8375; chapter 297, Laws of 2011 (SB 5625) is additional other authority for new WAC 170-296A-1200, 170-296A-1250, 170-296A-1325, 170-296A-1430, 170-296A-1450 and 170-296A-2175; chapter 293, Laws of 2011 (HB 1903) is additional other authority for new WAC 170-296A-1200, 170-296A-1250, 170-296A-1450, 170-296A-1525, 170-296A-1975, 170-296A-2075, 170-296A-2100, and 170-296A-8175.

Adopted under notice filed as WSR 11-09-081 on April 20, 2011.

Changes Other than Editing from Proposed to Adopted Version: The following table notes the changes DEL made from the rules as proposed in WSR 11-09-081 to the final rule as adopted, except minor edits. In general, changes were made as a result of comments received on the proposed rules, or to clarify the proposed rule.

1. The following adopted rules were revised to incorporate provisions or requirements of new laws passed by the 2011 Washington state legislature. The proposed rules in WSR 11-09-081 noted that certain 2011 legislative changes, pending at the time the rules were proposed, could affect the adopted content of the rules. See Table 3 below for the content of each revision:

2011 Laws affecting the proposed rules:	Proposed sections revised as a result:
HB 1087 (chapter 50, Laws of 2011, 1st sp. sess.), the 2011-2013 State Operating Appropriations Act, section 617(2). This subsection directed DEL to raise annual license fees for all licensed family home child cares and child care centers.	The new fee amount under HB 1087 is in WAC 170-296A-1325(1). Proposed WAC 170-296A-1350 Licensee fee amount, is withdrawn.
HB 1903, (chapter 293, Laws of 2011). This bill creates a system of portable background checks for child care workers, and sets new fees and requirements for obtaining a background check.	WAC 170-296A-1200 (2)(b) and (3), 170-296A-1325(4), and related cross references to these rules in other sections.
SB 5005 (chapter 299, Laws of 2011). This bill changed how a child’s exemption from state immunization requirements are documented.	WAC 170-296A-3300.
SB 5504 (chapter 296, Laws of 2011). This bill raised the maximum civil fine that may be levied to a family home child care licensee who violates these rules or provisions of chapter 43.215 RCW, and changes how DEL must give notice to an individual suspected of providing child care without a license, including notice of a potential civil fine.	WAC 170-296A-8050(1), 170-296A-8350, 170-296A-8375.
SB 5625 (chapter 297, Laws of 2011). SB 5625 establishes the requirements for a child care facility to obtain and maintain a nonexpiring license from DEL.	WAC 170-296A-1200(5), 170-296A-1250, 170-296A-1430, 170-296A-1450 and related cross references.

2. The following sections of chapter 170-296A WAC proposed in WSR 11-09-081 have been withdrawn. Where appropriate, the table shows where the content of the withdrawn section was moved. Certain other proposed WAC sections have been renumbered, with or without changing the section content - see table 3 for details of sections withdrawn and sections renumbered:

Proposed WAC section withdrawn:	Content of the withdrawn section moved to adopted WAC, if applicable:
170-296A-1350 License fee—Amount.	170-296A-1325 Fees—When due. Subsection (1).
170-296A-1500 Moving without submitting an application.	170-296A-1475 Moves. Subsection (2).
170-296A-1550 Renewal application.	Not applicable. This proposed section was made obsolete by passage of 2011 SB 5625.
170-296A-1575 Failure to submit a renewal application.	Not applicable. This proposed section was made obsolete by passage of 2011 SB 5625.
170-296A-3350 Childs emergency rescue medications.	170-296A-3325(2) Medication storage.
170-296A-3400 Medication management.	170-296A-3315 Medication management.
170-296A-3975 Poisons.	170-296A-4100 Poisons, chemicals and other substances. See new subsection (1).
170-296A-4975 Outdoor supervision.	170-296A-5750 Supervision. This section also incorporates content from WAC 170-296A-7050.
170-296A-5850 Notifying parents of closures, absences, staff changes.	170-296A-5775 License absence.
170-296A-5900 Notifying the licensor regarding the licensee's absence.	170-296A-2275 Other incident reporting to the department.
170-296A-7050 Infant and toddler supervision.	170-296A-5750 Supervision.

3. The following table notes the changes DEL made from the sections as proposed in WSR 11-09-081 to the final rule as adopted, except minor edits. In general, changes were made as a result of comments received on the proposed rules, or to clarify the proposed rule. See the department's CES prepared under RCW 34.05.325 for issued [issues] raised in comments on the proposed rules, and department responses. Contact the DEL rules coordinator at rules@del.wa.gov to obtain a copy of the CES or write to DEL Rules Coordinator, Department of Early Learning, P.O. Box 40970, Olympia, WA 98504-0970. An electronic copy is provided to all requests made by e-mail.

Rule proposed as WSR 11-09-081 on April 20, 2011:	Final rule as adopted:
<p>WAC 170-296A-0010 Definitions, the following definitions apply throughout this chapter unless the context clearly indicates otherwise:</p> <p>"Accessible to children" means areas of the facility and materials that the children can easily get to on their own.</p> <p>"Agency" as used in this chapter, has the same meaning as in RCW 43.215.010 (1) and (1)(c).</p> <p>"Available" means accessible and ready for use or service.</p> <p>"Capacity" means the maximum number of children the licensee is authorized by the department to have in care at any given time.</p> <p>"Child abuse or neglect" has the same meaning as "abuse or neglect" under RCW 26.44.020 and chapter 388-15 WAC.</p> <p>"Child care" means providing temporary custody, supervision, feeding, guidance, early learning program and activities of children, including transporting children in care.</p> <p>"Clean" means to remove dirt and debris (such as soil, food, blood, urine, or feces) by scrubbing and washing with a soap or detergent solution and rinsing with water.</p> <p>"Confidential" means the protection of personal information, such as the child's records, from persons who are not authorized to see or hear it.</p> <p>"Department" or "DEL" means the Washington state department of early learning.</p> <p>"Developmentally appropriate" means curriculum, materials or activities provided at a level that is consistent with the abilities or learning skills of the child.</p> <p>"Discipline" means a method used to redirect a child in order to achieve a desired behavior.</p> <p>"DOH" means the Washington state department of health.</p> <p>"DSHS" means the Washington state department of social and health services.</p> <p>"Enforcement action" means a department issued:</p> <ul style="list-style-type: none"> <li>(a) Denial, suspension, revocation or modification of a license;</li> <li>(b) Probationary license;</li> <li>(c) Civil monetary penalty (fine); or</li> <li>(d) Disqualification from having unsupervised access to children in care.</li> </ul> <p>"Family home child care" means an individual licensed by the department to provide direct care, supervision, and early learning opportunities for twelve or fewer children in the home where the licensee resides as provided in RCW 43.215-010 (1)(c).</p> <p>"Fine" has the same meaning as "civil monetary penalty," "civil fines," or "monetary penalty" under chapter 43.215 RCW.</p> <p>"Inaccessible to children" means an effective method or barrier that reasonably prevents a child's ability to reach, enter, or use items or areas.</p>	<p><b>WAC 170-296A-0010 Definitions</b>, the following definitions apply throughout this chapter unless the context clearly indicates otherwise. Certain definitions appear in the section the term is used if the definition applies only to a specific section or sections:</p> <p>"<b>Accessible to children</b>" means areas of the facility and materials that the children can easily get to on their own.</p> <p>"<b>Agency</b>" as used in this chapter, has the same meaning as in RCW 43.215.010 (1) and (1)(c).</p> <p>"<b>Available</b>" means accessible and ready for use or service.</p> <p>"<b>Bathroom</b>" means any room containing a built-in flush-type toilet (<i>definition added for clarity</i>).</p> <p>"<b>Capacity</b>" means the maximum number of children the licensee is authorized by the department to have in care at any given time.</p> <p>"<b>Child</b>" means an individual who is younger than age thirteen, including any infant, toddler, preschool-age child, or school-age child as defined in this chapter (<i>definition added per comment on the proposed rule</i>).</p> <p>"<b>Child abuse or neglect</b>" has the same meaning as "abuse or neglect" under RCW 26.44.020 and chapter 388-15 WAC.</p> <p>"<b>Child care</b>" means the developmentally appropriate care, protection, and supervision of children that is designed to promote positive growth and educational experiences for children outside the child's home for periods of less than twenty-four hours a day.</p> <p>"<b>Clean</b>" or "<b>cleaning</b>" means to remove dirt and debris (such as soil, food, blood, urine, or feces) by scrubbing and washing with a soap or detergent solution and rinsing with water. Cleaning is the first step in the process of sanitizing or disinfecting a surface or item.</p> <p>"<b>Confidential</b>" means the protection of personal information, such as the child's records, from persons who are not authorized to see or hear it.</p> <p>"<b>Denial of a license</b>" means an action by the department to not issue a child care license to an applicant for an initial license, or to a licensee operating under an initial license seeking a nonexpiring full license, based on the applicant's or initial licensee's inability or failure to meet the requirements of chapter 43.215 RCW or requirements adopted by the department pursuant to chapter 43.215 RCW (<i>definition added per comment on the proposed rule</i>).</p> <p>"<b>Department</b>" or "<b>DEL</b>" means the Washington state department of early learning.</p> <p>"<b>Developmentally appropriate</b>" means curriculum, materials or activities provided at a level that is consistent with the abilities or learning skills of the child.</p> <p>"<b>Discipline</b>" means a method used to redirect a child in order to achieve a desired behavior.</p>

<p>"Infant" means a child age birth through eleven months of age.</p> <p>"Licensed space" means the indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care.</p> <p>"Licensee" for the purposes of this chapter, means the individual listed on a family home child care license issued by the department of early learning authorizing that individual to provide child care under the requirements of this chapter and chapter 43.215 RCW.</p> <p>"Licensor" means an individual employed by the department and designated by the director to inspect and monitor an agency as defined in RCW 43.215.010(1) or child care facility for compliance with the requirements of this chapter and chapter 43.215 RCW.</p> <p>"MERIT" means the managed education registry information tool. "Modification of a license" means department action to change the conditions identified on a current license.</p> <p>"Nonprescription medication" means any of the following:</p> <ul style="list-style-type: none"> <li>(a) Nonaspirin and aspirin fever reducers or pain relievers;</li> <li>(b) Nonnarcotic cough suppressants;</li> <li>(c) Ointments or lotions specially intended to relieve itching;</li> <li>(d) Diaper ointments and talc free powders specially used in the diaper area of children;</li> <li>(e) Sun screen;</li> <li>(f) Hand sanitizer gels; or</li> <li>(g) Hand wipes with alcohol.</li> </ul> <p>"One year of experience" means at least twelve months of early learning experience as demonstrated by a resume and references:</p> <ul style="list-style-type: none"> <li>(a) In a supervisory role in a child care setting where the individual was responsible for supervising staff and complying with licensing standards; or</li> <li>(b) As a Washington state: <ul style="list-style-type: none"> <li>(i) Child care center or school age center director, program supervisor, or lead teacher as defined in chapters 170-151 and 170-295 WAC; or</li> <li>(ii) Family home child care licensee or qualified primary staff person.</li> </ul> </li> </ul> <p>"Physical restraint" means the practice of rendering a child helpless or keeping a child in captivity.</p> <p>"Poison" for the purposes of this chapter includes, but is not limited to, substances, chemicals, chemical compounds (other than naturally occurring compounds such as water or salt), or similar items, that even in small quantities are likely to cause injury or illness if it is swallowed or comes into contact with a child's skin, eyes, mouth, or mucus membranes.</p>	<p>"Disinfect" or "disinfecting" means to eliminate virtually all germs on a surface by the process of cleaning and rinsing, followed by:</p> <ul style="list-style-type: none"> <li>(a) A chlorine bleach and water solution of appropriate concentration; or</li> <li>(b) Other disinfectant product if used strictly according to the manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, adequate time to allow the product to dry or rinsing if applicable, and appropriateness for use on the surface to be disinfected. Any disinfectant used on food contact surfaces or toys must be labeled safe for food contact surfaces (<i>definition added per comment on the proposed rule</i>).</li> </ul> <p>"DOH" means the Washington state department of health.</p> <p>"DSHS" means the Washington state department of social and health services.</p> <p>"Enforcement action" means a department issued:</p> <ul style="list-style-type: none"> <li>(a) Denial, suspension, revocation or modification of a license;</li> <li>(b) Probationary license;</li> <li>(c) Civil monetary penalty (fine); or</li> <li>(d) Disqualification from having unsupervised access to children in care.</li> </ul> <p>"Family home child care" means a facility licensed by the department where child care is provided for twelve or fewer children in the family living quarters where the licensee resides as provided in RCW 43.215.010 (1)(c).</p> <p>"Family living quarters" means a licensee's or license applicant's residence and other spaces or buildings on the premises that meet the facility requirements of this chapter and are approved by the department for child care (<i>definition moved from proposed WAC 170-296A-1050</i>).</p> <p>"Fine" has the same meaning as "civil monetary penalty," "civil fines," or "monetary penalty" under chapter 43.215 RCW.</p> <p>"Inaccessible to children" means an effective method or barrier that reasonably prevents a child's ability to reach, enter, or use items or areas.</p> <p>"Infant" means a child age birth through eleven months of age.</p> <p>"Licensed space" means the indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care.</p> <p>"Licensee" for the purposes of this chapter, means the individual listed on a family home child care license issued by the department of early learning authorizing that individual to provide child care under the requirements of this chapter and chapter 43.215 RCW.</p>
---	--

<p>"Premises" means the licensed or unlicensed space including, but not limited to, buildings, land and residences at the licensed address.</p> <p>"Preschool age child" means a child age thirty months through five years of age who is not attending kindergarten or elementary school.</p> <p>"Primary staff person" means a staff person other than the licensee who has been authorized by the department to care for and have unsupervised access to children in care.</p> <p>"RCW" means Revised Code of Washington.</p> <p>"Sanitize" means to reduce the number of microorganisms on a surface by the process of using:</p> <ul style="list-style-type: none"> <li>(a) A bleach and water solution;</li> <li>(b) Other sanitizer product if used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry; or</li> <li>(c) For laundry and dishwasher use only, a bleach and water solution or temperature control.</li> </ul> <p>"School age child" means a child not less than five years of age through twelve years of age who is attending kindergarten or school.</p> <p>"Screen time" means watching, using or playing television, computers, video games, video or DVD players, mobile communication devices, and similar devices.</p> <p>"Sleeping equipment" means (reserved).</p> <p>"Staff" unless referring specifically to a "primary staff person," means any primary staff person, assistant, or volunteer helping to provide child care, or a household member acting in the capacity of a primary staff person, assistant or volunteer, whether compensated or not compensated.</p> <p>"STARS" means the state training and registry system.</p> <p>"Toddler" means a child age twelve months through twenty-nine months of age.</p> <p>"Unlicensed space" means the indoor and outdoor areas of the premises, not approved as licensed space by DEL, that the licensee must make inaccessible to the children during child care hours.</p> <p>"Unsupervised access" has the same meaning as "unsupervised access" in WAC 170-06-0020.</p> <p>"WAC" means the Washington Administrative Code.</p> <p>"Weapons" means an instrument or device of any kind that is designed to be used to inflict harm including, but not limited to, rifles, handguns, shotguns, antique firearms, knives, swords, bows and arrows, BB guns, pellet guns, air rifles, electronic or other stun guns, or fighting implements.</p>	<p>"<b>Licensor</b>" means an individual employed by the department and designated by the director to inspect and monitor an agency or other child care facility for compliance with the requirements of this chapter and chapter 43.215 RCW.</p> <p>"<b>MERIT</b>" means the managed education registry information tool used to track professional development for early learning professionals. See also "STARS," (<i>definition modified for clarity</i>).</p> <p>"<b>Modification of a license</b>" means department action to change the conditions identified on a current license (<i>definition added per comment on the proposed rule</i>).</p> <p>"<b>Nonexpiring full license</b>" or "<b>nonexpiring license</b>" means a full license that is issued to a licensee following the initial licensing period as provided in WAC 170-296A-1450 (<i>new definition to implement 2011 SB 5625</i>).</p> <p>"<b>Nonprescription medication</b>" means any of the following:</p> <ul style="list-style-type: none"> <li>(a) Nonaspirin and aspirin fever reducers or pain relievers;</li> <li>(b) Nonnarcotic cough suppressants;</li> <li>(c) Cold or flu medications;</li> <li>(d) Antihistamines or decongestants;</li> <li>(e) Teething pain reducers;</li> <li>(f) Vitamins;</li> <li>(g) Ointments or lotions specially intended to relieve itching;</li> <li>(h) Diaper ointments and talc free powders specially used in the diaper area of children;</li> <li>(i) Sun screen;</li> <li>(j) Hand sanitizer gels; or</li> <li>(k) Hand wipes with alcohol.</li> </ul> <p>"<b>One year of experience</b>" means at least twelve months of early learning experience as demonstrated by a resume and references:</p> <ul style="list-style-type: none"> <li>(a) In a supervisory role in a child care setting where the individual was responsible for supervising staff and complying with licensing standards; or</li> <li>(b) As a Washington state: <ul style="list-style-type: none"> <li>(i) Child care center or school age center director, program supervisor, or lead teacher as defined in chapters 170-151 and 170-295 WAC; or</li> <li>(ii) Family home child care licensee or qualified primary staff person.</li> </ul> </li> </ul> <p>"<b>Overnight care</b>" means child care provided for a child anytime between the hours of eight o'clock at night and six o'clock in the morning that includes a sleep period for the child.</p> <p>"<b>Personal needs</b>" means an individual's hygiene, toileting, medication, cleansing, eating or clothing needs.</p> <p>"Personal needs" does not mean smoking or use of tobacco products, illegal drug use or misuse of prescription drugs, conducting business or related activities, sleeping or napping, screen time, or leaving children in care unattended (<i>definition clarified per comment on the proposed rule and moved from WAC 170-296A-1925</i>).</p>
--	--

**"Physical restraint"** means the practice of rendering a child helpless or keeping a child in captivity.

**"Poison"** for the purposes of this chapter includes, but is not limited to, substances, chemicals, chemical compounds (other than naturally occurring compounds such as water or salt), or similar items, that even in small quantities are likely to cause injury or illness if it is swallowed or comes into contact with a child's skin, eyes, mouth, or mucus membranes.

**"Premises"** means the licensed or unlicensed space at the licensed address including, but not limited to, buildings, land and residences.

**"Preschool age child"** means a child age thirty months through five years of age who is not attending kindergarten or elementary school.

**"Primary staff person"** means a staff person other than the licensee who has been authorized by the department to care for and have unsupervised access to children in care.

**"RCW"** means Revised Code of Washington.

**"Revocation"** or **"revoke"** means the formal action by the department to close a child care business and take the license due to the licensee's failure to comply with chapter 43.215 RCW or requirements adopted pursuant to chapter 43.215 RCW (*definition added per comment on the proposed rule*).

**"Sanitize"** means to reduce the number of microorganisms on a surface by the process of:

(a) Cleaning and rinsing, followed by using:

(i) A chlorine bleach and water solution of appropriate concentration; or

(ii) Another sanitizer product if used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry, and appropriateness for use on the surface to be sanitized. If used on food contact surfaces or toys, a sanitizer product must be labeled as safe for food contact surfaces; or

(b) For laundry and dishwasher use only, "sanitize" means use of a bleach and water solution or temperature control (*definition revised per comment on the proposed rule*).

**"School age child"** means a child not less than five years of age through twelve years of age who is attending kindergarten or school.

**"Screen time"** means watching, using or playing television, computers, video games, video or DVD players, mobile communication devices, and similar devices.

**"Sleeping equipment"** includes a bed, cot, mattress, mat, crib, bassinet, play yard or "pack and play." "Sleeping equipment" does not include any car seat or infant swing (*definition added for clarity*).

**"Staff"** unless referring specifically to a "primary staff person," means any primary staff person, assistant, or volunteer helping to provide child care, or a household member acting in the capacity of a primary staff person, assistant or volunteer, whether compensated or not compensated.

	<p>"STARS" means the state training and registry system <i>(definition added per comment on the proposed rule)</i>.</p> <p>"Suspension of a license" means a formal department action to stop a license pending a department decision regarding further enforcement action <i>(definition added per comment on the proposed rule)</i>.</p> <p>"Toddler" means a child age twelve months through twenty-nine months of age.</p> <p>"Unlicensed space" means the indoor and outdoor areas of the premises, not approved as licensed space by DEL, that the licensee must make inaccessible to the children during child care hours.</p> <p>"Unsupervised access" has the same meaning as "unsupervised access" in WAC 170-06-0020.</p> <p>"WAC" means the Washington Administrative Code.</p> <p>"Weapons" means an instrument or device of any kind that is used or designed to be used to inflict harm including, but not limited to, rifles, handguns, shotguns, antique firearms, knives, swords, bows and arrows, BB guns, pellet guns, air rifles, electronic or other stun devices, or fighting implements.</p> <p><i>(Definition added per comment on the proposed rule and for clarity.)</i></p> <p><b>WAC 170-296A-0050 Special needs accommodations,</b> <i>(the entire content of this section was moved from WAC 170-296A-6725 without change).</i></p>
<p><b>WAC 170-296A-1025 Who must be licensed.</b> An individual must be licensed to care for children if any of the following apply:</p> <p>(1) Care is provided in the individual's home for one or more children not related to the licensee, outside the child's home on a regular and ongoing basis, not to exceed twelve children as provided by statute; or</p> <p>(2) Care is provided in the individual's home for pre-school age children for more than four hours a day.</p>	<p><b>WAC 170-296A-1025 Who must be licensed.</b> An individual must be licensed to care for children if any of the following apply:</p> <p>(1) Care is provided in the individual's home and outside the child's home on a regular and ongoing basis for one or more children not related to the licensee. As used in this section, "not related" means not any of the relatives listed in RCW 43.215.010 (2)(a); or</p> <p>(2) Care is provided in the individual's home for pre-school age children for more than four hours a day.</p> <p>See WAC 170-296A-8350 regarding providing child care without a license.</p> <p><i>(This section was revised for clarity and to be consistent with RCW 43.215.010.)</i></p>
<p><b>WAC 170-296A-1050 The licensee.</b> (1) The licensee is the individual or individuals:</p> <p>(a) Who resides in the home licensed for family home child care under this chapter;</p> <p>(b) Whose name appears on the license issued by the department;</p> <p>(c) Licensed by the department to provide child care and early learning services for not more than twelve children in the licensee's home in the family living quarters. As used in this section, "family living quarters" may include:</p> <p>(i) The licensee's or license applicant's residence; and</p>	<p><b>WAC 170-296A-1050 The licensee.</b> (1) The licensee is the individual or individuals:</p> <p>(a) Who resides in the home licensed for family home child care under this chapter;</p> <p>(b) Whose name appears on the license issued by the department;</p> <p>(c) Licensed by the department to provide child care and early learning services for not more than twelve children in the licensee's home in the family living quarters;</p> <p>(d) Responsible for the overall management of the licensed family child care home;</p>

<p>(ii) Other spaces and buildings on the premises that meet the facility requirements of this chapter and are approved by the department for child care;</p> <p>(d) Responsible for the overall management of the licensed family child care home;</p> <p>(e) Responsible for complying with the standards in this chapter, chapter 43.215 RCW, chapter 170-06 WAC DEL background check rules, and other applicable laws or rules; and</p> <p>(f) Responsible for training staff on the licensing standards in this chapter.</p> <p>(2) The licensee must comply with all requirements in this chapter, unless another code or ordinance is more restrictive. Local officials are responsible for enforcing city or county ordinances and codes, such as zoning, building or environmental health regulations.</p> <p>(3) The licensee may hold only one current family home child care license.</p>	<p>(e) Responsible for complying with the standards in this chapter, chapter 43.215 RCW, chapter 170-06 WAC DEL background check rules, and other applicable laws or rules; and</p> <p>(f) Responsible for training staff on the licensing standards in this chapter.</p> <p>(2) The licensee must comply with all requirements in this chapter, unless another code or ordinance is more restrictive. Local officials are responsible for enforcing city or county ordinances and codes, such as zoning, building or environmental health regulations.</p> <p>(3) The licensee may hold only one current family home child care license.</p> <p><i>(The definition of "family living quarters" was moved to WAC 170-296A-010 for clarity.)</i></p>
<p><b>WAC 170-296A-1175 STARS basic twenty-hour training.</b> A license applicant must complete the basic twenty-hour STARS training prior to an initial license being granted by the department.</p>	<p><b>WAC 170-296A-1175 Basic twenty-hour STARS training.</b> A license applicant must complete the basic twenty-hour STARS training prior to an initial license being granted by the department.</p> <p><i>(The title of this section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-1200 Background checks.<sup>1</sup></b> (1) The license applicant or licensee must submit a completed background check form and obtain an authorization letter from the department consistent with the requirements of chapter 170-06 WAC for each of the following:</p> <p>(a) Any license applicant;</p> <p>(b) The licensee;</p> <p>(c) Each staff person or volunteer age sixteen or older; and</p> <p>(d) Each individual age sixteen or older who resides in the home.</p> <p>(2) Any individual who must undergo a background check under chapter 170-06 WAC and who has resided in Washington state for less than three years must complete the department fingerprint process. See WAC 170-06-0040(1) and RCW 43.215.215.</p> <p>(3) The licensee must keep background check authorization letters from the department on file for each individual listed in this section.</p> <p>(4) A completed background check form and department authorization is required for each new staff or volunteer age sixteen or older, any person residing in the home who becomes sixteen years old, or for any person age sixteen or older who moves into the home. See WAC 170-06-0040.</p> <p>(5) The licensee must not allow any individual who has not obtained a background check authorization letter from the department to have unsupervised access to the children at any time.</p>	<p><b>WAC 170-296A-1200 Background checks.</b> (1) The license applicant or licensee must submit a completed background check form and obtain an authorization (clearance) from the department consistent with the requirements of chapter 170-06 WAC for each of the following:</p> <p>(a) The license applicant;</p> <p>(b) The licensee;</p> <p>(c) Each new staff person or volunteer age sixteen or older;</p> <p>(d) Each individual age sixteen or older residing in the home;</p> <p>(e) Each individual age sixteen or older who moves into the home; and</p> <p>(f) Any individual age sixteen or older who may have unsupervised access to children in care.</p> <p>(2)(a) Effective through June 30, 2012, any individual who must undergo a background check under chapter 170-06 WAC and who has resided in Washington state for less than three years must complete the department fingerprint process.</p> <p>(b) Effective July 1, 2012, each individual seeking a first time DEL background check must undergo a fingerprint-based FBI background check. See RCW 43.215.215.</p> <p>(3) The licensee must keep background check authorization letters from the department on file for each individual listed in this section. Effective July 1, 2012, a licensee must keep a copy of the department authorization or certification for each primary staff person, assistant, or volunteer who works in the licensed home.</p>

	<p>(4) The licensee must not allow any individual who has not been authorized by the department to have unsupervised access to the children in care at any time.</p> <p>(5) The licensee must verify annually that each individual who is required to have a background check under this section has either obtained a department clearance or has applied for a department background check. The verification must be submitted with the licensee's annual license fee and declarations required under WAC 170-296A-1450.</p> <p><i>(Subsection (1)(f) is added to be consistent with RCW 43.43.832(6). Proposed subsections (2) and (3) (now (4)) are revised consistent with 2011 HB 1903. New subsection (6) is added consistent with 2011 SB 5625.)</i></p>
<p><b>WAC 170-296A-1225 Noncriminal background checks for individuals thirteen to sixteen years of age.</b> (1) Each volunteer or assistant in the licensed family home child care age fourteen to sixteen years old, and each individual residing in the licensee's home age thirteen to sixteen years old, must undergo a noncriminal background check.</p> <p>(2) The licensee must submit a signed and dated noncriminal background check application on a form approved by the department:</p> <p>(a) Within seven days after the volunteer or assistant age fourteen to sixteen starts work in the licensed child care; and</p> <p>(b) For each individual residing in the home age thirteen to sixteen:</p> <p>(i) With the licensee's initial license application or renewal application;</p> <p>(ii) Within seven days after an individual residing in the home reaches age thirteen; and</p> <p>(iii) Within seven days after an individual age thirteen to sixteen moves into the home.</p> <p>(3) The department conducts a noncriminal background check, and authorizes or disqualifies an individual age thirteen to sixteen as described in chapter 170-06 WAC, except that the department does not:</p> <p>(a) Review convictions or pending charges for disqualifying crimes under WAC 170-06-0050(1), unless the conviction was the result of prosecution of the juvenile as an adult; and</p> <p>(b) Disqualify an individual for a conviction under WAC 170-06-0070 (1) and (2), unless the conviction was the result of prosecution of the juvenile as an adult.</p> <p>(4) An individual who is disqualified from providing child care or having access to children in care following a noncriminal background check as described in this section has the right to appeal the department's decision under WAC 170-06-0090.</p> <p>(5) The licensee must keep authorization letters from the department on file for each individual listed in this section.</p>	<p><b>WAC 170-296A-1225 Noncriminal background checks for individuals thirteen to sixteen years of age.</b> (1) Each volunteer or assistant in the licensed family home child care age fourteen to sixteen years old, and each individual residing in the licensee's home age thirteen to sixteen years old, must undergo a noncriminal background check.</p> <p>(2) The licensee must submit a signed and dated noncriminal background check application on a form approved by the department:</p> <p>(a) Within seven days after the volunteer or assistant age fourteen to sixteen starts work in the licensed child care; and</p> <p>(b) For each individual residing in the home age thirteen to sixteen:</p> <p>(i) With the licensee's initial license application or annual nonexpiring license declaration under WAC 170-296A-1450;</p> <p>(ii) Within seven days after an individual residing in the home reaches age thirteen; and</p> <p>(iii) Within seven days after an individual age thirteen to sixteen moves into the home.</p> <p>(3) The department conducts a noncriminal background check, and authorizes or disqualifies an individual age thirteen to sixteen as described in chapter 170-06 WAC, except that the department does not:</p> <p>(a) Review convictions or pending charges for disqualifying crimes under WAC 170-06-0050(1), unless the conviction was the result of prosecution of the juvenile as an adult; and</p> <p>(b) Disqualify an individual for a conviction under WAC 170-06-0070 (1) and (2), unless the conviction was the result of prosecution of the juvenile as an adult.</p> <p>(4) An individual who is disqualified from providing child care or having access to children in care following a noncriminal background check as described in this section has the right to appeal the department's decision under WAC 170-06-0090.</p> <p>(5) The licensee must keep authorization letters from the department on file for each individual listed in this section.</p> <p><i>(Subsection (2)(b)(i) was added consistent with requirements for the licensee to obtain or continue a nonexpiring child care license under SB 5625.)</i></p>

**WAC 170-296A-1250 License application packet—Contents.** (1) The individual seeking a license under this chapter is the license applicant.

(2) A license applicant must submit a license application packet that includes:

(a) A completed department application form and copy of the applicant's orientation certificate;

(b) Copy of license applicant's current government issued photo identification;

(c) Documentation of the licensee's high school diploma or equivalent education under WAC 170-296A-1725;

(d) Resume for the license applicant;

(e) References from three individuals not related to the license applicant;

(f)(i) Copy of license applicant's Social Security card pursuant to 42 U.S.C. 666 (a)(13) and RCW 26.23.150 regarding child support;

(ii) If the license applicant does not have a Social Security card, the applicant must provide a sworn declaration stating that he or she does not have a Social Security card;

(g) Copy of the federal Internal Revenue Service letter showing the applicant's employer identification number (EIN) if the applicant plans to employ staff;

(h) Tuberculosis test results for the license applicant, each staff person, and household members sixteen years old or older. See WAC 170-296A-1750;

(i) Copy of first-aid/CPR/bloodborne pathogens training certificates for the license applicant and each staff person as described in WAC 170-296A-1825;

(j) Copy of the license applicant's state food handler permit as described in WAC 170-296A-7675;

(k) Completed background clearance forms for the license applicant and each staff person, household members sixteen years old and older, and anyone sixteen years and older who may have unsupervised access to the children in care;

(l) A completed noncriminal background check application form for each assistant and volunteer fourteen to sixteen years of age, and each individual age thirteen to sixteen residing in the home;

(m) Parent, staff and operation policies (handbooks). See WAC 170-296A-2350, 170-296A-2375, 170-296A-2400, and 170-296A-2425;

(n) Floor plan, including proposed licensed and unlicensed space;

(o) Septic system inspection report if applicable under WAC 170-296A-1375;

(p) Well water testing report if applicable under WAC 170-296A-1400;

(q) Lead or arsenic evaluation agreement, only for a site located in the Tacoma smelter plume under WAC 170-296A-1360; and

**WAC 170-296A-1250 Initial license application packet—Contents.** (1) The individual seeking an initial license under this chapter is the license applicant.

(2) A license applicant must submit a license application packet that includes:

(a) A completed department application form and copy of the applicant's orientation certificate;

(b) Copy of license applicant's current government issued photo identification;

(c) Documentation of the license applicant's high school diploma or equivalent education under WAC 170-296A-1725;

(d) Resume for the license applicant;

(e) References from three individuals not related to the license applicant;

(f)(i) Copy of license applicant's Social Security card pursuant to 42 U.S.C. 666 (a)(13) and RCW 26.23.150 regarding child support.

(ii) If the license applicant does not have a Social Security card, the applicant must provide a sworn declaration stating that he or she does not have a Social Security card.;

(g) Copy of the federal Internal Revenue Service letter showing the applicant's employer identification number (EIN) if the applicant plans to employ staff;

(h) Tuberculosis test results or required documentation for the license applicant, each staff person, and household members sixteen years old or older. See WAC 170-296A-1750;

(i) Copy of first-aid/CPR training and HIV/AIDS training certificates for the license applicant and each staff person required to complete such training as described in WAC 170-296A-1825 and 170-296A-1850;

(j) Copy of the license applicant's state food handler permit as described in WAC 170-296A-7675;

(k) Completed background clearance forms for the license applicant and each staff person, household members sixteen years old and older, and anyone sixteen years and older who may have unsupervised access to the children in care;

(l) A completed noncriminal background check application form for each assistant and volunteer fourteen to sixteen years of age, and each individual age thirteen to sixteen residing in the home;

(m) Parent, staff and operation policies (handbooks). See WAC 170-296A-2350, 170-296A-2375, 170-296A-2400, and 170-296A-2425;

(n) Floor plan, including proposed:

(i) Licensed space;

(ii) Licensed space usage;

(iii) Evacuation routes and emergency exits;

(iv) Unlicensed space;

(v) Licensed space used specifically for sleeping infants, if applicable; and

<p>(r) The license fees under WAC 170-296A-1325 and 170-296A-1350.<sup>2</sup></p> <p>(3) If there will be more than one individual whose name will appear on the license, each individual license applicant must provide information required in subsection (2)(b) through (f) and (2)(h) through (k) of this section.</p>	<p>(vi) Licensed space used for sleeping children for overnight care, if applicable.</p> <p>(o) Septic system inspection report if applicable under WAC 170-296A-1375;</p> <p>(p) Well water testing report if applicable under WAC 170-296A-1400;</p> <p>(q) Lead or arsenic evaluation agreement, only if the home is located in the Tacoma smelter plume under WAC 170-296A-1360; and</p> <p>(r) The license fees and other fees under WAC 170-296A-1325.</p> <p>(3) If there will be more than one individual whose name will appear on the license, each individual license applicant must provide information required in subsection (2)(b) through (f) and (2)(h) through (k) of this section.</p> <p><i>(Subsection (2)(i) is revised to be consistent with changes to WAC 170-296A-1850. Subsection (2)(n) is revised to clarify the required contents of a floor plan.)</i></p>
<p><b>WAC 170-296A-1275 Application processing.</b> (1) The department may take up to ninety days to complete the licensing process. The ninety days begins when the license applicant's signed and dated application packet, fees and background check forms have been received by the department.</p> <p>(2) If an incomplete application packet is submitted the department will inform the license applicant of the deficiencies and provided a time frame in which to provide the required information. If an application remains incomplete after ninety days the department may deny the license.</p>	<p><b>WAC 170-296A-1275 Initial license application processing.</b> (1) The department may take up to ninety days to process an initial license application. The ninety days begins when the license applicant's signed and dated license application packet, fees and background check forms have been received by the department.</p> <p>(2) If an incomplete application packet is submitted, the department will inform the license applicant of the deficiencies and provide a time frame for the applicant to provide the required information. If an application remains incomplete after ninety days the department may deny the license.</p> <p><i>(This section is revised for clarity.)</i></p>
<p><b>WAC 170-296A-1325 License fee—When due.</b> (1) A license applicant must pay a nonrefundable license fee with the license application.</p> <p>(2) After a license is issued, the licensee must pay the license fee annually. The fee is due on or before the anniversary date of the license.</p> <p>(3) Payment must be in the form of a check or money order.</p>	<p><b>WAC 170-296A-1325 Fees—When due.</b></p> <p><b>License fees.</b></p> <p>(1) The annual family home child care license fee is thirty dollars, or as otherwise set by the legislature;</p> <p>(2) The license fee is nonrefundable and is due:</p> <p>(a) With the license applicant's initial license application packet; and</p> <p>(b) Annually thereafter, thirty days prior to the anniversary date of the license.</p> <p>(3) Payment must be in the form of a check or money order.</p>
<p><b>WAC 170-296A-1350 License fee amount.</b> The license fee is twenty-four dollars, or as otherwise set by the legislature.</p>	<p><b>Background check fees.</b></p> <p>(4) Effective July 1, 2012:</p> <p>(a) Each individual required to obtain a department background check must pay the fee established under chapter 170-06 WAC. The fee must be submitted with the individual's completed and signed background check application form.</p> <p>(b) Each individual applying for a first-time license application or each individual applying for the first time for a department background check clearance must be fingerprinted and pay the processing fee.</p>

	<p><i>(Proposed WAC 170-296A-1350 was deleted and its content moved to WAC 170-296A-1325(1). The annual license fee amount was revised consistent with HB 1087 raising annual fees for all licensed child care.)</i></p>
<p><b>WAC 170-296A-1375 Private septic system—Inspection and maintenance.</b> (1) If the licensed premises is served by a private septic system (not connected to a sewer system) the septic system must be maintained in a manner acceptable to the local public health authority.</p> <p>(2) The licensee must follow the local public health authority's requirements for periodic septic system inspection and maintenance.</p> <p>(3) If there are no local public health requirements for periodic septic system inspections the licensee must:</p> <p>(a) Have the system inspected by a septic system inspector certified by the local public health authority:</p> <p>(i) Within six months prior to submitting a license application under WAC 170-296A-1250; and</p> <p>(ii) Every three years after a license is issued under this chapter.</p> <p>(b) Maintain the septic system as required by the inspection report.</p> <p>(4) Septic system inspection and maintenance records must be kept on the premises and made available to the department upon request.</p>	<p><b>WAC 170-296A-1375 Private septic system—Inspection and maintenance.</b> (1) If the licensed premises is served by a private septic system (not connected to a sewer system) the septic system must be maintained in a manner acceptable to the local public health jurisdiction.</p> <p>(2) The licensee must follow the local health jurisdiction's requirements for periodic septic system inspection and maintenance.</p> <p>(3) If there are no local health jurisdiction's requirements for periodic septic system inspections the licensee must:</p> <p>(a) Have the system inspected by a septic system inspector certified by the local health jurisdiction:</p> <p>(i) Within six months prior to submitting a license application under WAC 170-296A-1250; and</p> <p>(ii) Every three years after initial license is issued to the license applicant under this chapter; and</p> <p>(b) Maintain the septic system as required by the inspection report.</p> <p>(4) Septic system inspection and maintenance records must be kept on the premises and made available to the department upon request.</p> <p><i>(This section revised per comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-1400 Private well and water system.</b> (1) If the licensed family home child care gets water from a private well on the premises, the licensee must follow the local public health authority's requirements for periodic water testing.</p> <p>(2) If there are no local public health requirements for periodic water testing, the licensee must have the water tested for coliform bacteria and nitrates by the local public health authority or qualified private testing laboratory:</p> <p>(a) Within six months prior to submitting a license application under WAC 170-296A-1250; and</p> <p>(b) Every three years after a license is issued under this chapter. The test must indicate no presence of coliform bacteria, and "safe" levels of nitrates as defined by the state department of health (DOH).</p> <p>(3) If test results indicate the presence of coliform bacteria or unsafe nitrate levels as defined by DOH, the licensee must:</p> <p>(a) Immediately stop using the well water in the child care and inform the local public health authority and the department;</p> <p>(b) Take steps required by the local public health authority to repair the well or water system; and</p> <p>(c) Test the water as often as required by the local public health authority until tests indicate no presence of coliform bacteria and safe levels of nitrates.</p> <p>(4)(a) If directed by the local public health authority or the department, the licensee must suspend child care operations until repairs are made; or</p>	<p><b>WAC 170-296A-1400 Private well and water system.</b> (1) If the licensed family home child care gets water from a private well on the premises, the licensee must follow the local health jurisdiction's requirements for periodic water testing.</p> <p>(2) If there are no local health jurisdiction requirements for periodic water testing, the licensee must have the water tested for coliform bacteria and nitrates by the local public health authority or private testing laboratory certified to analyze drinking water samples under chapter 173-50 WAC:</p> <p>(a) Within six months prior to submitting an initial license application under WAC 170-296A-1250; and</p> <p>(b) Every three years after the first initial license is issued to the license applicant under this chapter. The test results must indicate no presence of coliform bacteria, and must not exceed ten parts per million (ppm) for nitrate.</p> <p>(3) If test results indicate the presence of coliform bacteria or nitrate greater than ten ppm the licensee must:</p> <p>(a) Immediately retest the water;</p> <p>(b) If the retest indicates the presence of coliform bacteria or nitrate greater than ten ppm, immediately stop using the well water in the child care and inform the local health jurisdiction and the department;</p> <p>(c) Take steps required by the local health jurisdiction to repair the well or water system; and</p> <p>(d) Test the water as often as required by the local health jurisdiction until tests indicate no presence of coliform bacteria and nitrate levels not exceeding ten ppm.</p>

<p>(b) If the local public health authority and the department determine that child care operations may continue with an alternate source of safe water, provide the safe water as directed.</p> <p>(5) Water testing and system repair records must be kept on the premises and made available to the department upon request.</p>	<p>(4)(a) If directed by the local health jurisdiction or the department, the licensee must suspend child care operations until repairs are made; or</p> <p>(b) If the local health jurisdiction and the department determine that child care operations may continue with an alternate source of safe water, provide the alternate safe water as directed.</p> <p>(5) Water testing and system repair records must be kept on the premises and made available to the department upon request.</p>
<p><i>(This section revised per comments on the proposed rule.)</i></p>	
<p><b>WAC 170-296A-1430 Initial license.</b> An applicant who demonstrates compliance with health and safety requirements of this chapter, but may not be in full compliance with all requirements, may be issued an initial license.</p> <p>(1) An initial license is valid for six months from the date issued.</p> <p>(2) At the department's discretion, an initial license may be extended for up to three additional six month periods.</p> <p>(3) The department may limit the number of children or ages of children that the licensee may care for (capacity) under an initial license based on the licensee's child care experience.</p>	<p><b>WAC 170-296A-1430 Initial license.</b> An applicant who demonstrates compliance with health and safety requirements of this chapter, but may not be in full compliance with all requirements, may be issued an initial license.</p> <p>(1) An initial license is valid for six months from the date issued.</p> <p>(2) At the department's discretion, an initial license may be extended for up to three additional six-month periods not to exceed a total of two years.</p> <p>(3) The department may limit the number of children or ages of children that the licensee may care for (capacity) under an initial license based on the licensee's child care experience.</p> <p>(4) The department must evaluate the licensee's ability to follow all of the rules contained in this chapter during the initial license period.</p> <p>(5) The department may issue a nonexpiring full license to a licensee operating under an initial license who:</p> <p>(a) Demonstrates full compliance with the health and safety requirements of this chapter at any time during the period of initial licensure;</p> <p>(b) Demonstrates substantial compliance with other requirements of this chapter at any time; and</p> <p>(c) Meets the requirements for a nonexpiring full license as provided in WAC 170-296A-1450(1).</p> <p>(6) The department must deny a nonexpiring full license to a licensee operating under an initial license who does not demonstrate the ability to comply with all the rules contained in this chapter during the period of initial licensure.</p>
<p><i>(Subsection (4) is added for clarity consistent with RCW 43.215.280. New subsections (5) and (6) are added consistent with 2011 SB 5625.)</i></p>	
<p><b>WAC 170-296A-1450 Full license—License issued for three years.</b><sup>3</sup> A licensee operating under an initial license who demonstrates full or substantial compliance with the requirements of this chapter may be issued a full license. The full license is valid for three years from the date a first initial license was issued, unless otherwise suspended or revoked, or the department issues a probationary license.</p>	<p><b>WAC 170-296A-1450 Nonexpiring full license.</b> (1) To qualify for a nonexpiring full license, a licensee must submit the following to the department on an annual basis, at least thirty calendar days prior to the anniversary date of the license. The anniversary date is the date the licensee's first initial license is issued:</p> <p>(a) The annual nonrefundable license fee as provided in WAC 170-296A-1325(1);</p> <p>(b) A declaration to the department on a department-approved form indicating:</p> <p>(i) The licensee's intent to continue operating a licensed family home child care; or</p>

	<p>(ii) The licensee's intent to cease operation on a date certain.</p> <p>(c) A declaration on a department-approved form that the licensee is in compliance with all department licensing rules; and</p> <p>(d) Documentation of completed background check applications as determined by the department established schedule as provided in RCW 43.215.215 (2)(f). For each individual required to have a background check clearance, the licensee must verify a current background check clearance or submit a background check application at least thirty days prior to the license anniversary date.</p> <p>(2) The requirements of subsection (1) of this section must be met:</p> <p>(a) Before a licensee operating under an initial license is issued a nonexpiring full license; and</p> <p>(b) Every twelve months after issuance of a nonexpiring full license.</p> <p>(3) If the licensee fails to meet the requirements in subsection (1) of this section for continuation of a nonexpiring full license, the license expires and the licensee must submit a new application for licensure.</p> <p>(4) Nothing about the nonexpiring license process in this section may interfere with the department's established monitoring practice.</p> <p>(5) A licensee has no right to an adjudicated proceeding (hearing) to appeal the expiration, nonrenewal, or noncontinuation of a nonexpiring full license as a result of the licensee's failure to comply with the requirements of this section.</p> <p><i>(This section completely revised to be consistent with 2011 SB 5625. The bill made the three-year license renewal requirement obsolete. SB 5625 was supported by family home child care licensees and licensee advocates.)</i></p>
<p><b>WAC 170-296A-1475 Moves.</b> If the licensee moves the child care to a different residence than currently licensed, even if located on the same premises, the department must inspect the new location and must approve that it meets the requirements of this chapter. The licensee must:</p> <p>(1) Notify the department of the proposed move and the date the licensee plans to move;</p> <p>(2) Submit an application as soon as the licensee plans to move and has an identified address, but not more than ninety days before moving;</p> <p>(3) Submit the application before the move; and</p> <p>(4) Not operate more than two weeks following the move as provided by statute without a department inspection of the new location.</p>	<p><b>WAC 170-296A-1475 Moves.</b> If the licensee moves the child care to a different residence than currently licensed, even if located on the same premises, the department must inspect the new location and must approve that it meets the requirements of this chapter.</p> <p>(1) The licensee must:</p> <p>(a) Notify the department of a proposed move and the date the licensee plans to move;</p> <p>(b) Submit an application before the move, as soon as the licensee plans to move and has an identified address, but not more than ninety days before moving; and</p> <p>(c) Not operate more than two weeks following the move as provided by statute without a department inspection of the new location.</p> <p>(2) If the licensee moves and does not notify the department, or submits an application after a move, the license becomes invalid and is closed by the department effective on the date of the move. If the license is closed, the licensee must submit a new application for licensure under WAC 170-296A-1250 to reinstate the license.</p>

	<p><i>(This section was revised to clarify subsections (1) through (4). Subsection (5) incorporates and clarifies the content of withdrawn WAC 170-296A-1500.)</i></p>
<p><b>WAC 170-296A-1500 Moving without submitting application.</b> If the licensee moves, and does not notify the department and submit an application prior to the move, the license becomes invalid and is closed by the department as of the date of the move.</p>	<p><i>(WAC 170-296A-1500 is withdrawn and its content is revised and moved to WAC 170-296A-1475(5).)</i></p>
<p><b>WAC 170-296A-1525 Change in circumstances.</b> (1) The licensee must report the following changes in the licensee's circumstances to the department within twenty-four hours, including:</p> <ul style="list-style-type: none"> <li>(a) The facility;</li> <li>(b) Household members; or</li> <li>(c) The child care operation.</li> </ul> <p>(2) The licensee must report to the department within twenty-four hours after the licensee, staff, or a household member is:</p> <ul style="list-style-type: none"> <li>(a) Charged or convicted with a disqualifying crime under WAC 170-06-0120; or</li> <li>(b) Alleged to have committed, or received a finding of abuse or neglect of a child or vulnerable adult.</li> </ul>	<p><b>WAC 170-296A-1525 Change in circumstances.</b> (1) The licensee must report the following changes in the licensee's circumstances to the department within twenty-four hours, including:</p> <ul style="list-style-type: none"> <li>(a) Household members, including individuals age sixteen or older moving into or out of the home;</li> <li>(b) Fire or other structural damage to the licensed child care space or other parts of the premises; or</li> <li>(c) Prior to making structural changes to the licensed space or changing licensed space usage. An updated floor plan must be submitted and approved by the department.</li> </ul> <p>(2) Within twenty-four hours after a licensee becomes aware of a charge or conviction involving (a) the licensee; (b) a staff person; or (c) a household member, and the charge or conviction is a disqualifying crime under WAC 170-06-0120, the licensee must report to the department the fact that there is a charge or conviction involving a disqualifying crime against the licensee, staff person, or a household member.</p> <p>(3) Within twenty-four hours after a licensee becomes aware of an allegation or finding made against (a) the licensee; (b) a staff person; or (c) a household member involving the abuse or neglect of a child or vulnerable adult, the licensee must report to the department the fact that there is an allegation of abuse or neglect of a child or vulnerable adult made against the licensee, staff person or household member.</p> <p><i>(This section revised for clarity as a result of comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-1550 Renewal application.</b> The licensee who wishes to continue providing licensed child care must submit a completed renewal application packet every three years. The renewal application packet must be received by the department at least ninety days prior to the license expiration date. The packet must include all of the following required documentation:</p> <ul style="list-style-type: none"> <li>(1) Renewal application, on a form provided by the department;</li> <li>(2) New background clearance forms for the licensee, staff, household members sixteen years old and older, and anyone sixteen years old and older having unsupervised access to the children in care as described in WAC 170-06-0040;</li> <li>(3) Completed noncriminal background check application forms for each volunteer and assistant age fourteen to sixteen; and each individual age thirteen to sixteen residing on the premises as described in WAC 170-296A-1225;</li> </ul>	<p><i>(WAC 170-296A-1550 was made obsolete by 2011 SB 5625. This proposed rule has been withdrawn.)</i></p>

<p>(4) Copies of licensee and staff's current first aid and CPR certificates required under WAC 170-296A-1825;</p> <p>(5) Copy of the licensee's current state food handler permit required under WAC 170-296A-7675;</p> <p>(6) Copy of licensee's current government issued picture identification;</p> <p>(7) Current parent handbook as described in WAC 170-296A-2375;</p> <p>(8) Revised floor plan if applicable;</p> <p>(9) Septic inspection report if applicable under WAC 170-296A-1375;</p> <p>(10) Water test report if applicable under WAC 170-296A-1400; and</p> <p>(11) If applicable, any other changes to the program.</p>	
<p><b>WAC 170-296A-1575 Failure to submit a renewal application.</b> If the department does not receive a completed renewal application at least ninety days prior to the license expiration date, the license may lapse or renewal may be denied. A new license application must be submitted under WAC 170-296A-1250 if the license lapses or renewal is denied.</p>	<p><i>(WAC 170-296A-1575 was made obsolete by 2011 SB 5625. This proposed rule has been withdrawn.)</i></p>
<p><b>WAC 170-296A-1625 Exception to rule.</b> (1) The department cannot waive a requirement in state or federal law.</p> <p>(2) The department may approve an exception to a rule in this chapter.</p> <p>(3) An exception to rule request must be:</p> <p>(a) In writing on a department form;</p> <p>(b) Submitted by the licensor; and</p> <p>(c) Approved by the director or director's designee.</p> <p>(4) The department may approve an exception only for a specific purpose or child.</p> <p>(5) An exception is time limited and may not exceed the specific time approved or the expiration date of the license.</p> <p>(6) If the exception request is approved, the licensee must post notice of an approved exception with other notices that must be posted for parent and public view, unless the exception is for a specific child.</p> <p>(7) The department's denial of an exception request is not subject to appeal under chapter 170-03 WAC.</p>	<p><b>WAC 170-296A-1625 Exception to rule.</b> (1) The department cannot waive a requirement in state or federal law.</p> <p>(2) The department may approve an exception to a rule in this chapter.</p> <p>(3) An exception to rule request must be:</p> <p>(a) In writing on a department form;</p> <p>(b) Submitted by the licensor; and</p> <p>(c) Approved by the director or director's designee.</p> <p>(4) The department may approve an exception only for a specific purpose or child.</p> <p>(5) An exception is time limited and may not exceed the specific time period approved by the department.</p> <p>(6) If the exception request is approved, the licensee must post notice of the approved exception with other notices that must be posted for parent and public view, unless the exception is for a specific child.</p> <p>(7) The department's denial of an exception request is not subject to appeal under chapter 170-03 WAC.</p> <p><i>(Proposed subsection (4) was revised consistent with 2011 SB 5625.)</i></p>
<p><b>WAC 170-296A-1725 Licensee minimum education.</b> (1) As of (the effective date of this section), an applicant for a family home child care license must have a high school diploma.</p> <p>(2) If the applicant does not have a high school diploma, he or she must submit written evidence of equivalent education. As used in this section, "equivalent education" means:</p> <p>(a) Passing the general educational development (GED) tests;</p> <p>(b) Completion of twelve years of elementary and secondary education; or</p> <p>(c) Completion of forty-five credits of post secondary education.</p>	<p><b>WAC 170-296A-1725 License applicant minimum education.</b> (1) For any initial family home child care license issued on or after March 31, 2012, the applicant must have a high school diploma.</p> <p>(2) If the applicant does not have a high school diploma, he or she must submit written evidence of equivalent education. As used in this section, "equivalent education" means:</p> <p>(a) Passing the general educational development (GED) tests;</p> <p>(b) Completion of twelve years of elementary and secondary education;</p> <p>(c) Possessing a current child development associate (CDA) credential as approved through the council for professional recognition; or</p>

	<p>(d) Completion of forty-five credits of post secondary education.</p> <p><i>(Subsection (1) was revised to specify the effective date of this requirement. Subsection (2)(c) was added per comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-1735 Minimum education—Individuals licensed prior to (the effective date of this section).</b> Effective (five years from the effective date of this section), every family home child care licensee, including individuals licensed prior to (the effective date of this section), must meet the minimum education requirements of WAC 170-296A-1725.</p>	<p><b>WAC 170-296A-1735 Minimum education—Licensees licensed prior to March 31, 2012.</b> Effective March 1, 2017, every family home child care licensee, including licensees licensed prior to March 31, 2012, must meet the minimum education requirements of WAC 170-296A-1725.</p> <p><i>(This section revised to specify the effect [effective] date of this requirement.)</i></p>
<p><b>WAC 170-296A-1750 Tuberculosis.</b> The applicant, and each staff person fourteen years old and older, and each household member sixteen years old and older, must provide documentation of tuberculosis (TB) testing or treatment consisting of:</p> <p>(1) A negative Mantoux test (also known as a tuberculin skin test (TST)) or negative interferon gamma release assay (IGRA) completed within twelve months before license application or employment; or</p> <p>(2) A previous or current positive TST or positive IGRA with:</p> <p>(a) Proof of treatment or negative chest X ray;</p> <p>(b) Certification from a medical professional that the individual does not have an active TB infection; or</p> <p>(c) Medication therapy to treat TB.</p>	<p><b>WAC 170-296A-1750 Tuberculosis.</b> The applicant, and each staff person fourteen years old and older, and each household member sixteen years old and older, must provide documentation signed by a licensed health care professional of tuberculosis (TB) testing or treatment consisting of:</p> <p>(1) A negative Mantoux test (also known as a tuberculin skin test (TST)) or negative interferon gamma release assay (IGRA) completed within twelve months before license application or employment; or</p> <p>(2) A previous or current positive TST or positive IGRA with documentation within the previous twelve months:</p> <p>(a) Of a chest X ray with negative results; or</p> <p>(b) Showing that the individual is receiving or has received therapy for active or latent TB disease and is cleared to safely work in a child care setting. As used in this section, "latent TB" means when a person is infected with the TB germ but has not developed active TB disease.</p> <p><i>(This section revised as a result of comments on the proposed rule, and to clarify the requirements.)</i></p>
<p><b>WAC 170-296A-1800 Ongoing training.</b> (1) The licensee and each primary staff person must complete thirty hours of department approved ongoing training every three years. The training may include:</p> <p>(a) Licensee's or primary staff person's choice; and</p> <p>(b) Department directed training.</p> <p>(2) The licensee must complete the ongoing training requirement prior to obtaining a license renewal.</p> <p>(3) A primary staff person must complete the ongoing training requirement every three years beginning from the date of initial employment.</p>	<p><b>WAC 170-296A-1800 Ongoing training.</b> (1) The licensee and each primary staff person must complete ten hours of department approved ongoing training each year. The training may include:</p> <p>(a) Licensee's or primary staff person's choice; and</p> <p>(b) Department directed training.</p> <p>(2) The licensee must complete the ongoing training requirement each year prior to continuing a nonexpiring full license.</p> <p>(3) A primary staff person must complete the ongoing training requirement each year beginning from the date of initial employment.</p> <p>(4) A licensee who exceeds the ten-hour ongoing training requirement in any year may carry over up to five hours of ongoing training toward meeting the next year's requirement.</p> <p><i>(This section revised as a result of SB 5625 and per comments on the proposed rule.)</i></p>

<p><b>WAC 170-296A-1850 Bloodborne pathogens training.</b> The licensee and each staff person must have written proof of attending a U.S. Occupational Safety and Health Administration (OSHA) certified or comparable bloodborne pathogens training.</p>	<p><b>WAC 170-296A-1850 HIV/AIDS training—Bloodborne pathogens plan.</b> (1) The licensee, each staff, and each household member who is responsible for the care of children must complete one time the state department of health training under chapter 70.24 RCW on the prevention and transmission of HIV/AIDS (human immunodeficiency virus/acquired immunodeficiency syndrome).</p> <p>(2) The licensee must have a written bloodborne pathogens plan that includes:</p> <p>(a) A list of the staff, volunteers and household members providing child care who may be exposed to bloodborne pathogens; and</p> <p>(b) Procedures for cleaning up bodily fluid spills (blood, feces, nasal or eye discharge, saliva, urine or vomit), including the use of gloves, proper cleaning and disinfecting of contaminated items, disposal of waste materials, and handwashing.</p> <p><i>(This section revised per comments on the proposed rule - the adopted rule retains the requirement in repealed WAC 170-296-0240.)</i></p>
<p><b>WAC 170-296A-1925 Assistants and volunteers—Supervision.</b> (1) Assistants and volunteers are the individuals who help in the licensed child care but are supervised by the licensee or primary staff at all times.</p> <p>(2) The licensee or primary staff person must be within visual or auditory range of an assistant or volunteer sixteen years old or older, and must be available and able to respond.</p> <p>(3) The licensee or primary staff member must be within visual and auditory range of an assistant or volunteer fourteen years to sixteen years old, and must be available and able to respond. When the licensee or primary staff person is the only supervisor, the assistant or volunteer may be in visual or auditory range for brief periods of time while the licensee or primary staff person attends to their toileting, medical, or other personal needs on the premises.</p>	<p><b>WAC 170-296A-1925 Assistants and volunteers—Supervision.</b> (1) Assistants and volunteers are the individuals who help in the licensed child care but are supervised by the licensee or primary staff person at all times.</p> <p>(2) The licensee or primary staff person must be within visual or auditory range of an assistant or volunteer sixteen years old or older, and must be available and able to respond.</p> <p>(3) The licensee or primary staff person must be within visual and auditory range of an assistant or volunteer fourteen years to sixteen years old, and must be available and able to respond. When the licensee or primary staff person is the only supervisor, the assistant or volunteer may be in visual or auditory range for brief periods of time while the licensee or primary staff person attends to their personal needs on the premises.</p> <p><i>(This section revised per comments on the proposed rule. A revised definition of "personal needs" is moved to WAC 170-296A-0010 Definitions.)</i></p>
<p><b>WAC 170-296A-1975 Licensee/staff qualifications and requirements table.</b></p>	<p><b>WAC 170-296A-1975</b> <i>(See end of document for revisions to the table. This table is revised as a result of comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-2000 Recordkeeping—Records available to the department.</b> The licensee must:</p> <p>(1) Keep all records for a minimum of five years.</p> <p>(2) Keep all current records (from the previous twelve months) in the licensed space as defined in WAC 170-296A-0010.</p> <p>(3) Provide to the department upon request any records twelve months to five years old within two weeks of the date of the department's written request.</p>	<p><b>WAC 170-296A-2000 Recordkeeping—Records available to the department.</b> The licensee must keep all records required in this chapter for a minimum of five years:</p> <p>(1) Current records, including records from the previous twelve months, must be kept in the licensed space as defined in WAC 170-296A-0010 and be available for the department's review.</p> <p>(2) Records older than twelve months to five years old must be provided to the department within two weeks of the date of the department's written request.</p> <p><i>(This section revised for clarity and to be consistent with content recommended by the negotiated rule-making team.)</i></p>

<p><b>WAC 170-296A-2025 Child records—Confidentiality.</b> (1) The licensee must maintain records for all children in a confidential manner.</p> <p>(2) Each enrolled child's health record must be available to staff when needed for medical administration or emergencies.</p>	<p><b>WAC 170-296A-2025 Child records—Confidentiality.</b> (1) The licensee must maintain records for all children in a confidential manner.</p> <p>(2) Each enrolled child's health record must be available to staff when needed for medical administration or emergencies.</p> <p>(3) A child's parent or guardian must be allowed access to all records for their child.</p> <p><i>(This section revised per comment on the proposed rules.)</i></p>
<p><b>WAC 170-296A-2050 Child records—Contents.</b> (1) The licensee must have an enrollment record for every child who is enrolled and counted in capacity. Each child's enrollment record must include the following:</p> <ul style="list-style-type: none"> <li>(a) Beginning enrollment date;</li> <li>(b) End of enrollment date for children no longer in the licensee's care;</li> <li>(c) The child's birth date;</li> <li>(d) The child's current immunization record, on a DOH child immunization status form or comparable form completed by a health care professional;</li> <li>(e) The child's known allergies;</li> <li>(f) Names of persons authorized to pick up the child;</li> <li>(g) Emergency contacts. If no emergency contact is available, a written emergency contact plan may be accepted;</li> <li>(h) Parent or guardian information including name, phone numbers, address, and contact information for reaching the family while the child is in care;</li> <li>(i) Medical and dental care provider names and contact information, if the child has providers. If the child has no medical or dental provider, the licensee and parent or guardian must have a written plan for medical or dental injury or incident; and</li> <li>(j) Consent to seek medical care and treatment of minor child in the event of injury or illness, signed by the child's parent or guardian.</li> </ul> <p>(2) If applicable, a child's records must include:</p> <ul style="list-style-type: none"> <li>(a) Injury/incident reports (see WAC 170-296A-3575 and 170-296A-3600);</li> <li>(b) Medication authorization and administration log (see WAC 170-296A-3375);</li> <li>(c) Plan for special or individual needs of the child (see WAC 170-296A-6725); or</li> <li>(d) Documentation of use of physical restraint (see WAC 170-296A-6250).</li> </ul> <p>(3) The child's records must include signed parent permissions (see WAC 170-296A-6400) as applicable for:</p> <ul style="list-style-type: none"> <li>(a) Field trips;</li> <li>(b) Picture taking;</li> <li>(c) Transportation; and</li> <li>(d) Visiting health professionals.</li> </ul>	<p><b>WAC 170-296A-2050 Child records—Contents.</b> (1) The licensee must have an enrollment record for every child who is enrolled and counted in capacity. Each child's enrollment record must include the following:</p> <ul style="list-style-type: none"> <li>(a) Beginning enrollment date;</li> <li>(b) End of enrollment date for children no longer in the licensee's care;</li> <li>(c) The child's birth date;</li> <li>(d)(i) The child's current immunization record, on a DOH child immunization status form or comparable form completed by a health care professional; or</li> <li>(ii) A medical exemption form signed by a health care professional; or</li> <li>(iii) A religious, philosophical, or personal exemption form or similar statement signed by the child's parent or guardian.</li> <li>(e) The child's known allergies;</li> <li>(f) Names of persons authorized to pick up the child;</li> <li>(g) Emergency contacts. If no emergency contact is available, a written emergency contact plan may be accepted;</li> <li>(h) Parent or guardian information including name, phone numbers, home address, and other contact information for reaching the family while the child is in care;</li> <li>(i) Medical and dental care provider names and contact information, if the child has providers. If the child has no medical or dental provider, the licensee and parent or guardian must have a written plan for medical or dental injury or incident; and</li> <li>(j) Consent to seek medical care and treatment of minor child in the event of injury or illness, signed by the child's parent or guardian.</li> </ul> <p>(2) If applicable, a child's records must include:</p> <ul style="list-style-type: none"> <li>(a) Injury/incident reports (see WAC 170-296A-3575 and 170-296A-3600);</li> <li>(b) Medication authorization and administration log (see WAC 170-296A-3375);</li> <li>(c) Plan for special or individual needs of the child (see WAC 170-296A-0050); or</li> <li>(d) Documentation of use of physical restraint (see WAC 170-296A-6250).</li> </ul> <p>(3) The child's records must include signed parent permissions (see WAC 170-296A-6400) as applicable for:</p> <ul style="list-style-type: none"> <li>(a) Field trips;</li> <li>(b) Picture taking;</li> <li>(c) Transportation; and</li> </ul>

	<p>(d) Visiting health professionals providing services to the child at the family home child care.</p> <p><i>(Subsection (1)(d) is revised consistent with 2011 SB 5504. Subsection (3)(d) is revised per comment on the proposed rules. Other changes are for clarity.)</i></p>
<p><b>WAC 170-296A-2075 Licensee and staff records.</b> Records for the licensee and each staff person must include documentation of:</p> <ul style="list-style-type: none"> <li>(1) Current first aid and infant, child and adult CPR training certification;</li> <li>(2) Bloodborne pathogens training certification;</li> <li>(3) TB test results or documentation as required under WAC 170-296A-1750;</li> <li>(4) Current state food handler permit for the licensee, and for other staff if required under WAC 170-296A-7675(3);</li> <li>(5) Completed background check form, or noncriminal background check form if applicable under WAC 170-296A-1225, and copy of the department-issued authorization letter;</li> <li>(6) Copy of a current government issued picture identification;</li> <li>(7) Emergency contact information;</li> <li>(8) Completed application form or resume for staff when hired;</li> <li>(9) Documentation of the licensee's and primary staff only:             <ul style="list-style-type: none"> <li>(a) Twenty-hour basic STARS training; and</li> <li>(b) Ongoing training completed;</li> </ul> </li> <li>(10) Record of training provided by the licensee to staff and volunteers; and</li> <li>(11) Resume for the licensee only.</li> </ul>	<p><b>WAC 170-296A-2075 Licensee and staff records.</b> Records on file for the licensee and each staff person must include documentation of:</p> <ul style="list-style-type: none"> <li>(1) Current first aid and infant, child and adult CPR training certification;</li> <li>(2) HIV/AIDS training certification;</li> <li>(3) TB test results or documentation as required under WAC 170-296A-1750;</li> <li>(4) Current state food handler permit for the licensee, and for other staff if required under WAC 170-296A-7675(3);</li> <li>(5) Completed background check form, or noncriminal background check form if applicable under WAC 170-296A-1225, and copy of the department-issued authorization;</li> <li>(6) Copy of a current government issued picture identification;</li> <li>(7) Emergency contact information;</li> <li>(8) Completed application form or resume for staff when hired;</li> <li>(9) Documentation for the licensee's and primary staff person only of:             <ul style="list-style-type: none"> <li>(a) Basic twenty hour STARS training;</li> <li>(b) Ongoing training completed; and</li> <li>(c) Registration in MERIT.</li> </ul> </li> <li>(10) Record of training provided by the licensee to staff and volunteers; and</li> <li>(11) Resume for the licensee only.</li> </ul> <p><i>(Subsection (3) is revised per comment on the proposed rule and to be consistent with current law. Subsection (5) is revised consistent with changes to WAC 170-296A-1200.)</i></p>
<p><b>WAC 170-296A-2100 Required records for household members.</b> The licensee must keep the following records for household members:</p> <ul style="list-style-type: none"> <li>(1) Completed background check form and the department-issued clearance letter under chapter 170-06 WAC for each individual sixteen years old and older;</li> <li>(2) The department-issued clearance letter for household members age thirteen to sixteen years old and any assistant or volunteer fourteen to sixteen years old under WAC 170-296A-1225; and</li> <li>(3) TB test results under WAC 170-296A-1750 for:             <ul style="list-style-type: none"> <li>(a) Household members sixteen years old or older; and</li> <li>(b) Any household member fourteen to sixteen years old who is an assistant or volunteer.</li> </ul> </li> </ul>	<p><b>WAC 170-296A-2100 Required records for household members.</b> The licensee must keep the following records for household members:</p> <ul style="list-style-type: none"> <li>(1) Completed background check form and the department-issued clearance under chapter 170-06 WAC for each individual sixteen years old and older;</li> <li>(2) The department-issued clearance for household members age thirteen to sixteen years old under WAC 170-296A-1225; and</li> <li>(3) TB test results or documentation under WAC 170-296A-1750 for:             <ul style="list-style-type: none"> <li>(a) Household members sixteen years old or older; and</li> <li>(b) Any household member fourteen to sixteen years old who is an assistant or volunteer.</li> </ul> </li> </ul> <p><i>(This section revised for clarity, and to be consistent with changes to WAC 170-296A-1200 implementing HB 1903.)</i></p>

<p><b>WAC 170-296A-2150 Facility records.</b> The licensee must keep the following facility records:</p> <ul style="list-style-type: none"> <li>(1) Monthly fire inspections required under WAC 170-296A-3050;</li> <li>(2) Fire extinguisher maintenance or receipts indicating annual purchase of new fire extinguisher(s), under WAC 170-296A-3000;</li> <li>(3) Septic system inspection and maintenance, if required under WAC 170-296A-1375;</li> <li>(4) Water testing results if required under WAC 170-296A-1400;</li> <li>(5) Installation or assembly instructions for play equipment under WAC 170-296A-5000(3);</li> <li>(6) Emergency preparedness evacuation drills under WAC 170-296A-2925;</li> <li>(7) Documents from any department visits, inspections or monitoring checklists; and</li> <li>(8) As applicable, compliance agreements or safety plans between the licensee and the department.</li> </ul>	<p><b>WAC 170-296A-2150 Facility records.</b> The licensee must keep the following facility records:</p> <ul style="list-style-type: none"> <li>(1) Monthly fire inspections required under WAC 170-296A-3050;</li> <li>(2) Fire extinguisher annual maintenance or receipts indicating annual purchase of new fire extinguisher(s), under WAC 170-296A-3000;</li> <li>(3) Septic system inspection and maintenance, if required under WAC 170-296A-1375;</li> <li>(4) Water testing results, if required under WAC 170-296A-1400;</li> <li>(5) Installation or assembly instructions for new play equipment under WAC 170-296A-5000(3). This requirement does not apply to used or "hand-made" play equipment built or installed by the licensee or homeowner, or to play equipment purchased prior to March 31, 2012;</li> <li>(6) Emergency preparedness evacuation drills under WAC 170-296A-2925;</li> <li>(7) Documents from any department visits, inspections or monitoring checklists; and</li> <li>(8) As applicable, compliance agreements or safety plans between the licensee and the department.</li> </ul>
<p><i>(This section revised per comments on the proposed rule.)</i></p>	
<p><b>WAC 170-296A-2175 Materials that must be posted.</b> The following must be posted in the licensed space during operating hours and clearly visible to the parents, guardians and staff:</p> <ul style="list-style-type: none"> <li>(1) A statement of the licensee's philosophy of child development;</li> <li>(2) Emergency information:             <ul style="list-style-type: none"> <li>(a) 911 or emergency services number;</li> <li>(b) Name of the licensee, telephone number(s), address, and directions from the nearest major arterial street or nearest cross street to the licensed home;</li> <li>(c) Washington poison center toll-free phone number; and</li> <li>(d) DSHS children's administration intake (child protective services) toll-free telephone number.</li> </ul> </li> <li>(3) Emergency preparedness plan and drills with the following information:             <ul style="list-style-type: none"> <li>(a) Dates and times of previous drills;</li> <li>(b) Procedure for sounding alarm;</li> <li>(c) Monthly smoke detector check;</li> <li>(d) Annual fire extinguisher check;</li> <li>(e) Floor plan with escape routes and emergency exits identified;</li> <li>(f) Emergency medical information or explanation of where that information can be found; and</li> <li>(g) Emergency contact information for the licensee;</li> </ul> </li> <li>(4) Child care licensing information:             <ul style="list-style-type: none"> <li>(a) The current department-issued child care license;</li> <li>(b) If applicable, a copy of current department-approved exceptions to the rules;</li> </ul> </li> <li>(5) If applicable, notice of any current or pending department enforcement action. Notice must be posted:</li> </ul>	<p><b>WAC 170-296A-2175 Materials that must be posted.</b> The following must be posted in the licensed space during operating hours and clearly visible to the parents, guardians and staff:</p> <ul style="list-style-type: none"> <li>(1) A statement of the licensee's philosophy of child development;</li> <li>(2) Emergency information, including:             <ul style="list-style-type: none"> <li>(a) 911 or emergency services number;</li> <li>(b) Name of the licensee, telephone number(s), emergency contact information, address, and directions from the nearest major arterial street or nearest cross street to the licensed home;</li> <li>(c) Washington poison center toll-free phone number; and</li> <li>(d) DSHS children's administration intake (child protective services) toll-free telephone number;</li> </ul> </li> <li>(3) Emergency preparedness plan and drills with the following information:             <ul style="list-style-type: none"> <li>(a) Dates and times of previous drills;</li> <li>(b) Procedure for sounding alarm;</li> <li>(c) Monthly smoke detector check, and carbon monoxide detector check if carbon monoxide detectors are required under WAC 170-296A-2950;</li> <li>(d) Floor plan with escape routes and emergency exits identified; and</li> <li>(e) Emergency medical information or explanation of where that information can be found;</li> </ul> </li> <li>(4) Child care licensing information including:             <ul style="list-style-type: none"> <li>(a) The current department-issued child care license;</li> <li>(b) If applicable, a copy of current department-approved exceptions to the rules;</li> </ul> </li> </ul>

<p>(a) Immediately upon receipt; and                  (b) For at least two weeks or until the violation causing the enforcement action is corrected, whichever is longer.                  (6) A notice stating that additional information about the child care license is available upon request to the licensee. This information includes:                  (a) Copies of department monitoring checklists;                  (b) If applicable, any facility licensing compliance agreements (FLCA);                  (c) If applicable, copy of any enforcement action taken by the department for the previous three years; and                  (d) If applicable, notice that the licensee does not have liability insurance coverage, or that the coverage has lapsed or been terminated. See RCW 43.215.535;                  (7) A statement on how the licensee will communicate with the parent or guardian on their child's development and parenting support; and                  (8) A typical daily schedule as described in WAC 170-296A-6550.</p>	<p>(5) If applicable, notice of any current or pending department enforcement action. Notice must be posted:                  (a) Immediately upon receipt; and                  (b) For at least two weeks or until the violation causing the enforcement action is corrected, whichever is longer;                  (6) A notice stating that additional information about the child care license is available upon request to the licensee. This information includes:                  (a) Copies of department monitoring checklists;                  (b) If applicable, any facility licensing compliance agreements (FLCA);                  (c) If applicable, copy of any enforcement action taken by the department for the previous three years; and                  (d) If applicable, notice that the licensee does not have liability insurance coverage, or that the coverage has lapsed or been terminated. See RCW 43.215.535;                  (7) A statement on how the licensee will communicate with the parent or guardian on their child's development and parenting support; and                  (8) A typical daily schedule as described in WAC 170-296A-6550.</p> <p><i>(Subsection (3)(c) is revised per comments on the proposed rule. Other changes are for clarity.)</i></p>
<p><b>WAC 170-296A-2200 Reporting incidents to 911 (emergency services).</b> The licensee or primary staff person must report to 911 emergency services the following:                  (1) A child missing from care, as soon as the licensee or staff realizes the child is missing;                  (2) Medical emergency (injury or illness) that requires immediate professional medical care;                  (3) Incorrect administration of any medication, except nonprescription topical creams or ointments;                  (4) Overdose of any oral, inhaled or injected medication;                  (5) Fire and other emergencies;                  (6) Poisoning or suspected poisoning; or                  (7) Other incidents requiring emergency response.</p>	<p><b>WAC 170-296A-2200 Reporting incidents to 911 (emergency services).</b> The licensee or primary staff person must call 911 and report to emergency services the following:                  (1) A child missing from care, as soon as the licensee or staff realizes the child is missing;                  (2) Medical emergency (injury or illness) that requires immediate professional medical care;                  (3) Giving a child too much of any oral, inhaled or injected medication, or a child taking or receiving another child's medication;                  (4) Fire and other emergencies;                  (5) Poisoning or suspected poisoning; or                  (6) Other incidents requiring emergency response.</p> <p><i>(Subsection (3) is revised per comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-2225 Reporting incidents to Washington poison center.</b> The licensee or primary staff person must report to the Washington poison center, after calling 911, and follow any instructions of the poison center:                  (1) Any poisoning or suspected poisoning;                  (2) Incorrect administration of any medication, except nonprescription topical creams or ointments;                  (3) Overdose of any oral, inhaled or injected medication.</p>	<p><b>WAC 170-296A-2225 Reporting incidents to Washington poison center.</b> The licensee or primary staff person must report to the Washington poison center, after calling 911, and follow any instructions of the poison center:                  (1) Any poisoning or suspected poisoning;                  (2) A child receiving too much of any oral, inhaled or injected medication; or                  (3) A child taking or receiving another child's medication.</p> <p><i>(Subsections (2) and (3) are revised per comments on the proposed rules.)</i></p>

<p><b>WAC 170-296A-2250 Reporting incidents to a child's parent or guardian and the department.</b> The licensee must report to a child's parent or guardian and the department:</p> <ul style="list-style-type: none"> <li>(1) Immediately:             <ul style="list-style-type: none"> <li>(a) Any incident reported under WAC 170-296A-2200, after calling 911;</li> <li>(b) Any incident reported under WAC 170-296A-2225, after calling 911 and Washington poison center;</li> <li>(c) A child's demonstrated acts, gestures or behaviors that may cause serious intentional harm to self, others or property;</li> </ul> </li> <li>or</li> <li>(d) Use of physical restraint with a child.</li> <li>(2) Within twenty-four hours:             <ul style="list-style-type: none"> <li>(a) Injury or other health concerns to a child that does not require professional medical treatment (report to parent only);</li> <li>(b) Change in child care staff, including serious illness or incapacity of the licensee that may impact child care staffing;</li> <li>(c) Additions to the household of persons sixteen years old or older;</li> <li>(d) The licensee's plans to move, including the date of the move;</li> <li>(e) Change in the licensee's phone number or e-mail;</li> <li>(f) Child's exposure to a reportable communicable disease from the list in WAC 246-110-010(4); or</li> <li>(g) Updates to the parent handbook.</li> </ul> </li> </ul>	<p><b>WAC 170-296A-2250 Reporting incidents to a child's parent or guardian and the department.</b> The licensee must report to a child's parent or guardian and the department:</p> <ul style="list-style-type: none"> <li>(1) Immediately:             <ul style="list-style-type: none"> <li>(a) Any incident reported under WAC 170-296A-2200, after calling 911;</li> <li>(b) Any incident reported under WAC 170-296A-2225, after calling 911 and Washington poison center;</li> <li>(c) A child's demonstrated acts, gestures or behaviors that may cause serious intentional harm to self, others or property;</li> </ul> </li> <li>or</li> <li>(d) Use of physical restraint with a child.</li> <li>(2) Within twenty-four hours:             <ul style="list-style-type: none"> <li>(a) Their child's injury or other health concern that does not require professional medical treatment (report to parent only);</li> <li>(b) Change in child care staff, including serious illness or incapacity of the licensee that may impact child care staffing;</li> <li>(c) Additions to the household of persons sixteen years old or older;</li> <li>(d) Change in the licensee's phone number or e-mail; or</li> <li>(e) Their child's exposure to a communicable disease from the list in WAC 170-296A-3210; and</li> </ul> </li> <li>(3) The licensee's plans to move, as soon as the licensee plans to move. See WAC 170-296A-1475.</li> </ul> <p><i>(This section is revised for clarity and to be consistent with related changes to WAC 170-296A-3210.)</i></p>
<p><b>WAC 170-296A-2275 Other incident reporting to the department.</b> (1) The licensee must report to the department any incidents or changes as required under WAC 170-296A-2200, or 170-296A-2225, 170-296A-2250, 170-296A-2300, and 170-296A-2325.</p> <p>(2) The licensee must report to the department within twenty-four hours:</p> <ul style="list-style-type: none"> <li>(a) Serious illness or incapacity of the licensee, staff or member of household, if the licensee:             <ul style="list-style-type: none"> <li>(i) Has a reasonable expectation that the illness or incapacity will affect the licensee's ability to provide care; and</li> <li>(ii) Is going to continue to provide care.</li> </ul> </li> <li>(b) For the licensee, staff, volunteer or household member age fourteen or older, any:             <ul style="list-style-type: none"> <li>(i) Charge or conviction for a crime listed in WAC 170-06-0120;</li> <li>(ii) Allegation or finding of child abuse or neglect under chapter 26.44 or 74.15 RCW;</li> <li>(iii) Allegation or finding of abuse or neglect of a vulnerable adult under chapter 74.34 RCW; or</li> <li>(iv) Other charge or conviction for a crime that could be reasonably related to the individual's suitability to provide care for or have unsupervised access to children in care;</li> </ul> </li> <li>(c) Fire that results in damage to the license space or other parts of the premises;</li> <li>(d) Structural damage to the licensed child care space or other parts of the premises;</li> </ul>	<p><b>WAC 170-296A-2275 Other incident reporting to the department.</b> (1) The licensee must report to the department any incidents or changes as required under WAC 170-296A-2200, or 170-296A-2225, 170-296A-2250, 170-296A-2300, and 170-296A-2325.</p> <p>(2) The licensee or another person must report to the department within twenty-four hours:</p> <ul style="list-style-type: none"> <li>(a) The licensee's emergency absence, serious illness or incapacity of the licensee, staff or member of household, if the licensee:             <ul style="list-style-type: none"> <li>(i) Has a reasonable expectation that the absence, illness, or incapacity will affect the licensee's ability to provide care; and</li> <li>(ii) Is going to continue to provide care.</li> </ul> </li> <li>(b) For the licensee, staff, volunteer or household member age fourteen or older, any:             <ul style="list-style-type: none"> <li>(i) Pending charge or conviction for a crime listed in WAC 170-06-0120;</li> <li>(ii) Allegation or finding of child abuse or neglect under chapter 26.44 RCW or chapter 388-15 WAC;</li> <li>(iii) Allegation or finding of abuse or neglect of a vulnerable adult under chapter 74.34 RCW; or</li> <li>(iv) Pending charge, conviction, or negative action from outside Washington state consistent with or the same crime listed in WAC 170-06-0120, or "negative action" as defined in RCW 43.215.010.</li> </ul> </li> </ul>

<p>(e) Prior to making structural changes to the licensed space; or (f) Change in the required licensee policies.</p>	<p><i>(This section is revised per comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-2300 Reporting to DSHS children's administration intake.</b> The licensee and each staff person are required to report the following to DSHS children's administration intake-child protective services (CPS) or law enforcement as required under RCW 26.44.030, and to the licensur: (1) Any suspected child abuse or neglect; (2) A child's disclosure of sexual or physical abuse; (3) Sexual contact between two or more children; (4) A child's attempted suicide or talk about attempting suicide; or (5) Death of a child while in the licensee's care or from injury or illness that may have occurred while the child was in the licensee's care.</p>	<p><b>WAC 170-296A-2300 Reporting to DSHS children's administration intake.</b> (1) The licensee and each staff person are required to report the following to DSHS children's administration intake-child protective services (CPS) or law enforcement within forty-eight hours as required under RCW 26.44.030, and to the department: (a) Any suspected child abuse or neglect; (b) A child's disclosure of sexual or physical abuse; (c) Inappropriate sexual contact between two or more children; or (d) A child's attempted suicide or talk about attempting suicide. (2) The licensee or primary staff person must immediately report to CPS or law enforcement and the department the death of a child while in the licensee's care or from injury or illness that may have occurred while the child was in the licensee's care.</p> <p><i>(This section is revised for clarity.)</i></p>
<p><b>WAC 170-296A-2325 Reporting notifiable condition to health department.</b> The licensee must report a child diagnosed with a notifiable condition as defined in chapter 246-105 WAC to the local public health jurisdiction or the state department of health. Contact the local public health jurisdiction for the list of notifiable conditions and reporting requirements.</p>	<p><b>WAC 170-296A-2325 Reporting notifiable condition to health department.</b> The licensee must report a child in care diagnosed with a notifiable condition as defined in chapter 246-101 WAC to the local health jurisdiction or the state department of health. Contact the local health jurisdiction for the list of notifiable conditions and reporting requirements.</p> <p><i>(Subsection (3) is revised per comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-2350 Policies.</b> (1) The licensee must have written policies for: (a) Parents and guardians, also known as the parent handbook; (b) Program and staff. (2) The licensee must submit all policies to the department.</p>	<p><b>WAC 170-296A-2350 Policies.</b> (1) The licensee must have written policies for: (a) Parents and guardians, also known as the parent handbook; (b) Program and staff. (2) The licensee must submit all policies and revisions of policies to the department.</p> <p><i>(This section is revised per comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-2375 Parent/guardian policies (handbook).</b> The licensee's written parent/guardian policies (handbook) must include: (1) Hours of operation including closures and vacations; (2) Information on how children's records are kept current, including immunization records; (3) Enrollment and disenrollment process; (4) Access to children during child care hours; (5) Program philosophy (the licensee's view of child learning and development); (6) Typical daily schedule, including food and rest periods; (7) Communication plan with parents/guardians including:</p>	<p><b>WAC 170-296A-2375 Parent/guardian policies (handbook).</b> The licensee's written parent/guardian policies (handbook) must include: (1) Hours of operation including closures and vacations; (2) Information on how children's records are kept current, including immunization records; (3) Enrollment and disenrollment process; (4) Parent/guardian access to their child during child care hours; (5) Program philosophy (the licensee's view of child learning and development); (6) Typical daily schedule, including food and rest periods. See WAC 170-296A-6550;</p>

<p>(a) How the parent or guardian may contact the licensee with questions or concerns; and</p> <p>(b) How the licensee will communicate the child's progress with the parent or guardian at least twice a year;</p> <p>(c) How the licensee will support parents regarding parenting;</p> <p>(8) Written plan for any child's specific needs if applicable;</p> <p>(9) Fee and payment plans;</p> <p>(10) Religious activities and how families' specific religious preferences are addressed;</p> <p>(11) How holidays are recognized in the program;</p> <p>(12) Confidentiality policy including when information may be shared. See WAC 170-296A-2025;</p> <p>(13) Items that the licensee requires the parent or guardian to provide;</p> <p>(14) Guidance and discipline policy. See WAC 170-296A-6050;</p> <p>(15) If applicable, infant/toddler care including SIDS prevention, feeding, diapering and toilet training;</p> <p>(16) Reporting suspected child abuse or neglect;</p> <p>(17) Food service practices;</p> <p>(18) Off-site field trips requirements. See WAC 170-296A-2450;</p> <p>(19) Transportation requirements. See WAC 170-296A-6475;</p> <p>(20) Staffing plan;</p> <p>(21) Access to licensee's and staff training and professional development records;</p> <p>(22) Pet policies. See WAC 170-296A-4800;</p> <p>(23) Health care and emergency preparedness policies including:</p> <p>(a) Emergency preparedness and evacuation plans. See WAC 170-296A-2825;</p> <p>(b) Injury or medical emergency response and reporting;</p> <p>(c) Medication management including storage and dispensing. See WAC 170-296A-3325;</p> <p>(d) Exclusion/removal policy of ill persons. See WAC 170-296A-3225;</p> <p>(e) Reporting of notifiable conditions to public health;</p> <p>(f) Immunization tracking. See WAC 170-296A-3250;</p> <p>and</p> <p>(g) Infection control methods, including:</p> <p>(i) Handwashing (WAC 170-296A-3625) and, if applicable, hand sanitizers (WAC 170-296A-3650); and</p> <p>(ii) Cleaning and sanitizing procedures including the sanitizing method and products used. See WAC 170-296A-3850 through 170-296A-3925;</p> <p>(24) Napping/sleeping;</p> <p>(25) No smoking policy. See WAC 170-296A-4050;</p> <p>(26) Drug and alcohol policy. See WAC 170-296A-4025;</p> <p>(27) If applicable, guns and weapons storage. See WAC 170-296A-4725; and</p> <p>(28) If applicable, overnight care requirements. See WAC 170-296A-6850.</p>	<p>(7) Communication plan with parents/guardians including:</p> <p>(a) How the parent or guardian may contact the licensee with questions or concerns; and</p> <p>(b) How the licensee will communicate the child's progress with the parent or guardian at least twice a year;</p> <p>(c) How the licensee will support parents regarding parenting;</p> <p>(8) Written plan for any child's specific needs if applicable. See WAC 170-296A-0050;</p> <p>(9) Fees and payment plans;</p> <p>(10) Religious activities and how the parent's or guardian's specific religious preferences are addressed;</p> <p>(11) How holidays are recognized in the program;</p> <p>(12) Confidentiality policy including when information may be shared. See WAC 170-296A-2025;</p> <p>(13) Items that the licensee requires the parent or guardian to provide;</p> <p>(14) Guidance and discipline policy. See WAC 170-296A-6050;</p> <p>(15) If applicable, infant/toddler care including SIDS prevention, feeding, diapering and toilet training;</p> <p>(16) Reporting suspected child abuse or neglect. See WAC 170-296A-6275;</p> <p>(17) Food service practices. See WAC 170-296A-7125 through 170-296A-7200, and 170-296A-7500 through 170-296A-7650;</p> <p>(18) Off-site field trips requirements. See WAC 170-296A-2450;</p> <p>(19) Transportation requirements. See WAC 170-296A-6475;</p> <p>(20) Staffing plan. See WAC 170-296A-5600 and 170-296A-5775;</p> <p>(21) Access to licensee's and staff training and professional development records;</p> <p>(22) Pet policies. See WAC 170-296A-4800;</p> <p>(23) Health care and emergency preparedness policies including:</p> <p>(a) Emergency preparedness and evacuation plans. See WAC 170-296A-2825;</p> <p>(b) Injury or medical emergency response and reporting. See WAC 170-296A-3575, 170-296A-3600, and 170-296A-2275;</p> <p>(c) Medication management including storage and giving medications. See WAC 170-296A-3325;</p> <p>(d) Exclusion/removal policy of ill persons. See WAC 170-296A-3210;</p> <p>(e) Reporting of notifiable conditions to public health;</p> <p>(f) Immunization tracking. See WAC 170-296A-3250;</p> <p>and</p> <p>(g) Infection control methods, including:</p> <p>(i) Handwashing (WAC 170-296A-3625) and, if applicable, hand sanitizers (WAC 170-296A-3650); and</p> <p>(ii) Cleaning and sanitizing, or cleaning and disinfecting</p>
--	--

	<p>procedures including the methods and products used. See WAC 170-296A-3850 through 170-296A-3925 and definitions in WAC 170-296A-0010;</p> <ul style="list-style-type: none"> <li>(24) Napping/sleeping;</li> <li>(25) No smoking policy consistent with WAC 170-296A-4050;</li> <li>(26) Drug and alcohol policy consistent with WAC 170-296A-4025;</li> <li>(27) If applicable, guns and weapons storage. See WAC 170-296A-4725; and</li> <li>(28) If applicable, overnight care requirements. See WAC 170-296A-6850.</li> </ul> <p><i>(This section revised per comments on the proposed rules, for clarity, and to update cross references related to changes in other sections.)</i></p>
<p><b>WAC 170-296A-2400 Program/operations policies.</b> The licensee must have written program/operations policies that include:</p> <ul style="list-style-type: none"> <li>(1) All information in the parent/guardian handbook under WAC 170-296A-2375;</li> <li>(2) Plans to keep required program/staff records current;</li> <li>(3) Child supervision requirements;</li> <li>(4) Mandatory reporting requirement of suspected child abuse and neglect and other incidents under WAC 170-296A-2300;</li> <li>(5) Plan for off-site field trips;</li> <li>(6) Plan for transporting children;</li> <li>(7) Plans for restricting children's access to unlicensed space;</li> <li>(8) Medical emergency, fire, disaster and evacuation responsibilities;</li> <li>(9) Guidance and discipline responsibilities;</li> <li>(10) Overnight care, if applicable; and</li> <li>(11) Plan for staff (when applicable) to include:             <ul style="list-style-type: none"> <li>(a) Staff responsibilities;</li> <li>(b) Staff training;</li> <li>(c) Staff expectations; and</li> <li>(d) Professional development.</li> </ul> </li> </ul>	<p><b>WAC 170-296A-2400 Program/operations policies.</b> In addition to parent policies and procedures required under WAC 170-296A-2375, the licensee must have written program/operations policies that include:</p> <ul style="list-style-type: none"> <li>(1) Plans to keep required program/staff records current;</li> <li>(2) Child supervision requirements;</li> <li>(3) Mandatory reporting requirement of suspected child abuse and neglect and other incidents under WAC 170-296A-2300;</li> <li>(4) Plan for off-site field trips;</li> <li>(5) Plan for transporting children;</li> <li>(6) Plans for preventing children's access to unlicensed space;</li> <li>(7) Medical emergency, fire, disaster and evacuation responsibilities;</li> <li>(8) Guidance and discipline responsibilities;</li> <li>(9) Overnight care, if applicable; and</li> <li>(10) Plan for staff (when applicable) to include:             <ul style="list-style-type: none"> <li>(a) Staff responsibilities;</li> <li>(b) Staff training;</li> <li>(c) Staff expectations; and</li> <li>(d) Professional development.</li> </ul> </li> </ul> <p><i>(This section revised per comments on the proposed rules and for clarity.)</i></p>
<p><b>WAC 170-296A-2425 Staff policies.</b> If the licensee hires staff or uses volunteers, the licensee must have written staff policies and provide training on the policies to all staff and volunteers. Staff policies must include:</p> <ul style="list-style-type: none"> <li>(1) All the information in the parent/guardian handbook under WAC 170-296A-2375, except fees;</li> <li>(2) Plan for keeping staff records current including:             <ul style="list-style-type: none"> <li>(a) Completed background check forms and department clearance letters;</li> </ul> </li> </ul>	<p><b>WAC 170-296A-2425 Staff policies.</b> If the licensee hires staff or uses volunteers, the licensee must have written staff policies and provide training on the policies to all staff and volunteers. Staff policies must include:</p> <ul style="list-style-type: none"> <li>(1) All the information in the parent/guardian handbook under WAC 170-296A-2375, except fees;</li> <li>(2) Plan for keeping staff records current including:             <ul style="list-style-type: none"> <li>(a) Completed background check forms and department clearances;</li> </ul> </li> </ul>

<p>(b) First aid and CPR certification;                  (c) TB test results;                  (d) Required training and professional development for primary staff persons; and                  (e) Training that the licensee must provide to staff;                  (3) Job description;                  (4) Staff responsibilities for:                  (a) Child supervision requirements;                  (b) Guidance/discipline techniques;                  (c) Food service practices;                  (d) Off-site field trips;                  (e) Transporting children;                  (f) Restricting children's access to unlicensed space;                  (g) Health, safety and sanitization procedures;                  (h) Medical emergencies, fire, disaster and evacuations;                  (i) Mandatory reporting of suspected child abuse and neglect; and                  (j) Overnight care, if applicable.</p>	<p>(b) First aid and CPR certification;                  (c) TB test results;                  (d) Required training and professional development for primary staff persons; and                  (e) Training that the licensee must provide to staff;                  (3) Job description;                  (4) Staff responsibilities for:                  (a) Child supervision requirements;                  (b) Guidance/discipline techniques;                  (c) Food service practices;                  (d) Off-site field trips;                  (e) Transporting children;                  (f) Preventing children's access to unlicensed space;                  (g) Health, safety and sanitization procedures;                  (h) Medical emergencies, fire, disaster and evacuations;                  (i) Mandatory reporting of suspected child abuse and neglect;                  (j) Overnight care, if applicable; and                  (k) Staff responsibilities if the licensee is absent from the child care operation.                  (5) The licensee must keep documentation of all staff training on policies.</p>
<p><b>WAC 170-296A-2525 Building codes.</b> A single-family residence used for licensed family home child care is considered a group R (residential), division 3 occupancy structure by the state building code.</p>	<p><i>(This section revised for clarity and to be consistent with changes in other revised sections.)</i></p> <p><b>WAC 170-296A-2525 Building codes.</b> A single-family residence used for licensed family home child care is considered a group R (residential), division 3 occupancy structure by the state building code adoption of the international residential code.</p> <p><i>(This section is revised for clarity.)</i></p>
<p><b>WAC 170-296A-2575 Flammable materials.</b> (1) The licensee must not allow combustible materials (including, but not limited to, lint, grease, oils, or solvent soaked rags) or rubbish to accumulate; those items must be removed from the building or stored in closed metal containers.                  (2) The licensee must store items labeled "flammable," in areas that are inaccessible to children and away from exits.</p>	<p><b>WAC 170-296A-2575 Combustible and flammable materials.</b> (1) The licensee must not allow combustible materials (including, but not limited to, lint, or rags soaked in grease, oils, or solvent) to accumulate; those items must be removed from the building or stored in a closed metal container.                  (2) The licensee must store items labeled "flammable," in areas that are inaccessible to children and away from exits.</p> <p><i>(This section is revised due to comments on the proposed rule and to clarify its requirements.)</i></p>
<p><b>WAC 170-296A-2600 Furnaces.</b> (1) The licensee must keep paper, rubbish, or combustible materials at least three feet away from any furnace.                  (2) The furnace must be inaccessible to the children, isolated, enclosed or protected.</p>	<p><b>WAC 170-296A-2600 Furnaces and other heating devices.</b> (1) The licensee must keep paper, rubbish, or combustible materials at least three feet away from any furnace, fireplace, or other heating device.                  (2) A furnace must be inaccessible to the children, isolated, enclosed or protected.                  (3) Any appliance or heating device that has a hot surface capable of burning a child must be made inaccessible to the children in care during operating hours when the appliance or device is in use or is still hot after use.</p> <p><i>(This section revised per comments on the proposed rule.)</i></p>

<p><b>WAC 170-296A-2650 Fireplaces, wood stoves, similar heating devices.</b> (1) If the home has a fireplace, wood stove or similar heating device that will be in use, the licensee must:</p> <p>(a) Have the device inspected annually by a qualified fireplace, wood stove or chimney specialist; and</p> <p>(b) Maintain the heating device as required by the inspection.</p> <p>(2) The fireplace, wood stove or similar heating device must be inaccessible to the children during operating hours.</p> <p>(3) The licensee may provide a written statement if the fireplace, wood stove or similar heating device will not be used at any time.</p> <p><b>WAC 170-296A-2700 Emergency flashlight.</b> The licensee must have a working flashlight available for use as an emergency light source.</p>	<p><b>WAC 170-296A-2650 Inspection of fireplaces, wood stoves, or similar wood-burning heating devices.</b> Any chimney, fireplace, wood stove or similar wood-burning device in use in the licensed home must be inspected yearly unless the licensee provides a written statement that the chimney, fireplace, wood stove or similar wood-burning device will not be used at any time.</p> <p><i>(This section is revised per comments on the proposed rules.)</i></p> <p><b>WAC 170-296A-2700 Emergency flashlight.</b> The licensee must have a working flashlight available for use as an emergency light source and extra batteries if the flashlight is powered by batteries.</p> <p><i>(This section is revised for clarity.)</i></p>
<p><b>WAC 170-296A-2725 Portable heaters and generators.</b> The licensee must not use or allow the use of portable heaters or fuel powered generators in any area inside of the family home child care or building during operating hours.</p>	<p><b>WAC 170-296A-2725 Portable heaters and generators.</b> (1) The licensee must not use or allow the use of portable heaters or fuel powered generators in any area inside of the family home child care or building during operating hours.</p> <p>(2) When a portable fuel-powered generator is in use:</p> <p>(a) The generator must be placed at least fifteen feet from buildings, windows, doors, ventilation intakes, or other places where exhaust fumes may be vented into the home; and</p> <p>(b) Appliances must be plugged directly into the generator or to a heavy duty outdoor-rated extension cord that is plugged into the generator.</p> <p><i>(This section is revised per comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-2775 Telephone.</b> (1) The licensee must have a working telephone in the licensed space.</p> <p>(2) The licensee must have a landline telephone readily available that does not require electricity. Voice over internet telephone or cable telephone service are not acceptable substitutes for a landline telephone.</p>	<p><b>WAC 170-296A-2775 Telephone.</b> (1) The licensee must have a working telephone in the licensed space.</p> <p>(2) The licensee must have a telephone readily available with sufficient backup power to function for at least five hours in the event of an electrical power outage.</p> <p><i>(This section is revised per comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-2825 Fire evacuation plan.</b> (1) The licensee must develop a written fire evacuation plan and post it at a place that is clearly visible to the staff, parents and guardians. The evacuation plan must be evaluated annually and updated as needed.</p> <p>(2) The evacuation plan must include:</p> <p>(a) An evacuation floor plan that identifies emergency exit pathways, doors, and windows;</p> <p>(b) Method(s) to be used for sounding an alarm;</p> <p>(c)(i) Calling 911; and</p> <p>(ii) Actions to be taken by the person discovering the fire;</p> <p>(d) How the licensee and staff will evacuate all children, especially children who cannot walk;</p> <p>(e) How the licensee and staff will account for all of the children in attendance;</p> <p>(f) Where children and staff will gather away from the building pending arrival of the fire department or emergency response; and</p>	<p><b>WAC 170-296A-2825 Fire evacuation plan.</b> (1) If there is a fire in the home during child care operating hours, the licensee's and staff's first responsibility is to evacuate the children in care to a safe place outside the home.</p> <p>(2) The licensee must develop a written fire evacuation plan and post it at a place that is clearly visible to the staff, parents and guardians. The evacuation plan must be evaluated annually and updated as needed.</p> <p>(3) The evacuation plan must include:</p> <p>(a) An evacuation floor plan that identifies emergency exit pathways, emergency exit doors, and emergency exit windows;</p> <p>(b) Method(s) to be used for sounding an alarm;</p> <p>(c) Actions to be taken by the person discovering the fire;</p> <p>(d) How the licensee and staff will evacuate all children, especially children who cannot walk;</p> <p>(e) Calling 911 after evacuating the children;</p>

<p>(g) How the licensee will inform parents or guardians and arrange pick up of children if needed.</p>	<p>(f) How the licensee and staff will account for all of the children in attendance;  (g) Where children and staff will gather away from the building pending arrival of the fire department or emergency response; and  (h) How the licensee will inform parents or guardians and arrange pick up of children if needed.</p> <p><i>(This section is revised in response to comments on the proposed rule and to clarify its requirements.)</i></p>
<p><b>WAC 170-296A-2850 Disaster plan.</b> (1) The licensee must have a written disaster plan for emergencies other than fire. The plan must be reviewed annually and updated as needed.</p> <p>(2) The written disaster plan must cover at minimum the following:</p> <p>(a) For disasters that require evacuation:</p> <p>(i) How the licensee and staff will evacuate all children, especially those who cannot walk.</p> <p>(ii) What to take when evacuating the children, including:</p> <p>(A) First aid kit;  (B) Child medication records; and  (C) If applicable, individual children's medication;</p> <p>(iii) Where to go; and</p> <p>(iv) How the licensee and staff will account for all of the children in attendance.</p> <p>(b) Earthquake procedures including:</p> <p>(i) What the licensee and staff will do during an earthquake;</p> <p>(ii) How the licensee and staff will account for all of the children in attendance; and</p> <p>(iii) After an earthquake, how the licensee will assess whether the licensed space is safe for the children;</p> <p>(c) Lockdown of the facility or shelter-in-place, including:</p> <p>(i) How doors and windows will be secured if needed; and</p> <p>(ii) Where children will stay safely inside the facility; and</p> <p>(d) How parents and guardians will be contacted after the emergency situation is over.</p> <p>(3) The licensee must keep on the premises a three-day supply of food, water, and medications required by individual children for use in a disaster, lockdown, or shelter-in-place incident.</p>	<p><b>WAC 170-296A-2850 Disaster plan.</b> (1) The licensee must have a written disaster plan for emergencies other than fire. The plan must be reviewed annually and updated as needed.</p> <p>(2) The written disaster plan must cover at minimum the following:</p> <p>(a) For disasters that may require evacuation:</p> <p>(i) How the licensee and staff will evacuate all children, especially those who cannot walk.</p> <p>(ii) What to take when evacuating the children, including:</p> <p>(A) First aid kit;  (B) Child medication records; and  (C) If applicable, individual children's medication;</p> <p>(iii) Where to go; and</p> <p>(iv) How the licensee and staff will account for all of the children in attendance.</p> <p>(b) Earthquake procedures including:</p> <p>(i) What the licensee and staff will do during an earthquake;</p> <p>(ii) How the licensee and staff will account for all of the children in attendance; and</p> <p>(iii) After an earthquake, how the licensee will assess whether the licensed space is safe for the children;</p> <p>(c) Lockdown of the facility or shelter-in-place, including:</p> <p>(i) How doors and windows will be secured if needed; and</p> <p>(ii) Where children will stay safely inside the facility; and</p> <p>(d) How parents and guardians will be contacted after the emergency situation is over.</p> <p>(3) The licensee must keep on the premises a three-day supply of food, water, and medications required by individual children for use in a disaster, lockdown, or shelter-in-place incident.</p> <p>(4) As used in this section, "lockdown" or "shelter-in-place" means to remain inside the family home child care when police or an official emergency response agency notifies the licensee or primary staff person in charge that it is unsafe to leave the facility or be outdoors during an emergency situation.</p> <p><i>(This section is revised for clarity, to provide a definition of "lockdown" and "shelter-in-place.")</i></p>

<p><b>WAC 170-296A-2875 Fire, disaster training for staff and volunteers.</b> (1) The licensee must provide fire, evacuation and disaster training for all staff and volunteers. The training must include:</p> <ul style="list-style-type: none"> <li>(a) All elements of the fire, evacuation and disaster plans;</li> <li>(b) Operation of the fire extinguishers;</li> <li>(c) How to test the smoke detectors and replace smoke detector batteries; and</li> <li>(d) Staff responsibilities in the event of a fire or disaster.</li> </ul> <p>(2) The training must be documented in the staff's or volunteer's personnel file.</p>	<p><b>WAC 170-296A-2875 Fire, disaster training for staff and volunteers.</b> (1) The licensee must provide fire, evacuation and disaster training for all staff and volunteers when the individual is first employed and at least once each calendar year. The training must include:</p> <ul style="list-style-type: none"> <li>(a) All elements of the fire, evacuation and disaster plans;</li> <li>(b) Operation of the fire extinguishers;</li> <li>(c) How to test the smoke detectors and, if required, test carbon monoxide detectors and replace detector batteries; and</li> <li>(d) Staff responsibilities in the event of a fire or disaster.</li> </ul> <p>(2) The training must be documented in the staff's or volunteer's personnel file.</p> <p><i>(This section is revised for clarity and per comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-2925 Record of emergency drills.</b> The licensee must keep records of emergency drills performed, and post the records as required in WAC 170-296A-2175. Records must include:</p> <ul style="list-style-type: none"> <li>(1) The date and time the drill took place;</li> <li>(2) Staff who participated;</li> <li>(3) Number of children who participated;</li> <li>(4) Length of drill; and</li> <li>(5) Notes about how the drill went including:             <ul style="list-style-type: none"> <li>(a) What the licensee learned; and</li> <li>(b) What the licensee thinks should be done differently at the next drill.</li> </ul> </li> </ul>	<p><b>WAC 170-296A-2925 Record of emergency drills.</b> The licensee must keep records of emergency drills performed, and post the records as required in WAC 170-296A-2175. Records must include:</p> <ul style="list-style-type: none"> <li>(1) The date and time the drill took place;</li> <li>(2) Staff who participated;</li> <li>(3) Number of children who participated;</li> <li>(4) Length of drill; and</li> <li>(5) Notes about how the drill went and improvements, if any, that need to be made.</li> </ul> <p><i>(This section is revised per comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-2950 Smoke detectors.</b> (1) The licensee must have and maintain working smoke detectors in the home.</p> <ul style="list-style-type: none"> <li>(2) At least one smoke detector must be located:             <ul style="list-style-type: none"> <li>(a) In each licensed sleeping area;</li> <li>(b) On each level of the home; and</li> <li>(c) In the kitchen area.</li> </ul> </li> <li>(3) Smoke detectors must be placed on the ceiling or wall, but not on the wall above any door.</li> <li>(4) One extra battery for each smoke detector must be kept on the premises.</li> </ul>	<p><b>WAC 170-296A-2950 Smoke and carbon monoxide detectors.</b> (1)(a) The licensee must have and maintain working smoke detectors in the home.</p> <ul style="list-style-type: none"> <li>(b) At least one smoke detector must be located:             <ul style="list-style-type: none"> <li>(i) In each licensed sleeping area; and</li> <li>(ii) On each level of the home.</li> </ul> </li> <li>(c) Smoke detectors must be placed on the ceiling or wall, but not on the wall above any door.</li> </ul> <p>(2) To comply with RCW 19.27.530 and WAC 51-51-0315, if the licensee's home was built on or after July 1, 2010, a working carbon monoxide detector must be installed in each area licensed for sleeping or napping. The licensee may use combination smoke/carbon monoxide detectors.</p> <p>(3) One extra battery for each smoke detector and each carbon monoxide detector must be kept on the premises.</p> <p><i>(This section is revised per comments on the proposed rules to be consistent with current law.)</i></p>
<p><b>WAC 170-296A-3025 Fire extinguisher, smoke detector use and testing.</b> The licensee and staff must demonstrate to the licenser how to:</p> <ul style="list-style-type: none"> <li>(1) Use fire extinguishers;</li> <li>(2) Test and operate the smoke detectors; and</li> <li>(3) Test alternate alarm device(s).</li> </ul>	<p><b>WAC 170-296A-3025 Fire extinguisher, smoke/carbon monoxide detector use and testing.</b> The licensee and staff must demonstrate to the licenser how to:</p> <ul style="list-style-type: none"> <li>(1) Use fire extinguishers;</li> <li>(2) Test and operate the smoke detectors;</li> <li>(3) Test and operate carbon monoxide detectors if required under WAC 170-296A-2950; and</li> <li>(4) Test alternate alarm device(s).</li> </ul> <p><i>(This section is revised per comments received, consistent with changes to WAC 170-296A-2950.)</i></p>

<p><b>WAC 170-296A-3200 Health plan.</b> The licensee must have a written health plan. The health plan must include:</p> <ul style="list-style-type: none"> <li>(1) Communicable disease notification under WAC 170-296A-3210;</li> <li>(2) Exclusion of ill person under WAC 170-296A-3225;</li> <li>(3) Immunization tracking under WAC 170-296A-3250 through 170-296A-3300;</li> <li>(4) Medication management under WAC 170-296A-3325 through 170-296A-3550;</li> <li>(5) Medication storage;</li> <li>(6) Injury treatment under WAC 170-296A-3375 through 170-296A-3600; and</li> <li>(7) Handwashing and hand sanitizers under WAC 170-296A-3625 through 170-296A-3675.</li> </ul>	<p><b>WAC 170-296A-3200 Health plan.</b> The licensee must have a written health plan. The health plan must include:</p> <ul style="list-style-type: none"> <li>(1) Communicable disease procedures and exclusion of ill persons under WAC 170-296A-3210;</li> <li>(2) Immunization tracking under WAC 170-296A-3250 through 170-296A-3300;</li> <li>(3) Medication management under WAC 170-296A-3315 through 170-296A-3550;</li> <li>(4) Injury treatment under WAC 170-296A-3575 through 170-296A-3600;</li> <li>(5) Handwashing and hand sanitizers under WAC 170-296A-3625 through 170-296A-3675;</li> <li>(6) Caring for children with special health needs under WAC 170-296A-0050;</li> <li>(7) Cleaning, sanitizing, and disinfecting procedures;</li> <li>(8) A bloodborne pathogens plan under WAC 170-296A-1850; and</li> <li>(9) Notifying the health department when a child is diagnosed with a notifiable condition as required under WAC 170-296A-2325.</li> </ul> <p><i>(This section is revised for clarity and to be consistent with related changes in other adopted sections.)</i></p>
<p><b>WAC 170-296A-3210 Communicable disease—Notice and procedure.</b> When the licensee becomes aware that he or she, a household member, staff person or child in care has been diagnosed with a communicable disease as described in DOH WAC 246-110-010(4), the licensee must:</p> <ul style="list-style-type: none"> <li>(1) Notify:             <ul style="list-style-type: none"> <li>(a) The local public health jurisdiction or DOH;</li> <li>(b) DEL within twenty-four hours from time the licensee receives notification of the diagnosis;</li> <li>(c) Parents and guardians of all the children in care; and</li> </ul> </li> <li>(2) Follow the health plan before providing care or before readmitting the household member, staff person or child into the child care.</li> </ul>	<p><b>WAC 170-296A-3210 Communicable disease—Notice and procedure.</b></p> <p><i>(See the revised content following table 3, including a new table in this section. This section is revised per comments on the proposed rules and for clarity. It also incorporates the content of withdrawn WAC 170-296A-3225 to clarify that the requirements of these sections are related.)</i></p>
<p><b>WAC 170-296A-3225 Exclusion of ill persons.</b> The licensee's health plan includes provisions for excluding or separating a child, staff person, or household member with communicable disease as described in WAC 246-110-010(4) or any of the following:</p> <ul style="list-style-type: none"> <li>(1) Fever of one hundred one degrees Fahrenheit or higher;</li> <li>(2) Vomiting that occurs two or more times in a twenty-four-hour period;</li> <li>(3) Diarrhea with three or more watery stools in a twenty-four-hour period;</li> <li>(4) Rash not associated with heat, diapering or an allergic reaction; or</li> <li>(5) Drainage of thick mucus and pus from the eye.</li> </ul>	<p><i>(WAC 170-296A-3225 is withdrawn and its content merged into WAC 170-296A-3210.)</i></p>

<p><b>WAC 170-296A-3250 Immunization tracking.</b> The licensee is required to track each child's immunization status. The licensee must:</p> <ul style="list-style-type: none"> <li>(1) Except as provided in WAC 170-296A-3200 or 170-296A-3275, have a complete current certificate of immunization status (CIS) form or similar form supplied by a health care professional for each child, submitted on or before the child's first day of child care;</li> <li>(2) Develop a system to update and keep individual immunization records current to include when immunizations are received; and</li> <li>(3) Have the CIS or similar forms for each currently enrolled child available in licensed space for review by the licensor.</li> </ul>	<p><b>WAC 170-296A-3250 Immunization tracking.</b> The licensee is required to track each child's immunization status. The licensee must:</p> <ul style="list-style-type: none"> <li>(1) Except as provided in WAC 170-296A-3275 or 170-296A-3300, have a complete current certificate of immunization status (CIS) form or similar form supplied by a health care professional for each child, submitted on or before the child's first day of child care;</li> <li>(2) Develop a system to update and keep individual immunization records current to include when immunizations are received; and</li> <li>(3) Have the CIS or similar forms for each currently enrolled child available in the licensed space for review by the licensor.</li> </ul> <p><i>(An incorrect cross reference in subsection (1) is corrected for clarity.)</i></p>
<p><b>WAC 170-296A-3300 Immunizations—Exemption.</b> The licensee may accept a child without any immunizations if the parent or guardian:</p> <ul style="list-style-type: none"> <li>(1) Signs a statement expressing a religious, philosophical or personal objection to immunization.</li> <li>(2) Provides a DOH certificate of exemption form or similar statement.</li> </ul>	<p><b>WAC 170-296A-3300 Immunizations—Exemption.</b> The licensee may accept a child without any immunizations if the parent or guardian provides:</p> <ul style="list-style-type: none"> <li>(1) A DOH medical exemption form signed by a health care professional; or</li> <li>(2) A DOH form or similar statement signed by the child's parent or guardian expressing a religious, philosophical or personal objection to immunization.</li> </ul> <p><i>(This section revised consistent with 2011 SB 5504.)</i></p>
<p>(See proposed WAC 170-296A-3400)</p>	<p><i>(This section consolidates content in withdrawn WAC 170-296A-3400 and content added as a result of comments on the proposed rules.)</i></p>
	<p><b>WAC 170-296A-3315 Medication management.</b> (1) The licensee's medication management policy must include:</p> <ul style="list-style-type: none"> <li>(a) Safe medication storage, including the licensee's family medications; and</li> <li>(b) Whether the licensee chooses to give medications to children in care.</li> </ul> <p>(2) If the licensee chooses to give medications to children in care, the licensee's policy must include:</p> <ul style="list-style-type: none"> <li>(a) How giving medications will be documented (medication log), including documenting when a medication is given or not given as prescribed or as indicated on the permission form;</li> <li>(b) Permission to give medications to a child signed by the child's parent or guardian, and by a licensed medical professional when appropriate; and</li> <li>(c) That only the licensee or primary staff person may give medication or observe a child taking his or her own medication as described in WAC 170-296A-3550.</li> </ul> <p>(3) If the licensee chooses not to give any medications to children in care, the licensee must inform parents in the parent/guardian handbook.</p> <p>(4) If the licensee or primary staff person decides not to give a specific medication to a child after having received written permission by the child's parent or guardian, the licensee or primary staff person must immediately notify the parent or guardian of the decision to not give the medication.</p>

	<p>(5) The licensee must make reasonable accommodations and give medication if a child has a condition where the Americans with Disabilities Act (ADA) would apply.</p>
<p><b>WAC 170-296A-3325 Medication storage.</b> The licensee must store all medications (except rescue medications under WAC 170-296A-3350 and topical nonprescription medications described in WAC 170-296A-4100), vitamins, herbal remedies, dietary supplements and pet medications in a locked cabinet or locked container.</p>	<p><i>WAC 170-296A-3325</i></p> <p><i>(See the revised content at the end of table 3, including an added table regarding medicine storage. This section is revised for clarity. It incorporates the content of withdrawn WAC 170-296A-3325 and the medication storage table moved from WAC 170-296A-4100, with revisions for clarity and as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-3350 Child's emergency rescue medications.</b> The licensee must keep emergency rescue medications inaccessible but available for emergency use to meet a child's emergency medical needs.</p>	<p><i>(WAC 170-296A-3350 is withdrawn and its content is merged into WAC 170-296A-3325.)</i></p>
<p><b>WAC 170-296A-3375 Medication permission.</b> (1) The licensee must have written permission from a child's parent or guardian to give a child any medication. The permission must include:</p> <ul style="list-style-type: none"> <li>(a) Child's name;</li> <li>(b) Name of the medication and condition being treated;</li> <li>(c) Dose to be given;</li> <li>(d) Start and stop date for administering medication not to exceed thirty calendar days, except as provided in subsection (2) of this section;</li> <li>(e) Parent or guardian signature; and</li> <li>(f) Date of signature.</li> </ul> <p>(2) A parent or guardian may give the licensee ninety calendar days permission for use of the following:</p> <ul style="list-style-type: none"> <li>(a) Diaper ointments and talc free powders intended specifically for use in the diaper area of children;</li> <li>(b) Sun screen;</li> <li>(c) Hand sanitizers; or</li> <li>(d) Hand wipes with alcohol.</li> </ul> <p>(3) The licensee must keep a written record of medication administration (medication log) that includes the:</p> <ul style="list-style-type: none"> <li>(a) Child's name;</li> <li>(b) Name of medication;</li> <li>(c) Dose given;</li> <li>(d) Dates and time of each medication given; and</li> <li>(e) Name and signature of the person administering the medication.</li> </ul> <p>(4) The licensee must allow the parent or guardian to review their own child's written medication administration records.</p> <p>(5) The licensee must return any unused medication to the child's parent or guardian.</p> <p>(6) Medication permission forms must be kept confidential.</p> <p>(7) Medication permission forms and medication logs for the previous twelve months must be kept in the licensed space and be available for review by the licensor.</p>	<p><b>WAC 170-296A-3375 Medication permission.</b> (1) The licensee must have written permission from a child's parent or guardian to give a child any medication. The permission must include:</p> <ul style="list-style-type: none"> <li>(a) Child's name;</li> <li>(b) Name of the medication and condition being treated;</li> <li>(c) Dose and frequency to be given;</li> <li>(d) Instructions for any specialized equipment or procedures for giving the child's medication;</li> <li>(e) Start and stop date for administering medication not to exceed thirty calendar days, except as provided in subsection (2) of this section;</li> <li>(f) Parent or guardian signature; and</li> <li>(g) Date of signature.</li> </ul> <p>(2) A parent or guardian may give the licensee ninety calendar days permission for use of the following:</p> <ul style="list-style-type: none"> <li>(a) Diaper ointments and talc free powders used as needed that are intended specifically for use in the diaper area of children;</li> <li>(b) Sun screen;</li> <li>(c) Hand sanitizers; or</li> <li>(d) Hand wipes with alcohol.</li> </ul> <p>(3) The licensee must keep a written record of medication administration (medication log) that includes the:</p> <ul style="list-style-type: none"> <li>(a) Child's name;</li> <li>(b) Name of medication;</li> <li>(c) Dose given;</li> <li>(d) Dates and time of each medication given; and</li> <li>(e) Name and signature of the person giving the medication.</li> </ul> <p>(4) The licensee must return any unused medication to the child's parent or guardian.</p> <p>(5) Medication permission forms and medication logs must be kept confidential. The licensee must allow a child's parent or guardian to review their own child's medication administration records.</p> <p>(6) Medication permission forms and medication logs for the previous twelve months must be kept in the licensed space and be available for review by the licensor.</p>

	<i>(This section is revised as a result of comments on the proposed rules.)</i>
<p><b>WAC 170-296A-3400 Administering medications.</b> (1) Only the licensee or primary staff person may administer medication, or observe a child administering their own medication as described in WAC 170-296A-3550.</p> <p>(2) The licensee or primary staff person must not administer or allow administration of an expired medication.</p>	<i>(WAC 170-296A-3400 is withdrawn and its content is merged into WAC 170-296A-3315.)</i>
<p><b>WAC 170-296A-3425 Medication requirements.</b> The licensee or primary staff person must follow the medication directions for managing and administering prescription and nonprescription medication for the individual children in care.</p>	<p><b>WAC 170-296A-3425 Medication requirements.</b> The licensee or primary staff person must follow the medication directions for managing and administering prescription and nonprescription medication for the individual children in care. The licensee or primary staff person must not give or allow giving of an expired medication.</p> <p><i>(This section revised per comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-3450 Sedating a child prohibited.</b> The licensee or primary staff person must not administer or allow administration of any medication for the purpose of sedating a child unless the medication has been prescribed for that purpose by a qualified health care professional.</p>	<p><b>WAC 170-296A-3450 Sedating a child prohibited.</b> The licensee or primary staff person must not give or allow giving of any medication for the purpose of sedating a child unless the medication has been prescribed for that purpose by a qualified health care professional and prescribed for the child receiving the medication.</p> <p><i>(This section is revised per comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-3475 Administering prescription medication.</b> The licensee or primary staff must administer a prescribed medication only:</p> <ol style="list-style-type: none"> <li>(1) To the child that the medication is prescribed for;</li> <li>(2) In amount and frequency prescribed by a health care professional with prescription authority;</li> <li>(3) For the purpose or condition that the medication is prescribed to treat;</li> <li>(4) When the medication:             <ol style="list-style-type: none"> <li>(a) Is in the original container;</li> <li>(b) Is labeled with the child's first and last name;</li> <li>(c) Has a nonexpired expiration date;</li> <li>(5) If the parent or guardian provides information from the pharmacy about:                 <ol style="list-style-type: none"> <li>(a) Medication storage;</li> <li>(b) Potential adverse reactions or side effects; and</li> <li>(6) If the medication is stored at the proper temperature noted on the container label or pharmacy instructions.</li> </ol> </li> </ol> </li> </ol>	<p><b>WAC 170-296A-3475 Prescription medication.</b> The licensee or primary staff person may give a prescribed medication to a child only if the following conditions are met:</p> <ol style="list-style-type: none"> <li>(1) The medication is prescribed only for the child the medication is being given to;</li> <li>(2) The parent or guardian has provided written permission as described in WAC 170-296A-3375;</li> <li>(3) The prescribed medication is given in the amount and frequency prescribed by the child's health care professional with prescription authority;</li> <li>(4) The prescribed medication must only be given for the purpose or condition that the medication is prescribed to treat;</li> <li>(5) The medication must:             <ol style="list-style-type: none"> <li>(a) Be in the original container;</li> <li>(b) Be labeled with the child's first and last name;</li> <li>(c) Have a nonexpired expiration date;</li> <li>(6) The container must have or the parent or guardian must provide information from the pharmacy about:                 <ol style="list-style-type: none"> <li>(a) Medication storage;</li> <li>(b) Potential adverse reactions or side effects; and</li> <li>(7) The medication has been stored at the proper temperature noted on the container label or pharmacy instructions.</li> </ol> </li> </ol> </li> </ol> <p><i>(This section is revised as a result of comments on the proposed rules.)</i></p>

<p><b>WAC 170-296A-3525 Nonprescription medications.</b> The licensee or primary staff may administer nonprescription medications, as defined in this chapter, only when:</p> <ul style="list-style-type: none"> <li>(1) The nonprescription medication is:             <ul style="list-style-type: none"> <li>(a) Given to or used with a child only in the dosage and as directed on the manufacturer's label;</li> <li>(b) Given in accordance to the age or weight of the child needing the medication;</li> <li>(c) Given only for the purpose or condition that the medication is intended to treat;</li> <li>(d) Is in the original container; and</li> <li>(e) Has a nonexpired expiration date, if applicable.</li> </ul> </li> <li>(2) The container includes, or the parent or guardian provides information about:             <ul style="list-style-type: none"> <li>(a) Medication storage;</li> <li>(b) Potential adverse reactions or side effects.</li> </ul> </li> <li>(3) The medication is stored at the proper temperature noted on the container label or pharmacy instructions.</li> </ul>	<p><b>WAC 170-296A-3525 Nonprescription medications.</b> The licensee or primary staff person may give nonprescription medications, as defined in this chapter, only when the following conditions are met:</p> <ul style="list-style-type: none"> <li>(1) The parent or guardian has given signed written permission as provided in WAC 170-296A-3375.</li> <li>(2) The nonprescription medication is:             <ul style="list-style-type: none"> <li>(a) Given to or used with a child only in the dosage, frequency and as directed on the manufacturer's label;</li> <li>(b) Given in accordance to the age or weight of the child needing the medication;</li> <li>(c) Given only for the purpose or condition that the medication is intended to treat;</li> <li>(d) Is in the original container; and</li> <li>(e) Has a nonexpired expiration date, if applicable.</li> </ul> </li> <li>(3) The medication container or packaging includes, or the parent or guardian provides information about:             <ul style="list-style-type: none"> <li>(a) Medication storage;</li> <li>(b) Potential adverse reactions or side effects.</li> </ul> </li> <li>(4) The medication has been stored at the proper temperature noted on the container label or instructions.</li> </ul> <p><i>(This section is revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-3575 Injuries requiring first aid only.</b> When a child has an injury that requires first aid only, a written or verbal notice must be given to the parent or guardian and keep a record of the notice on file.</p>	<p><b>WAC 170-296A-3575 Injuries requiring first aid only.</b> When a child has an injury that requires first aid only, the licensee must give a written or verbal notice to the child's parent or guardian and keep a record of the notice on file.</p> <p><i>(This section is revised for clarity.)</i></p>
<p><b>WAC 170-296A-3650 Hand sanitizers.</b> (1) If the licensee has a written and signed parent or guardian permission as described in WAC 170-296A-3375(2), the licensee may use hand sanitizer products only with children over twelve months old. Hand sanitizer products may be used:</p> <ul style="list-style-type: none"> <li>(a) When handwashing facilities are not available, such as an outing, emergency, or disaster; or</li> <li>(b) After proper handwashing.</li> </ul> <p>(2) Hand sanitizer gels must not be used in place of proper handwashing if handwashing facilities are available.</p>	<p><b>WAC 170-296A-3650 Hand sanitizers.</b> (1) If the licensee has a written and signed parent or guardian permission as described in WAC 170-296A-3375(2), the licensee may use hand sanitizer products only with children over twenty-four months old. Hand sanitizer products may be used:</p> <ul style="list-style-type: none"> <li>(a) When handwashing facilities are not available, such as an outing, emergency, or disaster; or</li> <li>(b) After proper handwashing.</li> </ul> <p>(2) Hand sanitizer gels must not be used in place of proper handwashing if handwashing facilities are available.</p> <p><i>(This section is revised as a result of comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-3670 Cribs.</b> In order to meet federal requirements, a licensee who uses a crib with children in care must comply with this section.</p> <ul style="list-style-type: none"> <li>(1) Effective December 28, 2012, each crib in use in licensed child care must meet U.S. Consumer Product Safety Commission (CPSC) requirements for full size cribs as defined in 16 Code of Federal Regulations (CFR) 1219, or non-full size cribs as defined in 16 CFR 1220.</li> <li>(2) A crib meets the requirements of this section if the crib is labeled by the manufacturer as made on or after June 28, 2011.</li> </ul>	<p><i>(Proposed WAC 170-296A-3670 in its entirety is renumbered as WAC 170-296A-7085 for more logical order.)</i></p>

<p>(3) A crib labeled as made from July 1, 2010 through June 27, 2011 may meet the requirements of this section if the licensee has obtained a certificate of compliance from the crib manufacturer or importer, or the licensee has other documentation from the manufacturer that the crib is certified as meeting the CPSC regulations.</p> <p>(4) Any crib that does not meet the requirements of subsection (2) or (3) of this section must be removed from the child care facility not later than December 28, 2012.</p> <p>(5) The licensee must keep in the licensed space a log documenting that each crib in use meets the requirements of this section.</p>	
<p><b>WAC 170-296A-3675 When handwashing is required.</b> The licensee, staff and children must wash their hands and follow proper handwashing techniques:</p> <ol style="list-style-type: none"> <li>(1) After using the toilet;</li> <li>(2) After diapering a child;</li> <li>(3) After outdoor play;</li> <li>(4) After playing with animals;</li> <li>(5) After touching an animal's toys;</li> <li>(6) After touching body fluids;</li> <li>(7) Before and after the child eats or participates in food activities; or</li> <li>(8) As needed.</li> </ol>	<p><b>WAC 170-296A-3675 When handwashing is required.</b> (1) The licensee and staff must wash their hands and follow proper handwashing techniques:</p> <ol style="list-style-type: none"> <li>(a) Before and after preparing foods, eating, or feeding a child;</li> <li>(b) After handling raw or undercooked meat, poultry or fish;</li> <li>(c) After using the toilet or helping a child with toileting;</li> <li>(d) Before and after diapering a child. If needed during diapering, a disposable hand wipe cloth may be used;</li> <li>(e) After touching bodily fluids as described in the licensee's bloodborne pathogens plan;</li> <li>(f) After being outdoors with the children;</li> <li>(g) After handling animals or cleaning up animal waste;</li> <li>(h) After handling garbage and garbage receptacles;</li> <li>(i) Before and after giving medication or applying topical ointment; or</li> <li>(j) As needed.</li> </ol> <p>(2) The licensee and staff must direct children to wash their hands or assist children with handwashing:</p> <ol style="list-style-type: none"> <li>(a) Before and after the eating or participating in food activities;</li> <li>(b) After toileting or diapering (the licensee may use a diaper wipe to clean hands of a child age zero to six months);</li> <li>(c) After touching bodily fluids, including after sneezing, coughing;</li> <li>(d) After outdoor play;</li> <li>(e) After playing with animals or handling animal toys; or</li> <li>(f) As needed.</li> </ol> <p><i>(This section is revised as a result of comments on the proposed rule and to clarify the requirements for the licensee and staff.)</i></p>
<p><b>WAC 170-296A-3700 Carpets.</b> The licensee must clean installed carpet in the licensed space at least once each calendar year or more often when soiled.</p>	<p><b>WAC 170-296A-3700 Carpets.</b> The licensee must clean installed carpet in the licensed space at least once each calendar year or more often when soiled, using a carpet shampoo machine, steam cleaner, or dry carpet cleaner.</p> <p><i>(This section is revised for clarity and as a result of comments on the proposed rules.)</i></p>

<p><b>WAC 170-296A-3725 Sleeping.</b> (1) The licensee must provide mats, cots, or other sleeping equipment long enough and wide enough for the size of the child.</p> <p>(2) The licensee must never place the children directly on the floor to sleep.</p> <p>(3) When children are sleeping there must be enough space between children to give staff access to each child.</p>	<p><b>WAC 170-296A-3725 Where children may sleep.</b> (1) The licensee must provide mats, cots, or other sleeping equipment long enough and wide enough for the size of the child.</p> <p>(2) The licensee must never place the children directly on the floor to sleep.</p> <p>(3) When children are sleeping there must be enough space between children to give staff access to each child.</p>
<p><i>(The title of this section is revised for clarity.)</i></p>	
<p><b>WAC 170-296A-3750 Mats, cots and other sleeping equipment.</b> (1) The licensee must provide mats, cots, or other approved sleeping equipment that are made of material that can be cleaned and sanitized.</p> <p>(2) Mats, cots or other sleeping equipment must be cleaned, sanitized, and air dried:</p> <p>(a) At least once a week or as needed if used by one child; or</p> <p>(b) Between each use if used by different children.</p> <p>(3)(a) If a bleach solution is used to sanitize, the solution must be one-quarter teaspoon of bleach to one quart of cool water;</p> <p>(b) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.</p> <p>(4) Mats, cots, and other sleeping equipment must be stored so that the sleeping surfaces are not touching each other, unless they are cleaned and sanitized after each use.</p>	<p><b>WAC 170-296A-3750 Mats, cots and other sleeping equipment.</b> (1) The licensee must provide mats, cots, or other approved sleeping equipment that are made of material that can be cleaned and sanitized.</p> <p>(2) Mats, cots, or other sleeping equipment must be in good repair, not torn or with holes or repaired with tape.</p> <p>(3) A sleeping mat must be at least one inch thick.</p> <p>(4) Mats, cots, or other sleeping equipment must be cleaned, sanitized, and air dried:</p> <p>(a) At least once a week or as needed if used by one child; or</p> <p>(b) Between each use if used by different children.</p> <p>(5)(a) If a bleach solution is used to sanitize, the solution must be one-quarter teaspoon of bleach to one quart of cool water;</p> <p>(b) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.</p> <p>(6) When in use, mats, cots, or other sleeping equipment must be arranged to allow the licensee or staff to access the children.</p> <p>(7) Mats, cots, and other sleeping equipment must be stored so that the sleeping surfaces are not touching each other, unless they are cleaned and sanitized after each use.</p>
<p><i>(This section is revised as a result of comments on the proposed rules, and for clarity.)</i></p>	
<p><b>WAC 170-296A-3760 Cribs.</b> In order to meet federal requirements, a licensee who uses a crib with children in care must comply with this section.</p> <p>(1) Effective December 28, 2012, each crib in use in licensed child care must meet U.S. Consumer Product Safety Commission (CPSC) requirements for full-size cribs as defined in 16 Code of Federal Regulations (CFR) 1219, or nonfull-size cribs as defined in 16 CFR 1220.</p> <p>(2) A crib meets the requirements of this section if the crib is labeled by the manufacturer as made on or after June 28, 2011.</p> <p>(3) A crib labeled as made from July 1, 2010 through June 27, 2011 may meet the requirements of this section if the licensee has obtained a certificate of compliance from the crib manufacturer or importer, or the licensee has other documentation from the manufacturer that the crib is certified as meeting the CPSC regulations.</p>	<p><b>WAC 170-296A-3760 moved to 170-296A-7085.</b></p>

<p>(4) A crib that does not meet the requirements of subsection (2) or (3) of this section must be removed from the child care facility not later than December 28, 2012.</p> <p>(5) The licensee must keep in the licensed space a log documenting that each crib in use meets the requirements of this section.</p>	
<p><b>WAC 170-296A-3850 Cleaning laundry.</b> The licensee must wash child care laundry using:</p> <ul style="list-style-type: none"> <li>(1) Laundry soap or detergent; and</li> <li>(2)(a) Temperature control (warm or hot cycle); or</li> <li>(b) Bleach.</li> </ul>	<p><b>WAC 170-296A-3850 Cleaning laundry.</b> The licensee must wash child care laundry using:</p> <ul style="list-style-type: none"> <li>(1) Laundry soap or detergent; and</li> <li>(2)(a) Temperature control (warm or hot cycle); or</li> <li>(b) Chlorine bleach.</li> </ul> <p><i>(This section revised per comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-3875 Cleaning and sanitizing toys.</b> (1) The licensee must clean and sanitize toys:</p> <ul style="list-style-type: none"> <li>(a) After they have been in a child's mouth;</li> <li>(b) After being contaminated with body fluids or visibly soiled; or</li> <li>(c) Not less than weekly when the toys have been used by the children.</li> </ul> <p>(2)(a) If a bleach solution is used to sanitize, the solution must be one-quarter teaspoon of bleach to one quart of cool water;</p> <p>(b) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.</p>	<p><b>WAC 170-296A-3875 Cleaning and sanitizing toys.</b> (1) The licensee must clean and sanitize toys:</p> <ul style="list-style-type: none"> <li>(a) Before a child plays with a toy that has come into contact with another child's mouth or bodily fluids;</li> <li>(b) After being contaminated with bodily fluids or visibly soiled; or</li> <li>(c) Not less than weekly when the toys have been used by the children.</li> </ul> <p>(2)(a) If a bleach solution is used to sanitize, the solution must be three-quarter teaspoon of bleach to one quart of cool water;</p> <p>(b) If another sanitizer product is used, it must be labeled as approved for food contact surfaces, used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry, and rinsed if required by the product instructions.</p> <p><i>(This section revised per comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-3925 Cleaning and sanitizing table.</b> The following table describes the minimum frequency for cleaning or sanitizing items in the licensed space.</p>	<p><b>WAC 170-296A-3925 Cleaning, sanitizing, and disinfecting table.</b></p> <p><i>(See the table following table 3 for revisions to this section, which is revised as a result of comments on the proposed rules and to clarify its content.)</i></p>
<p><b>WAC 170-296-3950 Pest control.</b> When pests are present in the licensed space, the licensee must:</p> <ul style="list-style-type: none"> <li>(1) Take action to remove or eliminate pests; and</li> <li>(2)(a) Use the least poisonous method possible; or</li> <li>(b) If chemical pesticides are used, post a notice visible to parents, guardians and any other interested party forty-eight hours in advance of the application of pesticides.</li> </ul>	<p><b>WAC 170-296-3950 Pest control.</b> When pests are present in the licensed space, the licensee must:</p> <ul style="list-style-type: none"> <li>(1) Take action to remove or eliminate pests; and</li> <li>(2)(a) Where possible, use nonchemical methods of control instead of chemical controls; or</li> <li>(b) If chemical pesticides are used, the licensee must:             <ul style="list-style-type: none"> <li>(i) Not spray pesticides when children are present.</li> </ul> </li> </ul> <p>Wipe down surfaces that have been sprayed and air out rooms before allowing children to use sprayed areas;</p> <ul style="list-style-type: none"> <li>(ii) Place and store rodent poison or insect baits inaccessible to children; and</li> <li>(iii) Post a notice visible to parents and guardians of children in care forty-eight hours in advance of the application of pesticides, except when pesticides must be used to control pests that may pose an immediate risk to children's health or safety.</li> </ul> <p><i>(This section revised per comments on the proposed rules.)</i></p>

<p><b>WAC 170-296A-3975 Poisons.</b> The licensee must:</p> <ul style="list-style-type: none"> <li>(1) Store poisons inaccessible to children and away from food.</li> <li>(2) Label the containers when poisons are not in their original containers.</li> </ul>	<p><i>(This section is withdrawn, the proposed rule content moved to new subsection (1) of WAC 170-296A-4100, and the content revised per comment on the propose[d] rule.)</i></p>
<p><b>WAC 170-296A-4000 Lead, asbestos and arsenic.</b> The licensee must take action to prevent child exposure when the licensee becomes aware that any of the following are present in the indoor or outdoor licensed space:</p> <ul style="list-style-type: none"> <li>(1) Lead based paint;</li> <li>(2) Plumbing containing lead or lead solders;</li> <li>(3) Asbestos; or</li> <li>(4) Arsenic or lead in the soil.</li> </ul>	<p><b>WAC 170-296A-4000 Lead, asbestos, arsenic and other hazards.</b> The licensee must take action to prevent child exposure when the licensee becomes aware that any of the following are present in the indoor or outdoor licensed space:</p> <ul style="list-style-type: none"> <li>(1) Lead based paint;</li> <li>(2) Plumbing containing lead or lead solders;</li> <li>(3) Asbestos; or</li> <li>(4) Arsenic or lead in the soil or drinking water;</li> <li>(5) Toxic mold; or</li> <li>(6) Other identified toxins or hazards.</li> </ul> <p><i>(This section revised per comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-4025 Drugs and alcohol.</b> (1) The licensee staff, volunteers, or household members must not:</p> <ul style="list-style-type: none"> <li>(a) Have or use illegal drugs on the premises;</li> <li>(b) Consume alcohol during operating hours; or</li> <li>(c) Be under the influence of alcohol, illegal drugs or mis-used prescription drugs when working with or in the presence of children in care.</li> </ul> <p>(2) The licensee must keep and store all alcohol, including closed and open containers, inaccessible to children.</p>	<p><b>WAC 170-296A-4025 Drugs and alcohol.</b> (1) The licensee, staff, volunteers, or household members must not, or allow others to:</p> <ul style="list-style-type: none"> <li>(a) Have or use illegal drugs on the premises;</li> <li>(b) Consume alcohol during operating hours; or</li> <li>(c) Be under the influence of alcohol, illegal drugs or mis-used prescription drugs when working with or in the presence of children in care.</li> </ul> <p>(2) The licensee must keep and store all alcohol, including closed and open containers, inaccessible to children.</p> <p><i>(This section revised per comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-4075 First aid kit.</b> (1) The licensee must have a complete first aid kit at all times:</p> <ul style="list-style-type: none"> <li>(a) In the licensed space;</li> <li>(b) On any off-site trip; and</li> <li>(c) In any vehicle used to transport children in care.</li> </ul> <p>(2) A complete first aid kit must include clean:</p> <ul style="list-style-type: none"> <li>(a) Disposable nonporous protective gloves;</li> <li>(b) Adhesive bandages of various sizes;</li> <li>(c) Small scissors;</li> <li>(d) Tweezers;</li> <li>(e) An elastic wrapping bandage;</li> <li>(f) Sterile gauze pads;</li> <li>(g) Ice pack;</li> <li>(h) Mercury free thermometer for taking a child's temperature;</li> <li>(i) Large triangular bandage, for use as a sling;</li> <li>(j) Adhesive tape; and</li> <li>(k) One-way CPR barrier or mask.</li> </ul> <p>(3) The first aid kit must include a current first aid manual.</p>	<p><b>WAC 170-296A-4075 First aid kit.</b> (1) The licensee must have a complete first aid kit at all times:</p> <ul style="list-style-type: none"> <li>(a) In the licensed space;</li> <li>(b) On any off-site trip; and</li> <li>(c) In any vehicle used to transport children in care.</li> </ul> <p>(2) A complete first aid kit must include clean:</p> <ul style="list-style-type: none"> <li>(a) Disposable nonporous protective gloves;</li> <li>(b) Adhesive bandages of various sizes;</li> <li>(c) Small scissors;</li> <li>(d) Tweezers;</li> <li>(e) An elastic wrapping bandage;</li> <li>(f) Sterile gauze pads;</li> <li>(g) Ice packs;</li> <li>(h)(i) Mercury free thermometer that is: <ul style="list-style-type: none"> <li>(A) Used with a disposable sleeve; or</li> <li>(B) Cleaned and sanitized after each use; or</li> </ul> </li> <li>(ii) A single-use thermometer that is disposed of after a single use;</li> <li>(i) A sling, or a large triangular bandage; and</li> <li>(j) Adhesive tape.</li> </ul> <p>(3) The first aid kit must include a current first aid manual.</p> <p><i>(This section revised per comments on the proposed rules.)</i></p>

<p><b>WAC 170-296A-4100 Storage of medications, chemicals and other substances.</b> The following table describes medications, chemicals and other substances that must be:</p> <ul style="list-style-type: none"> <li>(1) Stored in a locked container or cabinet until use; or</li> <li>(2) Stored inaccessible to children. Rescue medications described in subsection (3) of the table must be available for the licensee or primary staff to administer to a child if needed.</li> </ul>	<p><b>WAC 170-296A-4100 Poisons, chemicals and other substances.</b> (1) The licensee must:</p> <ul style="list-style-type: none"> <li>(a) Store poisons inaccessible to children and where poisons will not contaminate food.</li> <li>(b) If poisons are not in the original container, clearly label the container with the name of the product and the words "poison" or "toxic."</li> </ul> <p>(2) The following describes chemicals and other substances that must be stored inaccessible to children:</p> <ul style="list-style-type: none"> <li>(a) Nail polish remover;</li> <li>(b) Sanitizers and disinfectants;</li> <li>(c) Household cleaners and detergents;</li> <li>(d) Toxic plants;</li> <li>(e) Plant fertilizer;</li> <li>(f) Ice melt products;</li> <li>(g) Pool chemicals;</li> <li>(h) Pesticides or insecticides;</li> <li>(i) Fuels, oil, lighter fluid, or solvents;</li> <li>(j) Matches or lighters;</li> <li>(k) Air freshener or aerosols;</li> <li>(l) Personal grooming products including, but not limited to: <ul style="list-style-type: none"> <li>(i) Lotions, creams, toothpaste, or diaper creams when not in use;</li> <li>(ii) Liquid, powder, or cream personal hygiene products;</li> <li>(iii) Shampoo, conditioners, hair gels or hair sprays;</li> <li>(iv) Bubble bath or bath additives;</li> <li>(v) Makeup or cosmetics.</li> </ul> </li> <li>(m) Dish soap, dishwasher soap or additives;</li> <li>(n) Tobacco products, including cigarette/cigar butts and contents of ashtrays; or</li> <li>(o) Alcohol, open or unopened.</li> </ul>
<p><b>WAC 170-296A-4200 Removing recalled items.</b> The licensee must maintain equipment, toys or other items in the child care in good and safe working condition. The licensee must maintain awareness of equipment, toys or other items used in child care listed for recall by the U.S. Consumer Product Safety Commission.</p>	<p><b>WAC 170-296A-4200 Toys, equipment, and recalled items.</b> The licensee must maintain equipment, toys or other items in the child care in good and safe working condition. The licensee must remove a recalled item as soon as the licensee becomes aware that the item used in the licensee's child care operation has been recalled.</p> <p><i>(This section revised per comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-4325 Stairs.</b> (1) If there are stairs in the licensed space, the licensee must:</p> <ul style="list-style-type: none"> <li>(a) Keep the stairway well lit;</li> <li>(b) Keep the stairway free of clutter; and</li> <li>(c) Have a handrail or vertical slats on one side of the stairs that children can reach.</li> </ul> <p>(2) The licensee must keep the stairs inaccessible to the children when not in use with a:</p> <ul style="list-style-type: none"> <li>(a) Barrier;</li> <li>(b) Nonpressure gate; or</li> <li>(c) Door.</li> </ul>	<p><b>WAC 170-296A-4325 Stairs.</b> (1) If there are stairs in the licensed space, the licensee must:</p> <ul style="list-style-type: none"> <li>(a) Keep the stairway well lit;</li> <li>(b) Keep the stairway free of clutter; and</li> <li>(c) Have a handrail not higher than thirty inches high or sturdy slats on one side of the stairs.</li> </ul> <p>(2) The licensee must provide a pressure gate, safety gate, or a door to keep the stairs inaccessible to infants and toddlers when not in use.</p> <p>(3) Openings between slats or on pressure gates or safety gates must not be larger than three and one-half inches wide.</p> <p><i>(This section revised per comments on the proposed rules.)</i></p>

<p><b>WAC 170-296A-4375 Lighting safety.</b> (1) When ceiling-mounted light fixtures are in the play space, the licensee must provide one or more of the following:</p> <ul style="list-style-type: none"> <li>(a) Shatter-resistant covers;</li> <li>(b) Shatter-resistant light bulbs; or</li> <li>(c) Otherwise make the light fixtures safe.</li> </ul> <p>(2) The licensee must not:</p> <ul style="list-style-type: none"> <li>(a) Allow bare light bulbs in any play space; or</li> <li>(b) Use lights or light fixtures indoors that are intended or recommended for outdoor use; or</li> <li>(c) Use halogen lamps in any area accessible to children during operating hours.</li> </ul>	<p><b>WAC 170-296A-4375 Lighting safety.</b> (1) When ceiling-mounted light fixtures are in the licensed space accessible to children, the licensee must provide one or more of the following:</p> <ul style="list-style-type: none"> <li>(a) Shatter-resistant covers;</li> <li>(b) Shatter-resistant light bulbs; or</li> <li>(c) Otherwise make the light fixtures safe.</li> </ul> <p>(2) The licensee must not:</p> <ul style="list-style-type: none"> <li>(a) Allow bare light bulbs in any play space;</li> <li>(b) Use lights or light fixtures indoors that are intended or recommended for outdoor use; or</li> <li>(c) Use halogen lamps in any area accessible to children during operating hours.</li> </ul> <p><i>(This section revised per comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-4450 Interior door locks.</b> An interior door is any door that does not exit to the exterior of the home. Any interior door that locks must be able to be unlocked from either side. An unlocking device must be readily available for staff to unlock any interior door when a child is locked in.</p>	<p><b>WAC 170-296A-4450 Interior door and locks.</b> An interior door is any door that does not exit to the exterior of the home. Any interior door in the licensed space that locks must be able to be unlocked from either side. An unlocking device must be readily available for staff to unlock any interior door when a child is locked in.</p> <p><i>(This section revised per comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-4500 Emergency exits—General.</b> (1) Each floor used for licensed child care space must have at least two emergency exits that open directly to the exterior of the home.</p> <ul style="list-style-type: none"> <li>(a) The emergency exits on each floor must be remotely located from each other, at opposite ends of the building or as widely spaced as possible.</li> <li>(b) One exit must be an emergency exit door as defined in WAC 170-296A-4525 and the other exit may be a door or an emergency window as defined in WAC 170-296A-4550.</li> </ul> <p>(2) Every room used for child care, except bathrooms, must have:</p> <ul style="list-style-type: none"> <li>(a) A door leading to two separate emergency exit pathways; or</li> <li>(b) An emergency exit door leading directly to the exterior of the building.</li> </ul> <p>See WAC 170-296A-4575 for additional requirements for rooms used for sleeping or napping.</p> <p>(3) If child care is provided in a basement or floor level accessed by an interior stairway, the stairway must have a self closing door at the top or bottom.</p> <p>(4) Any basement approved for licensed child care must have two means of emergency exit, which may be one of the following:</p> <ul style="list-style-type: none"> <li>(a) Two emergency exit doors that exit directly to the exterior of the home without entering the first floor; or</li> <li>(b) One of the two emergency exits is an emergency exit window or emergency exit door, and the other exit is an interior stairway that leads to an emergency exit.</li> </ul>	<p><b>WAC 170-296A-4500 Emergency exits—General.</b> (1) Each level of the home (floor) used for licensed child care space must have at least two emergency exits that open directly to the exterior of the home.</p> <ul style="list-style-type: none"> <li>(a) The emergency exits on each floor must be remotely located from each other, at opposite ends of the building or as widely spaced as possible.</li> <li>(b) One exit must be an emergency exit door as defined in WAC 170-296A-4525 and the other exit may be a door or an emergency window as defined in WAC 170-296A-4550.</li> </ul> <p>(2) Every room used for child care, except bathrooms, must have two separate ways to exit that must be:</p> <ul style="list-style-type: none"> <li>(a) An emergency exit door and emergency exit window leading directly to the exterior of the building;</li> <li>(b) An emergency exit door or emergency exit window and an interior door or doorway leading to an emergency exit pathway; or</li> <li>(c) Two separate doors or doorways leading to two separate emergency exit pathways.</li> </ul> <p>See WAC 170-296A-4575 for additional requirements for rooms used for sleeping or napping.</p> <p>(3) If child care is provided in a basement or level of the home accessed by an interior stairway, the stairway must have a self closing door at the top or bottom. As used in this section "basement" means the portion of the home that is partly or completely below grade.</p> <p>(4) Any basement approved for licensed child care must have two means of emergency exit, which may be one of the following:</p>

	<p>(a) Two emergency exit doors that exit directly to the exterior of the home without entering the first floor; or                  (b) One of the two emergency exits is an emergency exit window or emergency exit door, and the other exit is an interior stairway that leads to an emergency exit.</p> <p><i>(This section revised as a result of comments on the proposed rules and to clarify its requirements.)</i></p>
<p><b>WAC 170-296A-4525 Emergency exit doors.</b> (1) An emergency exit door must open to the exterior of the home.                  (2) Any door used as an emergency exit door must:                  (a) Remain unlocked during operating hours;                  (b) Be designed to open from the inside without the use of keys, tools, or special knowledge and automatically unlocks when the door knob or handle is turned; and                  (c) Be easy to open to the full open position.                  (3) If the emergency exit door opens to a landing that is four feet (forty-eight inches) or more above grade, the landing must lead to a stairway or ramp to get to ground level.</p>	<p><b>WAC 170-296A-4525 Emergency exit doors.</b> (1) An emergency exit door must open to the exterior of the home.                  (2) Any door used as an emergency exit door must:                  (a) Remain unlocked from the inside during operating hours; and                  (b) Be easy to open to the full open position.                  (3) If the emergency exit door opens to a landing that is four feet (forty-eight inches) or more above grade, the landing must lead to a stairway or ramp to get to ground level.</p> <p><i>(This section revised as a result of comments on the proposed rules and to clarify its requirements.)</i></p>
<p><b>WAC 170-296A-4550 Emergency exit windows.</b> (1) Any window used as an emergency exit window must:                  (a) Remain unlocked during operating hours, except a manufacturer-installed latch may be latched;                  (b) Be designed to open from the inside of the room without the use of keys, tools or special knowledge; and                  (c) Be easy to open to the full open position.                  (2) An emergency exit window must be at least five point seven square feet in area, except emergency exit windows on the ground floor may be five square feet in area. When open, the window opening must be at least:                  (a) Twenty inches wide; and                  (b) Twenty-four inches tall.                  (3) An emergency exit window must have an interior sill height of forty-four inches or less above the interior floor. If the interior sill height is more than forty-four inches above the interior floor, a sturdy platform (which may be a table or other device) may be used to make the distance forty-four inches or less to the interior window sill. The platform must be in place below the window sill at all times during operating hours.                  (4) An emergency exit window must have a place to land outside that is forty-eight inches or less below the window which may be either:                  (a) The ground; or                  (b) A deck, landing or platform constructed and inspected by local building officials as meeting current building codes.</p>	<p><b>WAC 170-296A-4550 Emergency exit windows.</b> (1) Any window used as an emergency exit window must:                  (a) Remain unlocked during operating hours, except a manufacturer-installed latch may be latched;                  (b) Be designed to open from the inside of the room without the use of keys, tools or special knowledge; and                  (c) Be easy to open to the full open position.                  (2) An emergency exit window must be at least five point seven square feet of opened area, except emergency exit windows on the ground floor may be five square feet of opened area. When open, the window opening must be at least:                  (a) Twenty inches wide; and                  (b) Twenty-four inches tall.                  (3) An emergency exit window must have an interior sill height of forty-four inches or less above the interior floor. If the interior sill height is more than forty-four inches above the interior floor, a sturdy platform (which may be a table or other device) may be used to make the distance forty-four inches or less to the interior window sill. The platform must be in place below the window sill at all times during operating hours.                  (4) An emergency exit window must have a place to land outside that is forty-eight inches or less below the window which may be either:                  (a) The ground; or                  (b) A deck, landing or platform constructed to meet current building codes.</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>

<p><b>WAC 170-296A-4575 Emergency exits from sleeping/napping areas.</b> Each room used for sleeping or napping must have:</p> <ul style="list-style-type: none"> <li>(1) Interior doors leading to two separate emergency exit pathways; or</li> <li>(2) An emergency exit door leading directly to the exterior of the building; or</li> <li>(3) An interior door leading to an emergency exit pathway and an emergency exit window exiting to the exterior of the building. The emergency exit window must meet the requirements stated in WAC 170-296A-4550(3).</li> </ul>	<p><b>WAC 170-296A-4575 Emergency exits from areas used only for sleeping/napping areas.</b> Each room used for sleeping or napping must have two ways to exit:</p> <ul style="list-style-type: none"> <li>(1) One exit must be an emergency exit door or emergency exit window leading directly to the exterior of the building;</li> <li>(2) The other exit may be an interior door leading to an emergency exit pathway.</li> </ul> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-4650 Bathroom floors.</b> (1) Floors in a bathroom or toileting area must have a washable surface and be resistant to moisture. The floor must be cleaned and sanitized daily or more often if needed.</p> <ul style="list-style-type: none"> <li>(a) If a bleach solution is used to sanitize, the solution must be one teaspoon of bleach to one gallon of cool water;</li> <li>(b) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions, including but not limited to quantity used, time the product must be left in place, and adequate time to allow the product to dry.</li> </ul> <p>(2) Removable rugs may be used in the bathroom. The rugs must be washed when soiled or at least weekly.</p>	<p><b>WAC 170-296A-4650 Bathroom floors.</b> (1) Floors in a bathroom or toileting area must have a washable surface and be resistant to moisture. The floor must be cleaned and disinfected daily or more often if needed.</p> <ul style="list-style-type: none"> <li>(a) If a bleach solution is used to disinfect, the solution must be one tablespoon of chlorine bleach to one gallon of cool water;</li> <li>(b) If another disinfectant product is used, it must be used strictly according to manufacturer's label instructions, including but not limited to quantity used, time the product must be left in place, and adequate time to allow the product to dry.</li> </ul> <p>(2) Removable rugs may be used in the bathroom. The rugs must be laundered and sanitized at least weekly or more often if needed.</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-4675 Bathroom sinks.</b> A sink used for handwashing must be located in or next to bathrooms or other areas used for toileting. The sink must:</p> <ul style="list-style-type: none"> <li>(1) Have warm running water; and</li> <li>(2) Be of appropriate height and size for children, or have a platform for the children to use that is safe, easily cleanable and resistant to moisture.</li> </ul>	<p><b>WAC 170-296A-4675 Bathroom sinks.</b> A sink used for handwashing must be located in or next to bathrooms. The sink must:</p> <ul style="list-style-type: none"> <li>(1) Have warm running water; and</li> <li>(2) Be of appropriate height and size for children, or have a platform for the children to use that is safe, easily cleanable and resistant to moisture.</li> </ul> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<b>PETS</b>	<b>PETS AND OTHER ANIMALS</b>
<p><b>WAC 170-296A-4800 Pet policy.</b> A licensee who has a pet or pets must:</p> <ul style="list-style-type: none"> <li>(1) Inform children's parents and guardians that the licensee has a pet; and</li> <li>(2) Have a pet policy in the parent handbook that includes: <ul style="list-style-type: none"> <li>(a) How children will have access to pets;</li> <li>(b) How children will be kept safe around pets;</li> <li>(c) Pet immunizations; and</li> <li>(d) Handling of pet waste.</li> </ul> </li> </ul>	<p><b>WAC 170-296A-4800 Pet and animal policy.</b> A licensee who has a pet or other animals on the premises must:</p> <ul style="list-style-type: none"> <li>(1) Inform children's parents and guardians that the licensee has a pet or other animals; and</li> <li>(2) Have a pet/animal policy in the parent handbook that includes: <ul style="list-style-type: none"> <li>(a) How children will have access to pets or other animals;</li> <li>(b) How children will be kept safe around pets or other animals;</li> <li>(c) Pet or animal immunizations; and</li> <li>(d) Handling of pet or animal waste.</li> </ul> </li> </ul> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>

<p><b>WAC 170-296A-4850 Pet health and safety.</b> (1) Pets that have contact with children must:</p> <ul style="list-style-type: none"> <li>(a) Have current immunizations for communicable diseases;</li> <li>(b) Show no signs of disease, worms or parasites; and</li> <li>(c) Be nonaggressive.</li> </ul> <p>(2) Children and staff must wash their hands as required under WAC 170-296A-3625 after interacting with pets or handling pet toys or equipment.</p>	<p><b>WAC 170-296A-4850 Pet/animal health and safety.</b> Pets or other animals that have contact with children must:</p> <ul style="list-style-type: none"> <li>(1) Have current immunizations for communicable diseases if applicable;</li> <li>(2) Show no signs of disease, worms or parasites; and</li> <li>(3) Be nonaggressive.</li> </ul> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-4875 Pets interacting with children.</b> The licensee:</p> <ul style="list-style-type: none"> <li>(1) Must have a written plan to keep a pet inaccessible to the children if the pet is known to be dangerous or aggressive.</li> <li>(2) Must directly supervise, or instruct staff to directly supervise, children preschool age and younger when the children are interacting with pets.</li> <li>(3) Must make reptiles and amphibians inaccessible to the children due to the risk of Salmonella.</li> </ul>	<p><b>WAC 170-296A-4875 Pets or other animals interacting with children.</b> The licensee:</p> <ul style="list-style-type: none"> <li>(1) Or primary staff person must directly supervise, or instruct staff to directly supervise, children preschool age and younger when the children are interacting with pets or other animals.</li> <li>(2) Must have children and staff wash their hands as required under WAC 170-296A-3625 after interacting with pets or other animals, or after handling an animal's toys, bedding, litter or equipment.</li> <li>(3) Must have a written plan to keep a pet or other animal inaccessible to the children if the pet or animal is known to be dangerous or aggressive.</li> <li>(4) Must make reptiles and amphibians inaccessible to the children due to the risk of Salmonella.</li> </ul> <p><i>(This section revised as a result of comments on the proposed rules and to clarify its requirements.)</i></p>
<p><b>WAC 170-296A-4900 Pet wastes.</b> The licensee must:</p> <ul style="list-style-type: none"> <li>(1) Keep litter boxes inaccessible to the children.</li> <li>(2) Have a designated area outside the fenced licensed outdoor space for pets to relieve themselves.</li> <li>(3) Remove feces right away if an animal relieves itself in the outdoor licensed space.</li> <li>(4) Pet feces, urine, blood, or vomit when found in the indoor licensed space must be cleaned up immediately and the area sanitized.</li> </ul>	<p><b>WAC 170-296A-4900 Pet wastes.</b> The licensee must:</p> <ul style="list-style-type: none"> <li>(1) Keep litter boxes inaccessible to the children.</li> <li>(2) For pets that do not have an indoor litter area, have a designated area outside for pets to relieve themselves that is inaccessible to children in care. This area may not be counted in the licensed outdoor square footage under WAC 170-296A-4925.</li> <li>(3) Remove feces right away if an animal relieves itself in the outdoor licensed space.</li> <li>(4) Clean and disinfect the area immediately when a pet leaves feces, urine, blood, or vomit in the indoor licensed space.</li> </ul> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-4925 Licensed outdoor space.</b> (1) The licensee must provide a safe outdoor play area on the premises.</p> <ul style="list-style-type: none"> <li>(a) The outdoor play space must contain seventy-five square feet of usable space per child for the number of children stated on the license.</li> <li>(b) If the premises does not have seventy-five square feet of available outdoor space per child, the licensee may provide an alternative plan, approved by the department, to meet the requirement for children to have daily outdoor play opportunities.</li> </ul>	<p><b>WAC 170-296A-4925 Licensed outdoor space.</b> (1) The licensee must provide a safe outdoor play area on the premises.</p> <ul style="list-style-type: none"> <li>(a) The outdoor play space must contain seventy-five square feet of usable space per child for the number of children stated on the license.</li> <li>(b) If the premises does not have seventy-five square feet of available outdoor space per child, the licensee may provide an alternative plan, approved by the department, to meet the requirement for all children in care to have daily opportunities for active outdoor play.</li> </ul>

<p>(2) The licensed outdoor play space must be securely enclosed with a fence of a minimum height of four feet. When a fence has slats, openings between the slats must be no wider than three and one-half inches.</p> <p>(3) When the licensed outdoor play space is not adjacent to the home the licensee must:</p> <p>(a) Identify and use a safe route to and from licensed outdoor space that is approved by the department; and</p> <p>(b) Supervise the children at all times when passing between the licensed outdoor space and the home.</p> <p>(4) The licensee must provide a written plan, approved by the department, to make roadways and other dangers adjacent to the licensed outdoor play space inaccessible to children.</p>	<p>(2) The licensed outdoor play space must be securely enclosed with a fence of a minimum height of four feet. When a fence has slats, openings between the slats must be no wider than three and one-half inches.</p> <p>(3) When the licensed outdoor play space is not adjacent to the home the licensee must:</p> <p>(a) Identify and use a safe route to and from the licensed outdoor space that is approved by the department; and</p> <p>(b) Supervise the children at all times when passing between the licensed outdoor space and the home.</p> <p>(4) The licensee must provide a written plan, approved by the department, to make roadways and other dangers adjacent to the licensed outdoor play space inaccessible to children.</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-4950 Rails on platforms, decks, and stairs.</b> (1) Platforms or decks (not including play equipment) used at any time for child care activities with a drop zone of more than eighteen inches must have guardrails in any area where there are no steps.</p> <p>(2) Outdoor stairs with four or more steps must have vertical slats (balusters) or a hand rail on at least one side. Openings between the slats must be no wider than three and one-half inches. This requirement does not apply to outdoor play equipment with stairs.</p>	<p><b>WAC 170-296A-4950 Rails on platforms, decks, and stairs.</b> (1) Platforms or decks (not including play equipment) used at any time for child care activities with a drop zone of more than eighteen inches must have guardrails in any area where there are no steps.</p> <p>(2) Outdoor stairs with four or more steps must have slats (balusters) or a hand rail not higher than thirty inches high on at least one side. Openings between the slats must be no wider than three and one-half inches. This requirement does not apply to outdoor play equipment with stairs.</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-4975 Outdoor supervision.</b> (1) The licensee or primary staff person must be within sight and hearing range when children preschool age or younger are using the licensed outdoor space and be available and able to respond if the need arises for the safety of the children.</p> <p>(2) The licensee or primary assistant must be within sight or hearing range of school age children when in the licensed outdoor space and be available and able to respond if the need arises for the safety of the children.</p> <p>(3) The required staff-to-child ratio must be maintained when the children are in the licensed outdoor space, except as provided in subsection (4) of this section.</p> <p>(4) A second staff person or assistant may engage in other child care activities temporarily as long as he or she is in sight or hearing range and is available and able to respond if the need arises for the safety of the children.</p>	<p><i>(WAC 170-296A-4975 is withdrawn and its content incorporated into WAC170-296A-5750.)</i></p>
<p><b>WAC 170-296A-5000 Play equipment.</b> (1) The licensee must have play equipment that is developmentally appropriate and maintained in a safe working condition. Unsafe equipment must be repaired immediately or must be made inaccessible to children until repairs are made.</p> <p>(2) Play equipment must be arranged so that it does not interfere with other play equipment when in use.</p> <p>(3) The licensee must install or assemble play equipment according to manufacturer specifications, and keep specifications on file for review by the licensor.</p>	<p><b>WAC 170-296A-5000 Play equipment.</b> (1) The licensee must have play equipment that is developmentally appropriate and maintained in a safe working condition. The licensee must inspect play equipment at least weekly for injury hazards, broken parts, or damage. Unsafe equipment must be repaired immediately or must be made inaccessible to children until repairs are made.</p> <p>(2) Play equipment must be arranged so that it does not interfere with other play equipment when in use.</p> <p>(3) The licensee must install or assemble new play equipment acquired after March 31, 2012, according to manufac-</p>

	<p>turer specifications, and keep specifications on file for review by the licensor.</p> <p>(4) For used or "hand-made" play equipment, or for play equipment acquired and installed prior to March 31, 2012, the licensee must assemble the equipment in a manner that provides a safe play experience for the children.</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-5025 Outdoor physical activities.</b> The licensee must have an outdoor play area that promotes a variety of age and developmentally appropriate physical activities for the children in care.</p>	<p><b>WAC 170-296A-5025 Outdoor physical activities.</b> The licensee must have an outdoor play area that promotes a variety of age and developmentally appropriate active play for the children in care.</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-5050 Bouncing equipment prohibited.</b> The licensee must not use or allow the use of bouncing equipment including, but not limited to, trampolines, rebounders and inflatable equipment. This requirement does not apply to bounce balls with handles for use by individual children.</p>	<p><b>WAC 170-296A-5050 Bouncing equipment prohibited.</b> The licensee must not use or allow the use of bouncing equipment including, but not limited to, trampolines, rebounders and inflatable equipment. This requirement does not apply to bounce balls with or without handles for use by individual children.</p> <p><i>(This section revised for clarity.)</i></p>
<p><b>WAC 170-296A-5075 Ground cover—Fall zones.</b> (1) The licensee must not place climbing play equipment on concrete, asphalt, packed soil, lumber, or similar hard surfaces when being used by children.</p> <p>(2) The ground under play equipment intended to be climbed must be covered by a shock absorbing material. Grass alone is not an acceptable ground cover material under swings or play equipment intended to be climbed.</p> <p>(3) A six-foot fall zone must surround all equipment that has a platform over forty-eight inches tall that is intended to be climbed.</p> <p>(4) The fall zone area must extend at least six feet beyond the perimeter of the equipment. For swings, the area must extend six feet from the furthest arc of the swing.</p> <p>(5) Swings must be positioned so that the furthest arc of the swing is at least ten feet from a fence, building or other play equipment.</p>	<p><b>WAC 170-296A-5075 Playground equipment—Ground cover—Fall zones.</b> (1) The licensee must not place climbing play equipment on concrete, asphalt, packed soil, lumber, or similar hard surfaces when being used by children.</p> <p>(2) The ground under swings and play equipment intended to be climbed must be covered by a shock absorbing material. Grass alone is not an acceptable ground cover material under swings or play equipment intended to be climbed. Acceptable ground cover includes:</p> <ul style="list-style-type: none"> <li>(a) Pea gravel - At least nine inches deep;</li> <li>(b) Playground wood chips - At least nine inches deep;</li> <li>(c) Shredded recycled rubber - At least six inches deep; or</li> <li>(d) Other department approved material.</li> </ul> <p>(3) A six-foot fall zone must surround all equipment that has a platform over forty-eight inches tall that is intended to be climbed.</p> <p>(4) The fall zone area must extend at least six feet beyond the perimeter of the play equipment. For swings, the fall zone must be the distance to the front and rear of the swing set equal to or greater than twice the height of the top bar from which the swing is suspended.</p> <p>(5) Swing sets must be positioned further away from structures to the front and rear of the swing set. The distance to the front and rear of the swing set from any playground equipment or other structure must be the distance equal to or greater than twice the height of the top bar from which the swing is suspended.</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>

	WATER SAFETY
<p><b>WAC 170-296A-5150 Water activity—Supervision.</b> (1) Unless attending a swimming or water play activity, when outside the licensed premises the licensee must keep children from having access to bodies of water that pose a drowning hazard.</p> <p>(2) When the licensee takes children near a body of water outside the licensed premises that is accessible and more than four inches deep, there must be:</p> <p>(a) A certified lifeguard on duty; or</p> <p>(b)(i) One additional staff member more than the required staff-to-child ratio as provided in WAC 170-296A-5700 to help with the children; and</p> <p>(ii) At least one staff person in attendance must be able to swim.</p>	<p><b>WAC 170-296A-5150 Water activity—Supervision.</b> When children in care are attending a swimming or water play activity outside the licensed premises:</p> <p>(1) The licensee must have written permission from each child's parent or guardian;</p> <p>(2) There must be a certified lifeguard on duty; and</p> <p>(3) When infants or toddlers are in water depth that is:</p> <p>(a) Twenty-four inches or less, the licensee or staff must stay within reach of infants or toddlers; or</p> <p>(b) Greater than twenty-four inches, the licensee must provide one-to-one staff-to-child ratio for each infant or toddler. Staff must hold or be in constant touch contact with each infant or toddler.</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-5175 Wading pools—Defined—Supervision.</b> (1) A wading pool:</p> <p>(a) Is an enclosed pool with water depth of two feet or less measured without children in the pool; and</p> <p>(b) Can be emptied and moved.</p> <p>(2) When a wading pool on the premises is intended for use by the children, the licensee must:</p> <p>(a) Directly supervise or have a primary staff person directly supervise the children;</p> <p>(b) Obtain written permission from each child's parent or guardian to allow the child to use a wading pool;</p> <p>(c) Maintain staff-to-child ratios when children are in a wading pool;</p> <p>(d) Keep infants or toddlers in the wading pool within reach of the licensee or staff;</p> <p>(e) Use a door alarm or bell to warn staff that children are entering the outdoor area when pool water could be accessed, or keep the wading pool empty when not in use; and</p> <p>(f) Empty, clean and sanitize the pool daily or immediately if the pool is soiled with urine, feces, vomit, or blood:</p> <p>(i) If a bleach solution is used to sanitize, the solution must be one teaspoon of bleach to one gallon of cool water;</p> <p>(ii) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.</p>	<p><b>WAC 170-296A-5175 Wading pools—Defined—Supervision.</b> (1) A wading pool:</p> <p>(a) Is an enclosed pool with water depth of two feet or less measured without children in the pool; and</p> <p>(b) Can be emptied and moved.</p> <p>(2) When a wading pool on the premises is intended for use by the children, the licensee must:</p> <p>(a) Directly supervise or have a primary staff person directly supervise the children;</p> <p>(b) Obtain written permission from each child's parent or guardian to allow the child to use a wading pool;</p> <p>(c) Maintain staff-to-child ratios when children are in a wading pool;</p> <p>(d) Keep infants or toddlers in the wading pool within reach of the licensee or staff;</p> <p>(e) Use a door alarm or bell to warn staff that children are entering the outdoor area when pool water could be accessed, or keep the wading pool empty when not in use;</p> <p>(f) Empty the pool daily; and</p> <p>(g) Clean and disinfect the pool daily or immediately if the pool is soiled with urine, feces, vomit, or blood:</p> <p>(i) If a bleach solution is used to disinfect, the solution must be one tablespoon of chlorine bleach to one gallon of cool water;</p> <p>(ii) If another disinfectant product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>

<p><b>WAC 170-296A-5200 Swimming pools defined—Barriers and supervision.</b> (1) A swimming pool is a pool that has a water depth greater than two feet.</p> <p>(2) When there is a swimming pool on the premises the licensee must:</p> <p>(a) Have a five-foot high fence that blocks access to the swimming pool;</p> <p>(b) Lock the entrance and exit points to the swimming pool;</p> <p>(c) Have an unlocking device that is inaccessible to children but readily available to the licensee or staff;</p> <p>(d) Maintain the swimming pool according to manufacturer's specifications; and</p> <p>(e) Clean and sanitize the swimming pool using the manufacturer's specifications.</p> <p>(3) When the swimming pool on the premises is used by the children the licensee must:</p> <p>(a) Obtain written permission from each child's parent or guardian to allow the child to use the swimming pool;</p> <p>(b) Have one person present at the swimming pool with lifeguard training;</p> <p>(c) Provide a one-to-one staff-to-child ratio for infants or toddlers in the swimming pool. Staff must hold or be in constant touch contact with infants or toddlers in the swimming pool; and</p> <p>(d) Provide one additional staff person more than the required staff-to-child ratio as provided in WAC 170-296A-5700 to help supervise children other than infants or toddlers.</p>	<p><b>WAC 170-296A-5200 Swimming pools defined—Barriers and supervision.</b> (1) A swimming pool is a pool that has a water depth greater than two feet.</p> <p>(2) When there is a swimming pool on the premises the licensee must provide:</p> <p>(a) A door alarm or bell on each door opening to the pool area to warn staff when the door is opened;</p> <p>(b) A five-foot high fence that blocks access to the swimming pool. When the fence has slats the openings between slats must not be wider than three and one-half inches wide;</p> <p>(c) Gates with a self-latching device at entrance and exit points to the swimming pool and lock each gate; and</p> <p>(d) An unlocking device that is inaccessible to children but readily available to the licensee or staff.</p> <p>(3) The licensee must maintain the swimming pool according to manufacturer's specifications, including cleaning and sanitizing.</p> <p>(4) When the swimming pool on the premises is used by the children:</p> <p>(a) The licensee must obtain written permission from the parent or guardian of each child using the swimming pool;</p> <p>(b) One person present at the swimming pool must have lifeguard training;</p> <p>(c) The licensee must provide:</p> <p>(i) One additional staff person more than the required staff-to-child ratio than provided in WAC 170-296A-5700 to help supervise children preschool age and older;</p> <p>(ii) A one-to-one staff-to-child ratio for infants or toddlers in the swimming pool;</p> <p>(d) Staff must hold or be in constant touch contact with infants or toddlers in the swimming pool; and</p> <p>(e) Children in diapers or toilet training must wear swim pants to lower the risk of contaminating the water.</p>
<p><i>(This section revised as a result of comments on the proposed rules.)</i></p>	
<p><b>WAC 170-296A-5225 Bodies of water or water hazards on the licensed premises.</b> (1)(a) As used in WAC 170-296A-5150 through 170-296A-5250, a "body of water" is a natural area or man-made area or device that contains or holds more than two inches of water.</p> <p>(b) "Body of water" does not include a wading pool as defined in WAC 170-296A-5175, a water activity table, small bird baths or rain puddles with a water depth of two inches or less.</p>	<p><b>WAC 170-296A-5225 Bodies of water or water hazards on the licensed premises.</b> (1)(a) As used in WAC 170-296A-5150 through 170-296A-5250, a "body of water" is a natural area or man-made area or device that contains or holds more than two inches of water.</p> <p>(b) "Body of water" does not include a wading pool as defined in WAC 170-296A-5175, a water activity table, small bird baths or rain puddles with a water depth of two inches or less.</p>
<p>(2) When children are in care the licensee must:</p> <p>(a) Make any body of water in the licensed space inaccessible with a fence or a physical barrier that is at least five feet tall, except as provided in subsection (c) of this section;</p> <p>(b) Directly supervise or have a primary staff person directly supervise children, with the staff-to-child ratios observed, whenever children play in any area with a body of water;</p>	<p>(2) When children are in care the licensee must:</p> <p>(a) Make any body of water in the licensed space inaccessible with a physical barrier (not to include a hedge or vegetation barrier) or fence that is at least five feet tall, except as provided in subsection (c) of this section. When a fence has slats or open grids, openings must not be wider than three and one-half inches;</p> <p>(b) Directly supervise or have a primary staff person</p>

<p>(c) Make hot tubs, spas, or jet tubs inaccessible with a tub cover that is locked; and                  (d) Not use five gallon buckets or similar containers for infant or toddler water play.</p>	<p>directly supervise children, with the staff-to-child ratios observed, whenever children play in any area with a body of water;                  (c) Make hot tubs, spas, or jet tubs inaccessible with a tub cover that is locked; and                  (d) Not use five gallon buckets or similar containers for infant or toddler water play.</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-5250 Safety plan for bodies of water outside and near licensed space.</b> The licensee must make the following bodies of water inaccessible to children in care, and have a written safety plan approved by the department for:                  (1) Bodies of water, including ditches, located outside and near (in close proximity to) the licensed space, regardless of whether the body of water is on or off the premises; or                  (2) Any uncovered well, septic tank, below grade storage tank; farm manure pond or similar hazards that are on the premises.</p>	<p><b>WAC 170-296A-5250 Bodies of water outside and near licensed space.</b> (1) The licensee must make the following bodies of water inaccessible to children in care, and have a written safety plan approved by the department for:                  (a) Ponds, lakes, storm retention ponds, ditches, fountains, fish ponds, landscape pools or similar bodies of water located outside and near (in close proximity to) the licensed space, regardless of whether the body of water is on or off the premises; or                  (b) Any uncovered well, septic tank, below grade storage tank; farm manure pond or similar hazards that are on the premises.                  (2) Unless attending a swimming or water play activity, when outside the licensed premises the licensee or staff must keep children from having access to bodies of water that pose a drowning hazard.                  (3) When the licensee or primary staff person takes children near a body of water outside the licensed premises and children have access to a body of water that is more than four inches deep, there must be:                  (a) One additional staff person more than the required staff-to-child ratio provided in WAC 170-296A-5700 to help with the children; and                  (b) At least one staff person in attendance must be able to swim.</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-5550 Birth through twelve years license.</b>                  (1) The department issues a full license for the licensee to care for not more than twelve children birth through twelve years of age.                  (2) The department may issue a full licensee for fewer than twelve children if the total square footage of licensed indoor or outdoor space is less than the minimum square footage required to care for twelve children.                  (3) If the licensee has less than one year of child care experience, the department may issue an initial license limited to:                  (a) Caring for not more than six children; or                  (b) Caring for children older than eighteen months of age and walking independently.</p>	<p><b>WAC 170-296A-5550 Birth through twelve years license.</b>                  (1) The department issues an initial license or nonexpiring full license for the licensee to care for not more than twelve children birth through twelve years of age.                  (2) The department may issue an initial license or nonexpiring full license for fewer than twelve children if the total square footage of licensed indoor or outdoor space is less than the minimum square footage required to care for twelve children.                  (3) If the licensee has less than one year of child care experience, the department may issue an initial license limited to:                  (a) Caring for not more than six children; or                  (b) Caring for children older than eighteen months of age and walking independently.</p>

<p>(4) See the table in WAC 170-296A-5700 for the number and ages of children a licensee may care for and the staff-to-child ratios required based on the licensee's experience and staffing levels.</p>	<p>(4) See the table in WAC 170-296A-5700 for the number and ages of children a licensee may care for and the staff-to-child ratios required based on the licensee's experience and staffing levels.</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-5625 Capacity.</b> The licensee must not exceed the total number or ages of children in care (capacity) stated on the child care license.</p>	<p><b>WAC 170-296A-5625 Capacity and ratio.</b> (1) The licensee must not exceed the total number or ages of children in care (capacity) stated on the child care license.</p> <p>(2) All children in care through twelve years of age in attendance on the premises or being transported by the licensee or staff or a household member are counted in capacity.</p> <p>(3) Any child within the age range on the license count in ratio, including the licensee's own children, children of staff, or visiting children who are not accompanied by an adult.</p> <p>(4) The licensee must receive department approval to care for a child with special needs as documented in WAC 170-296A-0050 if the child is older than the maximum age identified on the license. A child with documented special needs may be in care up to age nineteen and must be counted in ratio.</p> <p>(5) If an individual child with special needs requires individualized supervision, a staff member providing individualized supervision for that child does not count in the staff-to-child ratio for the other children in care.</p> <p><i>(This section incorporates content from withdrawn WAC 170-296A-5650, and is revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-5650 Children counted in ratio and capacity.</b> (1) Children enrolled in the child care program count in ratio through twelve years of age.</p> <p>(2) All children through twelve years of age in attendance on the premises or being transported by the licensee or staff are counted in the total number of children in the licensee's care.</p> <p>(3) Any child within the age range on the license count in ratio, including licensee's own children, staff's own children or visiting children who are not accompanied by an adult.</p> <p>(4) The licensee must receive department approval to care for a child with special needs as documented in WAC 170-296A-6725 if the child is older than the maximum age identified on the license. A child with documented special needs may be in care up to age nineteen and must be counted in ratio.</p> <p>(5) If an individual child with special needs requires individualized supervision, a staff member providing individualized supervision for that child does not count in the staff-to-child ratio for the other children in care.</p>	<p><i>(Proposed WAC 170-296A-5650 is withdrawn and its content moved to WAC 170-296A- 5625.)</i></p>
<p><b>WAC 170-296A-5700 Capacity and ratio table—Birth through twelve year old license.</b></p>	<p><b>WAC 170-296A-5700</b> <i>(The table in this section revised for clarity – see changes following table 3.)</i></p>

<p><b>WAC 170-296A-5750 Supervising staff.</b> When the licensee or primary staff are supervising staff, they must be:</p> <ul style="list-style-type: none"> <li>(1) Aware of what staff are doing; and</li> <li>(2) Available and able to promptly assist to protect the health and safety of children in care.</li> </ul>	<p><b>WAC 170-296A-5750 Supervision. Supervising children.</b></p> <ul style="list-style-type: none"> <li>(1) The licensee must provide required staffing levels, staff-to-child ratios and supervision for the number of children in attendance.</li> <li>(2) The licensee or primary staff person must be aware of what the children are doing at all times and be available and able to promptly assist or redirect activities when necessary. If unable to see the children, the licensee or primary staff person must frequently go to the area where the children are located to check on them. For the purposes in this section frequently is defined as on many occasions with little time between them.</li> <li>(3) The licensee must consider the following when deciding how closely to supervise the children: <ul style="list-style-type: none"> <li>(a) Ages of the children;</li> <li>(b) Individual differences and abilities;</li> <li>(c) Layout of the indoor and outdoor licensed space and play area;</li> <li>(d) The risk associated with the activities children are engaged in; and</li> <li>(e) Any nearby hazards including those in the licensed or unlicensed space.</li> </ul> </li> <li>(4) A baby monitor or video monitor must not be used in place of direct supervision of the children.</li> </ul> <p><b>Additional requirements when the children are indoors.</b></p> <ul style="list-style-type: none"> <li>(5) The licensee or primary staff person must be within sight or hearing range when children are indoors and be available and able to respond if the need arises for the safety of the children.</li> <li>(6) When children are present on more than one level (floor) of the home, the licensee or primary staff person must be supervising the children on each level and maintain required staff-to-child ratios. Each level of the home used by the children must be licensed space.</li> </ul> <p><b>Additional requirements when children are outdoors.</b></p> <ul style="list-style-type: none"> <li>(7) The licensee or primary staff person must be within sight and hearing range when children preschool age or younger are using the licensed outdoor space and be available and able to respond if the need arises for the safety of the children.</li> <li>(8) The licensee or primary staff person must be within sight or hearing range of school age children when in the licensed outdoor space and be available and able to respond if the need arises for the safety of the children.</li> <li>(9) The required staff-to-child ratio must be maintained when the children are in the licensed outdoor space, except as provided in subsection (10) of this section.</li> <li>(10) Except when children in care are using a wading pool or swimming pool, a second staff person or assistant may engage in other child care activities temporarily as long as he or she is in sight or hearing range and is available and able to respond if the need arises for the safety of the children.</li> </ul>
--	---

	<p>(11) See:                  (a) WAC 170-296A-5150 for additional supervision requirements when children are engaged in an off-site water-play or swimming activity;                  (b) WAC 170-296A-5175 for additional supervision requirements when children are using a wading pool; and                  (c) WAC 170-296A-5200 for additional supervision requirements when children are using a swimming pool.  <b>Supervising staff.</b>                  (12) When the licensee or primary staff person is supervising staff, he or she must be:                  (a) Aware of what staff are doing; and                  (b) Available and able to respond if the need arises to protect the health and safety of children in care.                  (13) See WAC 170-296A-1925 for additional supervision requirements for assistants and volunteers.</p> <p><i>(This section revised as a result of comments on the proposed rules and to consolidate supervision requirements in several proposed sections for clarity.)</i></p>
<p><b>WAC 170-296A-5775 Licensee absence.</b> (1) The licensee must have a written policy and procedure for staff to follow any time the licensee is absent from the child care. The policy and procedure must include, but is not limited to:                  (a) A staffing plan to include:                  (i) That qualified primary staff will be present and in charge at all times during the licensee's absence;                  (ii) Staff roles and responsibilities;                  (iii) How staff-to-child ratios will be met; and                  (iv) How staff will meet the individual needs of children in care;                  (b) How parents will be notified in writing of the licensee's absence;                  (c) Responsibility for meeting the requirements of this chapter and chapter 43.215 RCW;                  (d) Emergency contact information for the licensee; and                  (e) Licensee's expected outside work schedule if applicable.                  (2) The department must approve the licensee's plan. The department may require modifications to the proposed plan if it does not meet licensing requirements.                  (3) Prior to engaging in employment or ongoing activities outside of the child care home during child care hours the licensee must inform the department in writing.</p>	<p><b>WAC 170-296A-5775 Licensee absence.</b> (1) The licensee must have a written policy and procedure for staff to follow any time the licensee is absent from the child care. The policy and procedure must include, but is not limited to:                  (a) A staffing plan to include:                  (i) That a qualified primary staff person will be present and in charge at all times during the licensee's absence;                  (ii) Staff roles and responsibilities;                  (iii) How staff-to-child ratios will be met; and                  (iv) How staff will meet the individual needs of children in care;                  (b) How parents will be notified in writing of the licensee's absence described in WAC 170-296A-5810(1), closures, or staffing changes;                  (c) Responsibility for meeting the requirements of this chapter and chapter 43.215 RCW;                  (d) Emergency contact information for the licensee; and                  (e) Licensee's expected outside work schedule if applicable.                  (2) Prior to engaging in outside employment or ongoing activities outside the child care during operating hours, the licensee must inform the department in writing.                  (3) The department must approve the licensee's policy and procedure for licensee absence. The department may require modifications to the proposed policy and procedure if it does not meet licensing requirements.</p> <p><i>(This section revised as a result of comments on the proposed rules and incorporates content from withdrawn WAC 170-296A-5900.)</i></p>
<p><b>WAC 170-296A-5800 Orientation for staff.</b> The licensee must provide an orientation to all staff on licensing standards in this chapter, including the licensee's policies and procedures, and document when the training occurred and identify staff that received the training.</p>	<p><i>(The content of proposed WAC 170-296A-5800 merged with WAC 170-296A-5825.)</i></p>

<p><b>WAC 170-296A-5825 Licensee absence—Retraining for staff if standards are violated.</b> If the department issues a facility license compliance agreement as a result of staff not following the licensing standards of this chapter in the licensee's absence, the licensee must:</p> <ul style="list-style-type: none"> <li>(1) Retrain the staff on the licensing standards in this chapter; and</li> <li>(2) Document that the retraining occurred.</li> </ul>	<p><b>WAC 170-296A-5825 Licensee absence—Retraining for staff if standards are violated.</b> (1) The licensee must provide an orientation to all staff on licensing standards in this chapter, including the licensee's policies and procedures, and document when the training occurred and identify staff that received the training.</p> <ul style="list-style-type: none"> <li>(2) If the department issues a facility license compliance agreement as a result of staff not following the licensing standards of this chapter in the licensee's absence, the licensee must:             <ul style="list-style-type: none"> <li>(a) Retrain the staff on the licensing standards in this chapter; and</li> <li>(b) Document that the retraining occurred.</li> </ul> </li> </ul> <p><i>(This section revised to incorporate content from withdrawn WAC 170-296A-5800 for clarity.)</i></p>
<p><b>WAC 170-296A-5850 Licensee notice of absences.</b> (1) The licensee must notify the department forty-eight hours prior to the following absences during child care hours:</p> <ul style="list-style-type: none"> <li>(a) Outside employment;</li> <li>(b) Vacation or absence exceeding seven consecutive days when the child care will remain open; or</li> <li>(c) Regularly scheduled absences during child care hours.</li> </ul> <p>(2) The licensee must inform the department of the following regarding the licensee's absence:</p> <ul style="list-style-type: none"> <li>(a) Time period of the absence;</li> <li>(b) Written plan including who will be left in charge of the child care;</li> <li>(c) Contact information for licensee; and</li> <li>(d) How parents will be informed prior to the absence.</li> </ul>	<p><b>WAC 170-296A-5810 Licensee notice of absences.</b> (1) The licensee must notify the department forty-eight hours prior to the following absences when the absence is during child care hours:</p> <ul style="list-style-type: none"> <li>(a) Outside employment;</li> <li>(b) Vacation or absence exceeding seven consecutive days when the child care will remain open; or</li> <li>(c) Regular absences scheduled during child care hours.</li> </ul> <p>As used in this section, "regular absence" is an absence that is planned and reoccurring, and is more than four hours duration.</p> <p>(2) The licensee must inform the department of the following regarding the licensee's absence:</p> <ul style="list-style-type: none"> <li>(a) Time period of the absence;</li> <li>(b) Written plan including who will be left in charge of the child care. See WAC 170-296A-5775;</li> <li>(c) Contact information for licensee; and</li> <li>(d) How parents will be informed prior to the absence.</li> </ul> <p><i>(This section renumbered as WAC 170-296A-5810 for more logical order. The definition of "regular absence" was added as a result of comments on the proposed rule. This definition was recommended by the negotiated rule-making team.)</i></p>
<p><b>WAC 170-296A-5875 Notifying parents of closures, absences, staff changes.</b> The licensee must notify parents in writing of:</p> <ul style="list-style-type: none"> <li>(1) Closures;</li> <li>(2) Licensee's potential absences; and</li> <li>(3) Staffing changes.</li> </ul>	<p><i>(Proposed WAC 170-296A-5875 is withdrawn and its content incorporated into WAC 170-296A-5775.)</i></p>
<p><b>WAC 170-296A-5900 Notifying the licensor regarding the licensee's absence.</b> The licensee or another person must notify the licensor:</p> <ul style="list-style-type: none"> <li>(1) Of the licensee's emergency absence, as soon as possible and not later than twenty-four hours after the start of the emergency absence; or</li> <li>(2) When the licensee's physical or mental health prevents the licensee from providing direct care as required by this chapter.</li> </ul>	<p><i>(Proposed WAC 170-296A-5900 is withdrawn and its content incorporated into WAC 170-296A-2275.)</i></p>

<p><b>WAC 170-296A-6000 Interactions with children.</b> The licensee and staff members must:</p> <ol style="list-style-type: none"> <li>(1) Demonstrate positive interactions when children are present;</li> <li>(2) Interact with children through listening and responding to what the children have to say;</li> <li>(3) Be in frequent verbal communication with children in a positive, reinforcing, cheerful and soothing way. Explain actions, even to very young babies;</li> <li>(4) Treat each child with consideration and respect;</li> <li>(5) Appropriately hold, touch and smile at children;</li> <li>(6) Speak to the children at their eye level when possible and appropriate;</li> <li>(7) Be responsive to children, encouraging them to share experiences, ideas and feelings;</li> <li>(8) Respond to and investigate cries or other signs of distress immediately;</li> <li>(9) Perform age or developmentally appropriate nurturing activities that:             <ol style="list-style-type: none"> <li>(a) Take into consideration the parent's own nurturing practices;</li> <li>(b) Promote each child's learning self-help and social skills; and</li> <li>(c) Stimulate the child's development.</li> </ol> </li> <li>(10) Provide each child opportunities for vocal expression. Adult voices must not always dominate the overall sound of the group.</li> </ol>	<p><b>WAC 170-296A-6000 Interactions with children.</b> The licensee and staff members must:</p> <ol style="list-style-type: none"> <li>(1) Demonstrate positive interactions with children and other adults when children are present;</li> <li>(2) Interact with children through listening and responding to what the children have to say;</li> <li>(3) Be in frequent verbal communication with children in a positive, reinforcing, cheerful and soothing way. Explain actions, even to very young babies;</li> <li>(4) Treat each child with consideration and respect;</li> <li>(5) Appropriately hold, touch and smile at children;</li> <li>(6) Speak to the children at their eye level when possible and appropriate;</li> <li>(7) Be responsive to children, encouraging them to share experiences, ideas and feelings;</li> <li>(8) Respond to and investigate cries or other signs of distress immediately;</li> <li>(9) Perform age or developmentally appropriate nurturing activities that:             <ol style="list-style-type: none"> <li>(a) Take into consideration the parent's own nurturing practices;</li> <li>(b) Promote each child's learning self-help and social skills; and</li> <li>(c) Stimulate the child's development.</li> </ol> </li> <li>(10) Provide each child opportunities for vocal expression; and</li> <li>(11) Adult voices must not always dominate the overall sound of the group.</li> </ol> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-6025 Prohibited interactions.</b> In the presence of the children in care the licensee and staff must not:</p> <ol style="list-style-type: none"> <li>(1) Use profanity, obscene language, "put downs," or cultural or racial slurs;</li> <li>(2) Have angry or hostile interactions;</li> <li>(3) Use name calling or make derogatory, shaming or humiliating remarks; or</li> <li>(4) Use or threaten to use any form of physical harm or inappropriate discipline, such as, but not limited to:             <ol style="list-style-type: none"> <li>(a) Spanking children;</li> <li>(b) Biting, jerking, kicking, hitting, or shaking;</li> <li>(c) Pulling hair;</li> <li>(d) Pushing, shoving or throwing a child; or</li> <li>(e) Inflicting pain or humiliation as a punishment.</li> </ol> </li> </ol>	<p><b>WAC 170-296A-6025 Prohibited interactions.</b> In the presence of the children in care the licensee and staff must not or allow others to:</p> <ol style="list-style-type: none"> <li>(1) Use profanity, obscene language, "put downs," or cultural or racial slurs;</li> <li>(2) Have angry or hostile interactions;</li> <li>(3) Use name calling or make derogatory, shaming or humiliating remarks; or</li> <li>(4) Use or threaten to use any form of physical harm or inappropriate discipline, such as, but not limited to:             <ol style="list-style-type: none"> <li>(a) Spanking children;</li> <li>(b) Biting, jerking, kicking, hitting, or shaking;</li> <li>(c) Pulling hair;</li> <li>(d) Pushing, shoving or throwing a child; or</li> <li>(e) Inflicting pain or humiliation as a punishment.</li> </ol> </li> </ol> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-6125 Preventing harmful or aggressive acts.</b> The licensee and staff must:</p> <ol style="list-style-type: none"> <li>(1) Take steps to protect children from the harmful acts of other children; and</li> <li>(2) Immediately intervene when a child becomes physically aggressive.</li> </ol>	<p><b>WAC 170-296A-6125 Harmful or aggressive acts of children.</b> The licensee and staff must:</p> <ol style="list-style-type: none"> <li>(1) Take steps to protect children from the harmful acts of other children; and</li> <li>(2) Immediately intervene when a child becomes physically aggressive.</li> </ol>

	<i>(The title of this section revised as a result of comments on the proposed rules.)</i>
<p><b>WAC 170-296A-6150 Prohibited actions.</b> The licensee, staff or a household member must not:</p> <ul style="list-style-type: none"> <li>(1) Restrict a child's breathing;</li> <li>(2) Deprive a child of:             <ul style="list-style-type: none"> <li>(a) Sleep, food, clothing or shelter;</li> <li>(b) Needed first aid; or</li> <li>(c) Required or emergency medical or dental care;</li> </ul> </li> <li>(3) Interfere with a child's ability to take care of his or her own hygiene and toileting needs; or</li> <li>(4) Withhold hygiene care, toileting care or diaper changing to any child unable to provide such care for him or herself.</li> </ul>	<p><b>WAC 170-296A-6150 Prohibited actions.</b> The licensee or staff must not or allow others to:</p> <ul style="list-style-type: none"> <li>(1) Restrict a child's breathing;</li> <li>(2) Deprive a child of:             <ul style="list-style-type: none"> <li>(a) Sleep, food, clothing, shelter, or physical activity;</li> <li>(b) Needed first aid; or</li> <li>(c) Required or emergency medical or dental care;</li> </ul> </li> <li>(3) Interfere with a child's ability to take care of his or her own hygiene and toileting needs; or</li> <li>(4) Withhold hygiene care, toileting care or diaper changing to any child unable to provide such care for him or herself.</li> </ul> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-6250 Notice and documenting use of physical restraint.</b> If physical restraint is used the licensee must:</p> <ul style="list-style-type: none"> <li>(1) Report use of physical restraint to the child's parent or guardian and the department as required under WAC 170-296A-2250;</li> <li>(2) Assess any incident of physical restraint to determine if the decision to use physical restraint and its application were appropriate;</li> <li>(3) Document the incident in the child's file; and</li> <li>(4) Develop a safety plan with the licensor if required by the department.</li> </ul>	<p><b>WAC 170-296A-6250 Notice and documenting use of physical restraint.</b> (1) If physical restraint is used the licensee must, within twenty four hours:</p> <ul style="list-style-type: none"> <li>(a) Report the use of physical restraint to the child's parent or guardian and the department as required under WAC 170-296A-2250;</li> <li>(b) Assess any incident of physical restraint to determine if the decision to use physical restraint and its application were appropriate; and</li> <li>(c) Document the incident in the child's file, including what happened before, during and after the child was restrained.</li> </ul> <p>(2) The licensee must develop a safety plan with the licensor if required by the department.</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-6400 Off-site activities—Parent or guardian permission.</b> The licensee must:</p> <ul style="list-style-type: none"> <li>(1) Have written permission from the parent or guardian prior to the child engaging in off-site activities. The written permission must be kept in the child's file.</li> <li>(2) Have a separate permission for activities that occur less often than once per calendar month.</li> <li>(3) Inform parents of planned off-site activities at least twenty-four hours before the activity.</li> </ul>	<p><b>WAC 170-296A-6400 Off-site activities—Parent or guardian permission.</b> (1) The licensee must:</p> <ul style="list-style-type: none"> <li>(a) Have written permission from the parent or guardian prior to the child engaging in off-site activities. The written permission must be kept in the child's file.</li> <li>(b) Have a separate permission for activities that occur less often than once per calendar month.</li> </ul> <p>(2) For scheduled or unscheduled off-site activities that may occur more than once a month, the licensee must:</p> <ul style="list-style-type: none"> <li>(a) Have a signed parent or guardian permission on file for each child; and</li> <li>(b) Inform parents and guardians about how to contact the licensee when children are on an off-site activity.</li> </ul> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-6450 Off-site activity—Emergency information and supplies.</b> When on an off-site activity, the licensee must have available:</p> <ul style="list-style-type: none"> <li>(1) An emergency consent form for each child that includes:             <ul style="list-style-type: none"> <li>(a) Emergency contact information;</li> <li>(b) Permission to obtain medical treatment for the child in the event of a medical emergency;</li> </ul> </li> </ul>	<p><b>WAC 170-296A-6450 Off-site activity—Emergency information and supplies.</b> When on an off-site activity, the licensee must have available:</p> <ul style="list-style-type: none"> <li>(1) An emergency consent form for each child that includes:             <ul style="list-style-type: none"> <li>(a) Emergency contact information;</li> <li>(b) Permission to obtain medical treatment for the child in the event of a medical emergency;</li> </ul> </li> </ul>

<p>(c) A list of the child's allergies, if applicable; and                  (d) Permission to administer medications, if applicable.                  (2) A working cellular phone or other telecommunication device, and inform parents how to contact the licensee or staff; and                  (3) Emergency supplies, including:                  (a) A first aid kit; and                  (b) Each child's required medication or emergency medicine, if applicable</p>	<p>(c) A list of the child's allergies, if applicable;                  (d) Permission to administer medications, if applicable;                  and                  (2) Emergency supplies, including:                  (a) A first aid kit; and                  (b) Each child's required medication or emergency medicine, if applicable.</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-6575 Activities to promote child growth and development.</b> The licensee must provide activities that support each child's growth and development including:                  (1) Social, emotional and self development;                  (2) Positive self concepts;                  (3) Language and literacy;                  (4) Physical development, including daily opportunities to develop the child's small and large muscles;                  (5) Spatial concepts (for example: size, position); and                  (6) Numeracy (counting and numbers).</p>	<p><b>WAC 170-296A-6575 Activities to promote child growth and development.</b> The licensee must provide activities that support each child's developmental stage including:                  (1) Social, emotional and self development;                  (2) Positive self concepts;                  (3) Language and literacy;                  (4) Physical development, including daily opportunities to develop the child's small and large muscles;                  (5) Spatial concepts (including but not limited to size or position); and                  (6) Numeracy (counting and numbers).</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-6600 Toys and play materials.</b> The licensee must provide toys, objects, and other play materials that are:                  (1) Washable and clean;                  (2) Nonpoisonous; and                  (3) Large enough to avoid swallowing or choking for infants and toddlers, or children at those developmental levels.</p>	<p><b>WAC 170-296A-6600 Toys and play materials.</b> The licensee must provide toys, objects, and other play materials that are:                  (1) Washable and clean;                  (2) Nonpoisonous or free of toxins; and                  (3) For infants, toddlers, or children at those developmental levels, large enough to avoid swallowing or choking.</p> <p><i>(This section revised for clarity.)</i></p>
<p><b>WAC 170-296A-6625 Art materials.</b> (1) All art materials used by children under the age of three must be labeled nontoxic.                  (2) Art materials without a nontoxic designation may be used by children age three years or older, and must be used under direct supervision and according to the manufacturer's label.</p>	<p><b>WAC 170-296A-6625 Art materials.</b> (1) All prepackaged art materials used in the family home child care must be labeled "nontoxic" and as conforming to or meeting "ASTM D-4236." This does not apply to food items used as art materials, bulk paper, or items from the natural environment.                  (2) Infants, toddlers, and preschool age children must be closely supervised when using art materials.</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-6650 Screen time.</b> If the licensee or staff provide screen time for children in care, the screen time must:                  (1) Be developmentally and age appropriate;                  (2) Have child-appropriate content; and                  (3) Not have violent or adult content.</p>	<p><b>WAC 170-296A-6650 Screen time.</b> If the licensee or staff provide screen time for children in care, the screen time must:                  (1) Be educational, and developmentally and age appropriate;                  (2) Have child-appropriate content; and                  (3) Not have violent or adult content.</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>

<p><b>WAC 170-296A-6725 Special needs accommodations.</b> The provisions of this section apply to any requirement in this chapter.</p> <p>(1) The department may approve accommodations to requirements in these standards for the special needs of an individual child when:</p> <p>(a) The licensee submits to the department a written plan, signed by the parent or guardian, that describes how the child's needs will be met in the licensed child care; and</p> <p>(b) The licensee has supporting documentation of the child's special needs provided by a licensed or certified:</p> <p>(i) Physician or physician's assistant;</p> <p>(ii) Mental health professional;</p> <p>(iii) Education professional;</p> <p>(iv) Social worker with a bachelor's degree or higher degree with a specialization in the individual child's needs; or</p> <p>(v) Registered nurse or advanced registered nurse practitioner.</p> <p>(2) The documentation described in subsection (1) of this section must be in the form of an:</p> <p>(a) Individual education plan (IEP);</p> <p>(b) Individual health plan (IHP); or</p> <p>(c) Individual family plan (IFP).</p> <p>(3) The licensee's written plan and all documentation required under this section must be kept in the child's file and a copy submitted to the department.</p> <p>(4) See WAC 170-296A-5625 regarding supervision, capacity, and staff-to-child ratios for children with documented special needs.</p>	<p><i>(The entire content of this section was moved to 170-296A-0050 without change.)</i></p>
<p><b>WAC 170-296A-6775 Diversity.</b> The licensee must:</p> <p>(1) Provide an environment that reflects each child's daily life, family culture and language.</p> <p>(2) Describe or demonstrate to the licensor, or have a written plan for how:</p> <p>(a) The licensee will discuss with parents how the child care reflects that child's daily life and family's culture or language; and</p> <p>(b) The child care environment reflects the diversity in society.</p>	<p><b>WAC 170-296A-6775 Diversity.</b> The licensee must:</p> <p>(1) Provide an environment that reflects each child's daily life, family culture and language, and the diversity in society.</p> <p>(2) Describe or demonstrate to the licensor, or have a written plan for how:</p> <p>(a) The licensee will discuss with parents how the child care reflects that child's daily life and family's culture or language; and</p> <p>(b) The child care environment reflects the diversity in society.</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-6800 Rest periods.</b> (1) The licensee must offer a daily supervised rest period for children.</p> <p>(2) The supervised rest period must be:</p> <p>(a) Offered to all children five years of age and younger who remain in care more than six hours;</p> <p>(b) Offered to any child who shows a need for rest; and</p> <p>(c) A minimum of thirty minutes but not more than two hours, unless the child is under twenty-four months old.</p>	<p><b>WAC 170-296A-6800 Rest periods.</b> (1) The licensee must offer a daily supervised rest period for children.</p> <p>(2) The supervised rest period must be:</p> <p>(a) Offered to all children five years of age and younger who remain in care more than six hours per day; and</p> <p>(b) Offered to any child who shows a need for rest.</p> <p>(3) The licensee must:</p> <p>(a) Not force a child to sleep;</p> <p>(b) Provide quiet activities for the children who do</p>

<p>(3) The licensee must:</p> <p>(a) Not force a child to sleep;</p> <p>(b) Provide quiet activities for the children who do not require rest. These activities must be offered with a minimum of disruption to sleeping children; and</p> <p>(c) Communicate with the parent or guardian about the child's sleep needs and patterns.</p> <p>(4) See WAC 170-296A-3725 through 170-296A-3825 regarding sleeping equipment and bedding requirements.</p>	<p>not require rest. These activities must be offered with a minimum of disruption to sleeping children;</p> <p>(c) Communicate with the parent or guardian about the child's sleep needs and patterns; and</p> <p>(d) Allow infants and toddlers to follow individual sleep patterns.</p> <p>(4) See WAC 170-296A-3725 through 170-296A-3825 regarding sleeping equipment and bedding requirements.</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-6850 Overnight care.</b> If the licensee provides overnight child care:</p> <p>(1) The licensee or primary staff person must be awake until all children in care are asleep;</p> <p>(2) The licensee or a primary staff person must be on the same level of the home as the children in care;</p> <p>(3) The licensee or primary staff person must maintain required staff-to-child ratios; and</p> <p>(4) The daily schedule under WAC 170-296A-6550 must include evening or overnight care.</p> <p>See WAC 170-296A-3725 through 170-296A-3825 regarding sleeping equipment and bedding requirements.</p> <p>See WAC 170-296A-4400 and 170-296A-4425 regarding door alarms, night latches, deadbolts, and security chains.</p>	<p><b>WAC 170-296A-6850 Overnight care.</b> The licensee must be approved by the department to provide overnight care. If the licensee provides overnight child care:</p> <p>(1) The licensee or primary staff person must be awake until all children in care are asleep;</p> <p>(2) The licensee or a primary staff person must be on the same level of the home as the children in care;</p> <p>(3) The licensee or primary staff person must maintain required staff-to-child ratios; and</p> <p>(4) The daily schedule under WAC 170-296A-6550 must include evening or overnight care.</p> <p>See WAC 170-296A-3725 through 170-296A-3825 regarding sleeping equipment and bedding requirements.</p> <p>See WAC 170-296A-4400 and 170-296A-4425 regarding door alarms, night latches, deadbolts, and security chains.</p> <p><i>(This section is revised for clarity, adding cross references to related content.)</i></p>
<p><b>WAC 170-296A-7025 Infant "tummy time" positioning.</b> When infants are awake, the licensee or staff must allow each infant tummy time daily. As used in this section, "tummy time" means placing the infant in a prone position, lying on his or her stomach.</p>	<p><b>WAC 170-296A-7025 Infant "tummy time" positioning.</b> When infants are awake, the licensee or staff must allow each infant supervised tummy time at least three times daily. As used in this section, "tummy time" means placing the infant in a nonrestrictive prone position, lying on his or her stomach, when not in sleeping equipment</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-7050 Infant and toddler supervision.</b> (1) The licensee or a primary staff person must be within sight and hearing of infants and toddlers in the licensed indoor or outdoor space, or during any off-site activity when infants or toddlers in care are present.</p> <p>(2) When infants or toddlers are indoors, the licensee or primary staff person must be within sight and hearing. The licensee or primary staff person may be in sight or hearing range for brief periods of time while the licensee or primary staff person attends to toileting, medical, or other personal needs on the premises.</p> <p>(3) A baby monitor or video monitor must not be used in place of direct supervision of children.</p>	<p><i>(Proposed WAC 170-296A-7050 is withdrawn and its content incorporated into WAC 170-296A-5750.)</i></p>

<p><b>WAC 170-296A-7075 Infant sleeping or napping.</b> (1) The licensee must:</p> <p>(a) Provide and use a single level crib, toddler bed, playpen or other sleeping equipment for each infant or toddler in care that is safe and not subject to tipping. The equipment must be of a design approved for infants or toddlers by the U.S. Consumer Product Safety Commission (see WAC 170-296A-3760 regarding approved cribs).</p> <p>(b) Provide sleeping or napping equipment with clean, firm, and snug-fitting mattresses that do not have tears or holes or is repaired with tape.</p> <p>(c) Provide mattresses covered with waterproof material that is easily cleaned and sanitized.</p> <p>(i) If a bleach solution is used to sanitize, the solution must be one-quarter teaspoon of bleach to one quart of cool water.</p> <p>(ii) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.</p> <p>(d) Arrange sleeping equipment to allow staff access to children;</p> <p>(e) Remove sleeping children from car seats, swings or similar equipment; and</p> <p>(f) Consult with a child's parent or guardian before the child is transitioned from infant sleeping equipment to other approved sleeping equipment.</p> <p>(2) Children that may climb out of their sleeping equipment must be transitioned to an alternate sleeping surface.</p> <p>(3) If a crib with vertical slats is used, the slats must be spaced not more than two and three-eighths inches apart.</p>	<p><b>WAC 170-296A-7075 Infant and toddler sleeping or napping equipment.</b> (1) The licensee must:</p> <p>(a) Provide and use a single level crib, toddler bed, playpen or other sleeping equipment for each infant or toddler in care that is safe and not subject to tipping. The equipment must be of a design approved for infants or toddlers by the U.S. Consumer Product Safety Commission (see WAC 170-296A-7085 regarding approved cribs).</p> <p>(b) Provide sleeping or napping equipment with clean, firm, and snug-fitting mattresses that do not have tears or holes or is repaired with tape.</p> <p>(c) Provide mattresses covered with waterproof material that is easily cleaned and sanitized.</p> <p>(i) If a bleach solution is used to sanitize, the solution must be three-quarters teaspoon of chlorine bleach to one quart of cool water.</p> <p>(ii) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.</p> <p>(d) Arrange sleeping equipment to allow staff access to children;</p> <p>(e) Remove sleeping children from car seats, swings or similar equipment; and</p> <p>(f) Consult with a child's parent or guardian before the child is transitioned from infant sleeping equipment to other approved sleeping equipment.</p> <p>(2) Children able to climb out of their sleeping equipment must be transitioned to an alternate sleeping surface.</p> <p><i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><i>(Proposed WAC 170-296A-3670 is moved in its entirety to become WAC 170-296A-7085, as described in the next column.)</i></p>	<p><b>WAC 170-296A-7085 Cribs.</b> In order to meet federal requirements, a licensee who uses a crib with children in care must comply with this section.</p> <p>(1) Effective December 28, 2012, each crib in use in licensed child care must meet U.S. Consumer Product Safety Commission (CPSC) requirements for full size cribs as defined in 16 Code of Federal Regulations (C.F.R.) 1219, or nonfull size cribs as defined in 16 C.F.R. 1220.</p> <p>(2) A crib meets the requirements of this section if the crib is labeled by the manufacturer as made on or after June 28, 2011.</p> <p>(3) A crib labeled as made from July 1, 2010, through June 27, 2011, may meet the requirements of this section if the licensee has obtained a certificate of compliance from the crib manufacturer or importer, or the licensee has other documentation from the manufacturer that the crib is certified as meeting the CPSC regulations.</p>

	<p>(4) Any crib that does not meet the requirements of subsection (2) or (3) of this section must be removed from the child care facility not later than December 28, 2012.</p> <p>(5) The licensee must keep in the licensed space a log documenting that each crib in use meets the requirements of this section.</p>
<p><b>WAC 170-296A-7100 Infant supervision—Procedures to reduce the risk of sudden infant death syndrome (SIDS).</b> To reduce the risk of sudden infant death syndrome (SIDS), the licensee or staff must:</p> <p>(1) Place an infant to sleep on his or her back. If the infant has turned over while sleeping, the infant does not need to be returned to his or her back;</p> <p>(2) Place an infant in sleeping equipment that has a snug-fitting mattress and a tight-fitting sheet;</p> <p>(3) Not allow soft fluffy bedding, stuffed toys, pillows, crib bumpers and similar items in the infant sleeping equipment;</p> <p>(4) Not cover an infant's head and face during sleep;</p> <p>(5) Take steps so infants do not get too warm during sleep; and</p> <p>(6) Place the infant in another sleeping position other than on their backs if required by a written directive or medical order from the infant's health care provider. This directive or medical order must be in the infant's file.</p>	<p><b>WAC 170-296A-7100 Infant care—Procedures to reduce the risk of sudden infant death syndrome (SIDS).</b> To reduce the risk of sudden infant death syndrome (SIDS), the licensee or staff must:</p> <p>(1) Place an infant to sleep on his or her back. If the infant has turned over while sleeping, the infant does not need to be returned to his or her back;</p> <p>(2) Place an infant in sleeping equipment that has a clean, firm, and snug-fitting mattress and a tight-fitting sheet;</p> <p>(3) Not allow soft fluffy bedding, stuffed toys, pillows, crib bumpers and similar items in the infant sleeping equipment, or allow a blanket to cover or drape over the sleeping equipment;</p> <p>(4) Not cover an infant's head and face during sleep;</p> <p>(5) Take steps so infants do not get too warm during sleep. If a blanket is used, it must be lightweight and be placed no higher than the infant's chest with the infant's arms free; and</p> <p>(6) Not place the infant in another sleeping position other than on their backs, or use a sleep positioning device unless required by a written directive or medical order from the infant's health care provider. This directive or medical order must be in the infant's file.</p> <p><i>(This section revised as a result of comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-7125 Infant bottles.</b> The licensee must:</p> <p>(1) If heating a bottle, heat the bottle in warm water that is not warmer than one hundred twenty degrees Fahrenheit;</p> <p>(2) Not use a microwave oven to warm the contents of a bottle;</p> <p>(3) Clean and sanitize bottles and nipples before each use;</p> <p>(4) Keep bottle nipples covered if bottles are prepared ahead, and label the bottle with the date it was prepared;</p> <p>(5) Not allow infants to share bottles or infant cups;</p> <p>(6) Have a method to identify the individual child's bottle or cup;</p> <p>(7) Keep the contents of a child's bottle inaccessible to other children; and</p> <p>(8) Throw away milk (except breast milk) or formula if it has been sitting at room temperature for more than one hour.</p>	<p><b>WAC 170-296A-7125 Infant bottles.</b> The licensee must:</p> <p>(1) Use glass bottles or use plastic bottles labeled with "1," "2," "4," or "5" on the bottle. A plastic bottle must not contain the chemical bisphenol-A or phthalates.</p> <p>(2) If heating a bottle, heat the bottle in warm water that is not more than one hundred twenty degrees Fahrenheit;</p> <p>(3) Not use a microwave oven to warm the contents of a bottle;</p> <p>(4) Clean bottles and nipples before each use, only with warm soapy water and a bottlebrush, or in a dishwasher;</p> <p>(5) Keep bottle nipples covered if bottles are prepared ahead, and label the bottle with the date it was prepared;</p> <p>(6) Not allow infants to share bottles or infant cups;</p> <p>(7) Have a method to identify the individual child's bottle or cup;</p> <p>(8) Keep the contents of a child's bottle inaccessible to other children; and</p> <p>(9) Throw away milk, breast milk, or formula if it has been sitting at room temperature for more than one hour.</p> <p><i>(This section revised as a result of comments on the proposed rule.)</i></p>

<p><b>WAC 170-296A-7150 Breast milk.</b> When breast milk is provided for a child, the licensee must:</p> <ul style="list-style-type: none"> <li>(1) Label the contents with the child's name and date the milk was brought to the child care;</li> <li>(2) Store frozen breast milk at ten degrees Fahrenheit or less;</li> <li>(3) Thaw breast milk in the refrigerator, under warm running water, or in warm water that is not warmer than one hundred twenty degrees Fahrenheit;</li> <li>(4) Never thaw or heat breast milk in a microwave oven or on the stove;</li> <li>(5) Keep frozen breast milk for no more than two weeks; and</li> <li>(6) Use frozen breast milk within twenty-four hours after thawing; and</li> <li>(7) Throw away breast milk if it has been sitting at room temperature for more than two hours.</li> </ul>	<p><b>WAC 170-296A-7150 Breast milk.</b> When breast milk is provided for a child, the licensee must:</p> <ul style="list-style-type: none"> <li>(1) For breast milk to be used on the day received, refrigerate and label the breast milk container;</li> <li>(2) If the breast milk is to be frozen, label the container with the child's name and date the milk was brought to the child care. The licensee must: <ul style="list-style-type: none"> <li>(a) Store frozen breast milk at ten degrees Fahrenheit or less;</li> <li>(b) Keep frozen breast milk not more than two weeks;</li> <li>(c) Use frozen breast milk within twenty-four hours after thawing;</li> <li>(d) Thaw breast milk in the refrigerator, under warm running water, or in a container with warm water that is not more than one hundred twenty degrees Fahrenheit; and</li> <li>(e) Never thaw or heat breast milk in a microwave oven or on the stove.</li> </ul> </li> </ul> <p><i>(This section revised as a result of comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-7175 Bottle feeding infants.</b> (1) When bottle feeding, the licensee or staff must:</p> <ul style="list-style-type: none"> <li>(a) Test the bottle contents before feeding, to avoid scalding or burning the infant's mouth;</li> <li>(b) Hold infants when bottle feeding;</li> <li>(c) Not prop bottles when feeding an infant; and</li> <li>(d) Not give a bottle or cup to an infant who is lying down.</li> </ul> <p>(2) When an infant can hold his or her own bottle, the licensee or staff must:</p> <ul style="list-style-type: none"> <li>(a) Place the infant in a semi-reclining or upright position during bottle feeding; and</li> <li>(b) Be in the same room within visual range of the infant during feeding.</li> </ul> <p>(3) The licensee or staff must take the bottle from the infant when the child finishes feeding.</p>	<p><b>WAC 170-296A-7175 Bottle feeding infants.</b> (1) When bottle feeding, the licensee or staff must:</p> <ul style="list-style-type: none"> <li>(a) Test the bottle contents before feeding, to avoid scalding or burning the infant's mouth;</li> <li>(b) Hold infants when the infant is unable to hold his or her bottle;</li> <li>(c) Not prop bottles when feeding an infant;</li> <li>(d) Not give a bottle or cup to an infant who is lying down;</li> <li>(e) Feed infants on demand or based on the parent or guardian's recommended feeding schedule;</li> <li>(f) Stop feeding the infant when he or she shows signs of fullness; and</li> <li>(g) Not add medication, cereal, supplements, or sweeteners to the contents of the bottle unless prescribed by a health care provider.</li> </ul> <p>(2) When an infant can hold his or her own bottle, the licensee or staff:</p> <ul style="list-style-type: none"> <li>(a) May hold the infant or place the infant in a semi-reclining or upright position during bottle feeding; and</li> <li>(b) Must be in the same room within visual range of the infant during feeding.</li> </ul> <p>(3) The licensee or staff must take the bottle from the infant when the child finishes feeding.</p> <p><i>(This section revised as a result of comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-7200 Feeding solid food to infants.</b> (1) The licensee must consult with and have approval from an infant's parent or guardian before introducing solid food to the infant.</p> <p>(2) When serving infants solid food the licensee or staff must:</p> <ul style="list-style-type: none"> <li>(a) Sit the infant in a semi-reclining or upright position;</li> </ul>	<p><b>WAC 170-296A-7200 Feeding solid food to infants.</b> (1) The licensee must consult with and have approval from an infant's parent or guardian before introducing solid food to an infant.</p> <p>(2) When serving infants solid food the licensee or staff must:</p> <ul style="list-style-type: none"> <li>(a) Hold or sit the infant in a semi-reclining or upright position;</li> </ul>

<p>(b) Not allow infants to share the same dish or utensil;                  (c) Stir and test for safe temperature after heating food and before serving;                  (d) Throw away any uneaten food from the serving container;                  (e) Serve solid food by utensil or let the child feed themselves; and                  (f) Feed the infant on demand unless the parent or guardian gives written instructions for an alternative feeding schedule.</p>	<p>(b) Not allow infants to share the same dish or utensil;                  (c) Stir and test for safe temperature after heating food and before serving;                  (d) Throw away any uneaten food from the serving container;                  (e) Serve solid food by utensil or let the child feed themselves; and                  (f) Feed the infant when hungry unless the parent or guardian gives written instructions for an alternative feeding schedule, and stop feeding when the infant shows signs of fullness.</p> <p><i>(This section revised as a result of comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-7250 Diapering and toileting.</b> (1) The licensee must provide a diaper changing area that is separate from any area where food is stored, prepared or served.                  (2) The diaper changing area must:                  (a) Have a sink with hot and cold running water close to the diaper changing area. The sink must not be used for food preparation and clean up;                  (b) Have a sturdy, easily cleanable mat with a surface large enough to prevent the area underneath from being contaminated with bodily fluids; and                  (c) Be cleaned and sanitized between each use:                  (i) If a bleach solution is used to sanitize, the solution must be one tablespoon of bleach to one quart of cool water;                  (ii) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.                  (3) A nonabsorbent, disposable covering that is discarded after each use may be used on the diaper changing mat.</p>	<p><b>WAC 170-296A-7250 Diapering and toileting.</b> (1) The licensee must provide a diaper changing area that is separate from any area where food is stored, prepared or served.                  (2) The diaper changing area must:                  (a) Have a sink with hot and cold running water close to the diaper changing area. The sink must not be used for food preparation and clean up;                  (b) Have a sturdy surface or mat that is:                  (i) Not torn or repaired with tape;                  (ii) Easily cleanable;                  (iii) Waterproof; and                  (iv) Large enough to prevent the area underneath from being contaminated with bodily fluids.                  (3) The diapering area must be cleaned and disinfected between each use.                  (a) If a bleach solution is used to disinfect, the solution must be one tablespoon of chlorine bleach to one quart of cool water.                  (b) If another disinfectant product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.                  (4) A nonabsorbent, disposable covering that is discarded after each use may be used on the diaper changing mat.                  (5) The diaper changing surface must be free of all other items not used in diapering the child.</p> <p><i>(This section revised as a result of comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-7275 Diaper disposal.</b> (1) The licensee must provide a container specifically for diaper disposal that is not used for other household trash. The diaper disposal container must:                  (a) Have a tight cover;                  (b) Be lined with a disposable plastic trash bag; and                  (c) Be within arm's reach of the diaper changing area.                  (2) If disposable diapers are used, the diaper disposal container must be emptied to the outside garbage can or container daily.                  (3) If cloth diapers are used, the diapers must be:                  (a) Kept in the diaper disposal container until picked up by the diaper service; or</p>	<p><b>WAC 170-296A-7275 Diaper disposal.</b> (1) The licensee must provide a container specifically for diaper and diapering supply disposal that is not used for other household trash. The diaper disposal container must:                  (a) Have a tight cover;                  (b) Be lined with a disposable plastic trash bag; and                  (c) Be within arm's reach of the diaper changing area.                  (2) If disposable diapers are used, the diaper disposal container must be emptied to the outside garbage can or container daily.                  (3) If cloth diapers are used, the diapers must:                  (a) Not be rinsed; and</p>

<p>(b) Placed in a securely closed plastic bag and sent home with the child daily.</p>	<p>(b)(i) Be kept in the diaper disposal container until picked up by the diaper service; or                  (ii) Placed in a securely closed plastic bag and sent home with the child daily.                  (4) If soiled diapers are sent home they must be kept in a separate closed container used only for diapers and not placed with the child's other belongings.</p> <p><i>(This section revised as a result of comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-7300 Diaper changing.</b> (1) The licensee or staff must:</p> <ul style="list-style-type: none"> <li>(a) Check diapers at least every two hours;</li> <li>(b) Change the diaper when necessary, or whenever the child indicates discomfort;</li> <li>(c) Attend to the child at all times when diapering a child;</li> <li>(d) Not rinse soiled diapers; and</li> <li>(e) Place soiled diapers directly into a diaper waste container.</li> </ul> <p>(2) Diapers used must be:</p> <ul style="list-style-type: none"> <li>(a) Disposable; or</li> <li>(b) Cloth diapers supplied by a commercial diaper service; or</li> <li>(c) Reusable cloth diapers supplied by the child's family.</li> </ul> <p>(3) When cloth diapers are used a washable barrier must be used between the diaper and the child's clothes.</p> <p>(4) The licensee or staff must wash their hands and the child's hands immediately after diapering a child.</p>	<p><b>WAC 170-296A-7300 Diaper changing.</b> (1) The licensee or staff must:</p> <ul style="list-style-type: none"> <li>(a) Check diapers at least every two hours;</li> <li>(b) Change the diaper when necessary, or whenever the child indicates discomfort;</li> <li>(c) Attend to the child at all times when diapering a child;</li> <li>(d) Not rinse soiled diapers; and</li> <li>(e) Place soiled diapers directly into a diaper waste container.</li> </ul> <p>(2) Diapers used must be:</p> <ul style="list-style-type: none"> <li>(a) Disposable; or</li> <li>(b) Cloth diapers supplied by a commercial diaper service; or</li> <li>(c) Reusable cloth diapers supplied by the child's family.</li> </ul> <p>(3) When cloth diapers are used, a waterproof, washable barrier must be used between the diaper and the child's clothes.</p> <p>(4) The licensee or staff must wash their hands before and after diapering, and wash the child's hands immediately after diapering the child. Baby wipes may be used to wash the child's hands.</p> <p><i>(This section revised as a result of comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-7375 Potty chairs or modified toilet seats.</b> (1) When potty chairs are used, the licensee or staff must immediately after each use:</p> <ul style="list-style-type: none"> <li>(a) Empty the potty chair into the toilet; and</li> <li>(b) Clean and sanitize the potty chair.</li> </ul> <p>(2) The floor under the potty chairs must be made of a material that is resistant to moisture.</p> <p>(3) When a modified toilet seat is used, it must be cleaned and sanitized daily or more often when soiled.</p> <p>(4)(a) If a bleach solution is used to sanitize, the solution must be one tablespoon of bleach to one quart of cool water;</p> <p>(b) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.</p>	<p><b>WAC 170-296A-7375 Potty chairs or modified toilet seats.</b> (1) When potty chairs are used, the licensee or staff must immediately after each use:</p> <ul style="list-style-type: none"> <li>(a) Empty the potty chair into the toilet; and</li> <li>(b) Clean and disinfect the potty chair.</li> </ul> <p>(2) The floor under the potty chairs must be made of a material that is resistant to moisture.</p> <p>(3) When a modified toilet seat is used, it must be cleaned and disinfected daily or more often when soiled.</p> <p>(4)(a) If a bleach solution is used to disinfect, the solution must be one tablespoon of chlorine bleach to one quart of cool water;</p> <p>(b) If another disinfectant product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.</p> <p>(5) If a sink or basin is used to clean a potty chair or modified toilet seat, the sink or basin must be cleaned and disinfected afterwards.</p> <p><i>(This section revised as a result of comments on the proposed rule.)</i></p>

<p><b>WAC 170-296A-7500 Food must meet USDA guidelines.</b>                  The licensee must provide meals and snack foods to children in care according to the March 2007 edition of the U.S. Department of Agriculture (USDA) - creditable food guide, child and adult care food program charts for the ages of children in the licensee's care. The food program charts are available on-line at <a href="http://www.k12.wa.us/ChildNutrition/pubdocs/CreditableFoodsGuideMAR2007FINAL.pdf">http://www.k12.wa.us/ChildNutrition/pubdocs/CreditableFoodsGuideMAR2007FINAL.pdf</a>.</p>	<p><b>WAC 170-296A-7500 Food must meet USDA guidelines.</b>                  The licensee must provide meals and snack foods to children in care according to the current edition of the U.S. Department of Agriculture (USDA) - Child and adult care food program (CACFP) charts for the ages of children in the licensee's care.</p> <p><i>(This section revised as a result of comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-7525 Parent or guardian-provided food.</b>                  (1) A parent or guardian may provide alternative food for their child if a written food plan is completed and signed by the parent or guardian and the licensee. This written food plan includes accommodations for:</p> <ul style="list-style-type: none"> <li>(a) The child's medical needs;</li> <li>(b) Special diets;</li> <li>(c) Religious or cultural preference; or</li> <li>(d) Family preference.</li> </ul> <p>(2) The licensee must supplement the food provided by the parent or guardian with foods listed in the USDA creditable food guide foods if the food provided by the parent or guardian does not meet the nutritional needs of the child.</p>	<p><b>WAC 170-296A-7525 Parent or guardian-provided food.</b>                  (1) A parent or guardian may provide alternative food for their child if a written food plan is completed and signed by the parent or guardian and the licensee.</p> <p>(2) A written food plan is not required for infant formula, breast milk or baby food supplied by the child's parent or guardian.</p> <p>(3) A written food plan may include accommodations for:</p> <ul style="list-style-type: none"> <li>(a) The child's medical needs;</li> <li>(b) Special diets;</li> <li>(c) Religious or cultural preference; or</li> <li>(d) Family preference.</li> </ul> <p>(4) The licensee must supplement the food provided by the parent or guardian with foods listed in the USDA CACFP requirements if the food provided by the parent or guardian does not meet the nutritional needs of the child.</p> <p><i>(This section revised as a result of comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-7600 Serving milk.</b> The licensee must serve milk according to the ages of the children in care. The licensee is responsible to serve:</p> <ul style="list-style-type: none"> <li>(1) Breast milk or formula to children from birth to twelve months old, or until the parent or guardian is ready for their child to be served whole pasteurized milk.</li> <li>(2) Whole pasteurized milk to children from twelve months through twenty-four months old if the child is ready to be served whole milk.</li> <li>(3) Pasteurized milk or pasteurized milk product to children over twenty-four months old.</li> </ul>	<p><b>WAC 170-296A-7600 Serving milk.</b> (1) The licensee must serve milk according to the ages of the children in care. The licensee is responsible to serve:</p> <ul style="list-style-type: none"> <li>(a) Breast milk or formula to children from birth to twelve months old. The parent or guardian may request breast milk or formula be served to their child after the child turns twelve months of age.</li> <li>(b) Whole pasteurized milk to children from twelve months through twenty-four months old if the child is ready to be served whole milk.</li> <li>(c) Pasteurized milk or pasteurized milk product to children over twenty-four months old.</li> </ul> <p>(2) Variations of subsection (1)(a), (b), or (c) of this section require a written statement from the child's health provider.</p> <p><i>(This section revised as a result of comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-7625 Meal and snack schedule.</b> The licensee must offer meals and snacks to the children at intervals of at least two hours apart and no more than three hours unless the child is asleep.</p>	<p><b>WAC 170-296A-7625 Meal and snack schedule.</b> (1) The licensee must offer meals and snacks to the children in care at intervals of at least two hours apart and no more than three hours unless the child is asleep.</p> <p>(2) The licensee must offer a snack to children arriving from school.</p> <p><i>(This section revised as a result of comments on the proposed rule.)</i></p>

<p><b>WAC 170-296A-7650 Serving foods.</b> (1) The licensee or staff may:</p> <ul style="list-style-type: none"> <li>(a) Serve each child individually; or</li> <li>(b) Serve family style in serving containers that allow each child the opportunity to serve themselves.</li> </ul> <p>(2) The licensee or staff must:</p> <ul style="list-style-type: none"> <li>(a) Stir and test for safe temperature any heated food before serving;</li> <li>(b) Closely supervise all children when eating;</li> <li>(c) Not force or shame a child to eat or try any food;</li> <li>(d) Not punish a child for refusing to try or eat foods;</li> <li>(e) Serve meals in a safe and sanitary manner and be respectful of each child's cultural food practices; and</li> <li>(f) Sit with children during meals when possible.</li> </ul>	<p><b>WAC 170-296A-7650 Serving foods.</b> (1) The licensee or staff may:</p> <ul style="list-style-type: none"> <li>(a) Serve each child individually; or</li> <li>(b) Serve family style in serving containers that allow each child the opportunity to serve themselves.</li> </ul> <p>(2) The licensee or staff must:</p> <ul style="list-style-type: none"> <li>(a) Stir and test for safe temperature any heated food before serving;</li> <li>(b) Closely supervise all children when eating;</li> <li>(c) Not force or shame a child to eat or try any food;</li> <li>(d) Not punish a child for refusing to try or eat foods;</li> <li>(e) Serve meals in a safe and sanitary manner;</li> <li>(f) Be respectful of each child's cultural food practices; and</li> <li>(g) Sit with children during meals when possible.</li> </ul> <p><i>(This section revised as a result of comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-7675 Food handler permits.</b> (1) New license applicants must obtain a current state food handler permit prior to being licensed.</p> <p>(2) By (one year after the effective date of this section) every licensee must obtain and maintain a current state food handler permit.</p> <p>(3) When the licensee is not present, one staff person with a current state food handler permit must be present whenever food is prepared or served to children in care.</p> <p>(4) The licensee must keep a copy of each individual's food handler permit on file.</p>	<p><b>WAC 170-296A-7675 Food handler permits.</b> (1) New license applicants must obtain a current state food handler permit prior to being licensed.</p> <p>(2) By March 31, 2013, every licensee must obtain and maintain a current state food handler permit.</p> <p>(3) When the licensee is not present, one staff person with a current state food handler permit must be present whenever food is prepared or served to children in care.</p> <p>(4) The licensee or staff person with a current state food handler permit must prepare or supervise preparation of all food served to children in care.</p> <p>(5) The licensee must keep a copy of each individual's food handler permit on file.</p> <p><i>(This section revised as a result of comments on the proposed rule, and to establish a date for existing licensees to obtain a food handler's permit.)</i></p>
<p><b>WAC 170-296A-7680 Safe food handling.</b> (1) The licensee and staff must follow the safe food storage, preparation, cooking, holding proper temperature, and serving guidelines in the current edition of the food workers manual prepared by the state department of health.</p> <p>(2) The licensee and staff must:</p> <ul style="list-style-type: none"> <li>(a) Wash their hands prior to preparing food and after handling raw meats, poultry, or fish; and</li> <li>(b) Not prepare food when ill with vomiting or diarrhea.</li> </ul>	<p><b>WAC 170-296A-7680 Safe food handling.</b> (1) The licensee and staff must follow the safe food storage, preparation, cooking, holding proper temperature, and serving guidelines in the current edition of the food workers manual prepared by the state department of health.</p> <p>(2) The licensee and staff must:</p> <ul style="list-style-type: none"> <li>(a) Wash their hands as required under WAC 170-296A-3675; and</li> <li>(b) Not prepare food when ill with vomiting or diarrhea.</li> </ul> <p><i>(This section revised as a result of comments on the proposed rule and for clarity.)</i></p>
<p><b>WAC 170-296A-7700 Washing dishes.</b> The licensee or staff must wash dishes thoroughly after each use by one of the following methods:</p> <ul style="list-style-type: none"> <li>(1) Automatic dishwasher; or</li> <li>(2) Handwashing method, by emersion in hot soapy water, rinse, sanitize and air dry:</li> </ul>	<p><b>WAC 170-296A-7700 Washing dishes.</b> The licensee or staff must wash dishes thoroughly after each use by one of the following methods:</p> <ul style="list-style-type: none"> <li>(1) Automatic dishwasher, using the sanitizing cycle if available; or</li> <li>(2) Handwashing method, by emersion in hot soapy</li> </ul>

<p>(a) If a bleach solution is used to sanitize, the solution must be one teaspoon of bleach to one gallon of cool water;</p> <p>(b) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.</p>	<p>water, rinse, sanitize and air dry:</p> <p>(a) If a bleach solution is used to sanitize, the solution must be three-quarters teaspoon of chlorine bleach to one gallon of cool water;</p> <p>(b) If another sanitizer product is used, it must be labeled as approved for food contact surfaces and be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.</p> <p><i>(This section revised as a result of comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-7725 Food containers and utensils.</b> (1) The licensee must not use or allow plastic containers to be used to cook or reheat food in a microwave oven, unless the container is certified by the manufacturer as made without the chemical bisphenol-A.</p> <p>(2) The licensee may use disposable serving containers, dishes and utensils that are sturdy, used only once and thrown away after use.</p> <p>(3) The licensee must keep sharp utensils and other utensils that may cause serious injury or a choking hazard inaccessible to children when the utensils are not in use.</p> <p>(4) The licensee must not serve food to infants or toddlers using polystyrene (styrofoam) cups, bowls and plates.</p>	<p><b>WAC 170-296A-7725 Food containers and utensils.</b> (1) The licensee must not use or allow cookware containers to be used to cook or reheat food in a microwave oven, unless the container is labeled by the manufacturer as "for microwave use," "microwave safe," or similar labeling.</p> <p>(2) The licensee may use disposable serving containers, dishes and utensils that are sturdy, used only once and thrown away after use.</p> <p>(3) The licensee must keep sharp utensils and other utensils that may cause serious injury or a choking hazard inaccessible to children when the utensils are not in use.</p> <p>(4) The licensee must not serve food to infants or toddlers using polystyrene foam (commonly known as styrofoam) cups, bowls and plates.</p> <p><i>(This section revised as a result of comments on the proposed rule.)</i></p>
<p><b>WAC 170-296A-7750 Food preparation area.</b> (1) The licensee or staff must clean and sanitize food preparation and eating surfaces before and after use. The licensee's food preparation area must:</p> <p>(a) Have surfaces that are free of cracks and crevices; and</p> <p>(b) Have a floor area made of a material that is resistant to moisture.</p> <p>(2) The licensee must not allow pets in the food preparation area while food is being prepared or served.</p> <p>(3) The licensee may use the kitchen for other child care activities provided there is continual supervision of the children.</p> <p>(4)(a) If a bleach solution is used to sanitize surfaces, the solution must be one teaspoon of bleach to one gallon of cool water;</p> <p>(b) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.</p>	<p><b>WAC 170-296A-7750 Food preparation area.</b> (1) The licensee or staff must clean and sanitize food preparation and eating surfaces before and after use. The licensee's food preparation area must:</p> <p>(a) Have surfaces that are free of cracks and crevices; and</p> <p>(b) Have a floor area made of a material that is resistant to moisture.</p> <p>(2) The licensee must not allow pets in the food preparation area while food is being prepared or served.</p> <p>(3) The licensee may use the kitchen for other child care activities provided there is continual supervision of the children.</p> <p>(4)(a) If a bleach solution is used to sanitize surfaces, the solution must be one tablespoon of chlorine bleach to one gallon of cool water;</p> <p>(b) If another sanitizer product is used, it must be labeled as approved for food contact surfaces and be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.</p> <p><i>(This section revised as a result of comments on the proposed rule.)</i></p>

<p><b>WAC 170-296A-8050 Civil monetary penalties (fines).</b> A civil monetary penalty (fine) may be imposed when the licensee violates a rule in this chapter or a requirement in chapter 43.215 RCW.</p> <p>(1) A fine of seventy-five dollars per day may be imposed for each violation.</p> <p>(2) The fine may be assessed and collected with interest for each day a violation occurs.</p> <p>(3) A fine may be imposed in addition to other action taken against the license including probation, suspension, revocation or denial of a license renewal.</p> <p>(4) At the department's discretion, the fine may be withdrawn or reduced if the licensee comes into compliance during the notification period in WAC 170-296A-8075.</p> <p>(5) When a fine is assessed the licensee has the right to a hearing under chapter 170-03 WAC. The fine notice will include information about the licensee's hearing rights and how to request a hearing.</p>	<p><b>WAC 170-296A-8050 Civil monetary penalties (fines).</b> A civil monetary penalty (fine) may be imposed when the licensee violates a rule in this chapter or a requirement in chapter 43.215 RCW.</p> <p>(1) A fine of one hundred fifty dollars per day may be imposed for each violation.</p> <p>(2) The fine may be assessed and collected with interest for each day a violation occurs.</p> <p>(3) A fine may be imposed in addition to other action taken against the license including probation, suspension, revocation or denial of a license renewal.</p> <p>(4) At the department's discretion, a fine may be withdrawn or reduced if the licensee comes into compliance during the notification period in WAC 170-296A-8075.</p> <p>(5) When a fine is assessed the licensee has the right to a hearing under chapter 170-03 WAC. The fine notice will include information about the licensee's hearing rights and how to request a hearing.</p> <p><i>(This section revised consistent with 2011 SB 5504.)</i></p>
<p><b>WAC 170-296A-8125 Failure to pay a fine—Department action.</b> If the licensee fails to pay a fine within twenty-eight calendar days after the fine assessment becomes final the department may suspend, revoke or not renew the license.</p>	<p><b>WAC 170-296A-8125 Failure to pay a fine—Department action.</b> If the licensee fails to pay a fine within twenty-eight calendar days after the fine assessment becomes final the department may suspend, revoke or not continue the license.</p> <p><i>(This section revised consistent with other changes in the rules to implement 2011 SB 5625.)</i></p>
<p><b>WAC 170-296A-8150 Denial, suspension, revocation or modification of a license.</b> A license may be denied, suspended, modified or revoked when the licensee fails to comply with the requirements in this chapter or any provisions of chapter 43.215 RCW.</p>	<p><b>WAC 170-296A-8150 Denial, suspension, revocation, modification, or noncontinuation of a license.</b> A license may be denied, suspended, modified, revoked, or not continued when the licensee fails to comply with the requirements in this chapter or any provisions of chapter 43.215 RCW.</p> <p><i>(This section revised consistent with other changes in the rules to implement 2011 SB 5625.)</i></p>
<p><b>WAC 170-296A-8175 Violations that will result in enforcement action.</b> The department will deny, suspend or revoke a license when:</p> <p>(1) The licensee is unable to provide the required care for the children in a way that promotes their health, safety and well-being;</p> <p>(2) The licensee is disqualified under chapter 170-06 WAC (DEL background check rules);</p> <p>(3) The licensee or household member has been found to have committed child abuse or child neglect;</p> <p>(4) The licensee has been found to allow staff or household members to commit child abuse or child neglect; or</p> <p>(5) The licensee has a current charge or conviction for a disqualifying crime under WAC 170-06-0120.</p>	<p><b>WAC 170-296A-8175 Violations—Enforcement action.</b> The department may deny, suspend, revoke, or not continue a license when:</p> <p>(1) The licensee is unable to provide the required care for the children in a way that promotes their health, safety and well-being;</p> <p>(2) The licensee is disqualified under chapter 170-06 WAC (DEL background check rules);</p> <p>(3) The licensee or household member has been found to have committed child abuse or child neglect;</p> <p>(4) The licensee has been found to allow staff or household members to commit child abuse or child neglect;</p> <p>(5) The licensee has a current charge or conviction for a disqualifying crime under WAC 170-06-0120;</p> <p>(6) There is an allegation of child abuse or neglect against the licensee, staff, or household member;</p> <p>(7) The licensee fails to report to DSHS children's administration intake or law enforcement any instances of alleged child abuse or child neglect;</p>

	<p>(8) The licensee tries to obtain or keep a license by deceitful means, such as making false statements or leaving out important information on the application;</p> <p>(9) The licensee commits, permits or assists in an illegal act at the child care premises;</p> <p>(10) The licensee uses illegal drugs or alcohol in excess, or abuses prescription drugs;</p> <p>(11) The licensee knowingly allowed a staff or household member to make false statements on employment or background check application related to their suitability or competence to provide care;</p> <p>(12) The licensee fails to provide the required level of supervision for the children in care;</p> <p>(13) The licensee cares for more children than the maximum number stated on the license;</p> <p>(14) The licensee refuses to allow department authorized staff access during child care operating hours to:</p> <ul style="list-style-type: none"> <li>(a) Requested information;</li> <li>(b) The licensed space;</li> <li>(c) Child, staff, or program files; or</li> <li>(d) Staff or children in care.</li> </ul> <p>(15) The licensee is unable to manage the property, fiscal responsibilities or staff in the facility;</p> <p>(16) The licensee cares for children outside the ages stated on the license;</p> <p>(17) A staff person or a household member residing in the licensed home is disqualified under chapter 170-06 WAC (DEL background check rules);</p> <p>(18) The licensee, staff person, or household member residing in the licensed home has a current charge or conviction for a crime described in WAC 170-06-0120;</p> <p>(19) A household member residing in the licensed home had a license to care for children or vulnerable adults denied or revoked;</p> <p>(20) The licensee does not provide the required number of qualified staff to care for the children in attendance; or</p> <p>(21) The department is in receipt of information that the licensee has failed to comply with any requirement described in WAC 170-296A-1420.</p> <p><i>(This section revised to incorporate the content of withdrawn WAC 170-296A-8200.)</i></p>
<p><b>WAC 170-296A-8200 Violations or conditions that may result in enforcement action.</b> The department may deny, suspend or revoke a license when:</p> <ul style="list-style-type: none"> <li>(1) There is an allegation of child abuse or neglect against the licensee, staff, or household member;</li> <li>(2) The licensee fails to report to DSHS children's administration intake or law enforcement any instances of alleged child abuse or child neglect;</li> </ul>	<p><i>(Proposed WAC 170-296A-8200 is withdrawn and it [its] content incorporated, with revisions for clarity, into WAC 170-296A-8175 [170-296A-8175].)</i></p>

<p>(3) The licensee tries to obtain or keep a license by deceitful means, such as making false statements or leaving out important information on the application;</p> <p>(4) The licensee commits, permits or assists in an illegal act at the child care premises;</p> <p>(5) The licensee uses illegal drugs, alcohol in excess, or abuses prescription drugs;</p> <p>(6) The licensee knowingly allowed a staff or household member to make false statements on employment or background check application related to their suitability or competence to provide care;</p> <p>(7) The licensee fails to provide the required level of supervision for the children in care;</p> <p>(8) The licensee cares for more children than the maximum number stated on the license;</p> <p>(9) The licensee refuses to allow department authorized staff access during child care operating hours to:</p> <ul style="list-style-type: none"> <li>(a) Requested information;</li> <li>(b) The licensed space;</li> <li>(c) Child, staff, or program files; or</li> <li>(d) Staff and children in care.</li> </ul> <p>(10) The licensee is unable to manage the property, fiscal responsibilities or staff in the facility;</p> <p>(11) The licensee cares for children outside the ages stated on the license;</p> <p>(12) A staff person or a household member residing in the licensed home is disqualified under chapter 170-06 WAC (DEL background check rules);</p> <p>(13) The licensee, staff person, or household member residing in the licensed home has a current charge or conviction for a crime described in WAC 170-06-0120;</p> <p>(14) A household member residing in the licensed home had a license to care for children or vulnerable adults denied or revoked;</p> <p>(15) The licensee does not provide the required number of qualified staff to care for the children in attendance; or</p> <p>(16) The department is in receipt of information that the licensee has failed to comply with any requirement described in WAC 170-296A-1420.</p>	
<p><b>WAC 170-296A-8250 Probationary license.</b> A probationary license as provided in RCW 43.215.290 may be issued as part of a corrective action plan.</p>	<p><b>WAC 170-296A-8250 Probationary license.</b> A probationary license may be issued to a licensee operating under a nonexpiring full license as part of a corrective action plan. The department refers the licensee for technical assistance as provided in RCW 43.215.290 prior to issuing a probationary license.</p>
<p><b>WAC 170-296A-8275 Probationary license—Cause.</b> A department decision to issue a probationary license must be based on the following:</p> <ul style="list-style-type: none"> <li>(1) Negligent or intentional noncompliance with the licensing rules;</li> <li>(2) A history of noncompliance with the licensing rules;</li> </ul>	<p><i>(This section is revised consistent with 2011 SB 5625.)</i></p> <p><b>WAC 170-296A-8275 Probationary license—Cause.</b> A department decision to issue a probationary license must be based on the following:</p> <ul style="list-style-type: none"> <li>(1) Negligent or intentional noncompliance with the licensing rules;</li> <li>(2) A history of noncompliance with the licensing rules;</li> </ul>

<p>(3) Current noncompliance with the licensing rules; or                  (4) Any other factors relevant to the specific situation.</p>	<p>(3) Current noncompliance with the licensing rules; or                  (4) Any other factors relevant to the specific situation and consistent with the intent or purpose of chapter 43.215 RCW.  <i>(This section revised as a result of comments on the proposed rules.)</i></p>
<p><b>WAC 170-296A-8300 Issuing a probationary license.</b>                  When the department issues a probationary license, the licensee must:</p> <p>(1) Provide the parents and guardians of enrolled children notice of the probationary license in a department approved format within five working days of the licensee receiving the probationary license;</p> <p>(2) Provide documentation to the department that parents or guardians of enrolled children have been notified;</p> <p>(3) Inform new parent or guardians of the probationary status before enrolling new children;</p> <p>(4) Post documentation of the approved written probationary license as required by RCW 43.215.525; and</p> <p>(5) Return the licensee's full license to the department.</p>	<p><b>WAC 170-296A-8300 Issuing a probationary license.</b>                  When the department issues a probationary license, the licensee must:</p> <p>(1) Provide the parents and guardians of enrolled children notice of the probationary license in a department approved format within five working days of the licensee receiving the probationary license;</p> <p>(2) Provide documentation to the department that parents or guardians of enrolled children have been notified;</p> <p>(3) Inform new parents or guardians about the probationary status before enrolling new children;</p> <p>(4) Post documentation of the approved written probationary license as required by RCW 43.215.525; and</p> <p>(5) Return the licensee's nonexpiring full license to the department.  <i>(Subsection (5) is revised consistent with related changes in other rules implementing 2011 SB 5625.)</i></p>
<p><b>WAC 170-296A-8325 Refusing a FLCA or probationary license.</b> (1) The licensee has the right to:</p> <p>(a) Refuse or refuse to sign a facility licensing compliance agreement; or</p> <p>(b) Refuse to agree to a probationary license.</p> <p>(2) Refusing a facility license compliance agreement or probationary license may result in one of the following enforcement actions:</p> <p>(a) Modification of the license;</p> <p>(b) Denial of a renewal license;</p> <p>(c) Suspension of the license; or</p> <p>(d) Revocation of the license.</p>	<p><b>WAC 170-296A-8325 Refusing a FLCA or probationary license.</b> (1) The licensee has the right to:</p> <p>(a) Refuse or refuse to sign a facility licensing compliance agreement; or</p> <p>(b) Refuse to agree to a probationary license.</p> <p>(2) Refusing a facility license compliance agreement or probationary license may result in one of the following enforcement actions:</p> <p>(a) Modification of the license;</p> <p>(b) Noncontinuation of a nonexpiring full license;</p> <p>(c) Suspension of the license; or</p> <p>(d) Revocation of the license.  <i>(Subsection (2)(b) is revised consistent with related changes in other rules implementing 2011 SB 5625.)</i></p>
<p><b>WAC 170-296A-8350 Providing unlicensed care—Notice.</b>                  (1) If the department determines that an individual is providing unlicensed child care in his or her home, the department will send the individual written notice within ten calendar days to explain:</p> <p>(a) Why the department suspects that the individual is providing child care without a license;</p> <p>(b) That a license is required and why;</p> <p>(c) That the individual must immediately stop providing child care;</p> <p>(d) That if the individual wishes to obtain a license, within thirty calendar days from the date of the department's notice in this subsection (1) the individual must submit a written agreement, on a department form, stating that he or she agrees to:</p>	<p><b>WAC 170-296A-8350 Providing unlicensed care—Notice.</b>                  (1) If the department determines that an individual is providing unlicensed child care in his or her home, the department will send the individual written notice within ten calendar days to explain:</p> <p>(a) Why the department suspects that the individual is providing child care without a license;</p> <p>(b) That a license is required and why;</p> <p>(c) That the individual must immediately stop providing child care;</p> <p>(d) That if the individual wishes to obtain a license, within thirty calendar days from the date of the department's notice in this subsection (1) the individual must submit a written agreement, on a department form, stating that he or she agrees to:</p>

<p>(i) Attend the next available department child care licensing orientation; and</p> <p>(ii) Submit a child care licensing application after completing orientation; and</p> <p>(e) That the department has the authority to issue a fine of (the dollar amount provided in law) per day for each day that the individual continues to provide child care without a license.</p> <p>(2) The department's written notice in subsection (1) of this section must inform the individual providing unlicensed child care:</p> <p>(a) How to respond to the department;</p> <p>(b) How to apply for a license;</p> <p>(c) How a fine, if issued, may be suspended or withdrawn if the individual applies for a license;</p> <p>(d) That the individual has a right to request an adjudicative proceeding (hearing) if a fine is assessed; and</p> <p>(e) How to ask for a hearing.</p> <p>(3) If an individual providing unlicensed child care does not submit an agreement to obtain a license as provided in subsection (1)(d) of this section within thirty calendar days from the date of the department's written notice, the department will post information on its web site that the individual is providing child care without a license.</p>	<p>(i) Attend the next available department child care licensing orientation; and</p> <p>(ii) Submit a child care licensing application after completing orientation; and</p> <p>(e) That the department has the authority to issue a fine of one hundred fifty dollars per day for each day that the individual continues to provide child care without a license.</p> <p>(2) The department's written notice in subsection (1) of this section must inform the individual providing unlicensed child care:</p> <p>(a) How to respond to the department;</p> <p>(b) How to apply for a license;</p> <p>(c) How a fine, if issued, may be suspended or withdrawn if the individual applies for a license;</p> <p>(d) That the individual has a right to request an adjudicative proceeding (hearing) if a fine is assessed; and</p> <p>(e) How to ask for a hearing.</p> <p>(3) If an individual providing unlicensed child care does not submit an agreement to obtain a license as provided in subsection (1)(d) of this section within thirty calendar days from the date of the department's written notice, the department will post information on its web site that the individual is providing child care without a license.</p>
<p><b>WAC 170-296A-8375 Unlicensed care—Fines and other penalties.</b> A person providing unlicensed child care may be:</p> <p>(1) Assessed a fine of (the dollar amount provided by law) a day for each day unlicensed child care is provided;</p> <p>(2) Guilty of a misdemeanor; or</p> <p>(3) Subject to an injunction.</p>	<p><i>(The fine amount in subsection (1)(e) was updated consistent with 2011 SB 5504.)</i></p> <p><b>WAC 170-296A-8375 Unlicensed care—Fines and other penalties.</b> A person providing unlicensed child care may be:</p> <p>(1) Assessed a fine of one hundred fifty dollars a day for each day unlicensed child care is provided;</p> <p>(2) Guilty of a misdemeanor; or</p> <p>(3) Subject to an injunction.</p> <p><i>(The fine amount in subsection (1) is updated consistent with 2011 SB 5504.)</i></p>

See below for changes as adopted to tables within proposed chapter 170-296A WAC. Underlined content is added, and content lined through was deleted:

**WAC 170-296A-1975 Licensee/staff qualifications and requirements table.** The following table summarizes the licensee and staff qualifications and requirements found in WAC 170-296A-1700 through 170-296A-1950, and 170-296A-7675. An "X" indicates a requirement.

**Licensee and Staff Qualifications Table**

Position	Minimum age	High school diploma or equivalent	Background check	TB test	DEL orientation	Basic 20-hour STARS	Ongoing training <u>10-hours per year</u>	Fire safety training	First aid/CPR	<del>Blood-borne pathogens</del> <u>HIV/AIDS</u>	Food handler permit
Licensee	18	X	X	X	X	X	X	X	X	X	X
Primary staff person	18		X	X		X	X	X	X	X	<u>*See WAC 170-296A-7675(3) regarding when other staff must have a food handler permit</u>

Assistant/volunteer (cannot be left alone with children)	14		X Noncriminal background check only age 14-15	X				X	X	X	*See WAC 170-296A-7675(3) regarding when other staff must have a food handler permit
--	----	--	--	---	--	--	--	---	---	---	--

\*See WAC 170-296A-7675(3) regarding when other staff must have a food handler permit

*This section revised as a result of comments on the proposed rules.*

**WAC 170-296A-3210 Communicable disease procedure.** When the licensee becomes aware that he or she, a household member, staff person or child in care has been diagnosed with any of the following communicable diseases:

Disease:	Also known as:
Chickenpox	Varicella
Conjunctivitis (bacterial)	Pink eye
Diphtheria	
E. coli infection	
Giardiasis	
Hepatitis A virus	
Invasive haemophilus influenza disease (except otitis media)	
Measles	
Meningitis (bacterial)	Meningococcal meningitis
Mumps	
Pertusis [Pertussis]	Whooping cough
Rubella	German measles
Salmonellosis	Salmonella or "food poisoning"
Shigellosis	Shigella
Tuberculosis (active)	TB

the licensee must, within twenty four hours notify:

- (a) The local health jurisdiction or DOH, except notice is not required for a diagnosis of chickenpox, conjunctivitis, or invasive haemophilus influenza;
- (b) The department; and

(c) Parents or guardians of each of the children in care; and

(2) Follow the health plan before providing care or before readmitting the household member, staff person or child into the child care.

(3) The licensee's health plan must include provisions for excluding or separating a child, staff person, or household member with communicable disease as described in subsection (1) or any of the following:

(a) Fever of one hundred one degrees Fahrenheit or higher measured orally, or one hundred degrees Fahrenheit or higher measured under the armpit (axially), if the individual also has;

- (i) Earache;
- (ii) Headache;
- (iii) Sore throat;
- (iv) Rash; or

(v) Fatigue that prevents the individual from participating in regular activities;

(b) Vomiting that occurs two or more times in a twenty-four hour period;

(c) Diarrhea with three or more watery stools, or one bloody stool, in a twenty-four hour period;

(d) Rash not associated with heat, diapering or an allergic reaction; or

(e) Drainage of thick mucus or pus from the eye.

*This section revised as a result of comments on the proposed rules. The rule also incorporates the content of withdrawn WAC 170-296A-3225.*

**WAC 170-296A-3325 Medication storage.** The licensee must store all medications, as well as vitamins, herbal remedies, dietary supplements and pet medications as described in the following table.

- (1) In a locked container or cabinet until used; or
- (2) Inaccessible to children. The licensee must keep emergency rescue medications listed in subsection (3)(a) inaccessible but available for emergency use to meet the individual's emergency medical needs:

Medication Storage Table		
This list is not inclusive of all possible items in each category. Medications must be maintained as directed on the medication label, including refrigeration is applicable.		
(3) If the medication is a (an):	The medication must be stored in a locked container or cabinet	The medication must be stored inaccessible to children
(a) Individual's emergency rescue medications:		
(i) Any medication used to treat an allergic reaction;		X
(ii) Nebulizer medication		X
(iii) Inhaler		X
(iv) Bee sting kit		X
(v) Seizure medication		X
(vi) Other medication needed for emergencies		X

(b) Nonprescription medications, including herbal or natural:		
(i) Pain reliever, cough syrup, cold or flu medication	X	
(ii) Vitamins, all types including natural	X	
(iii) Topical nonprescription medication		X
(iv) Hand sanitizer, when not in use		X
(c) Prescription medication		
(i) Intended use - topical	X	
(ii) Intended use – ingestible, inhaled or by injection	X	
(d) Pet medications (all types)	X	

*This section revised as a result of comments on the proposed rules and to incorporate content moved from proposed WAC 170-296A-4100.*

**WAC 170-296A-3925 Cleaning, sanitizing, and disinfecting table.** The following table describes the minimum frequency for cleaning, sanitizing, or disinfecting items in the licensed space.

CLEANING, SANITIZING, AND DISINFECTING TABLE			
	"X" means CLEAN	And SANITIZE or DISINFECT	FREQUENCY
(1) Kitchen countertops/tabletops, floors, doorknobs, and cabinet handles.	X	Sanitize	Daily or more often when soiled.
(2) Food preparation/surfaces.	X	Sanitize	Before/after contact with food activity; between preparation of raw and cooked foods.
(3) Carpets and large area rugs/small rugs.	X		(a) Vacuum daily. (b) Installed carpet - Clean yearly or more often when soiled. (c) Small rugs - Shake outdoors or vacuum daily. Launder weekly or more often when soiled.
	X	Sanitize	(d) Removable rugs - May be used in the bathroom. They must be easily removable and able to be washed when needed. Launder and sanitize weekly or more often when soiled.
(4) Utensils, surfaces/toys that go in the mouth or have been in contact with other body fluids.	X	Sanitize	After each child’s use; may use disposable, one-time utensils.
(5) Toys that are not contaminated with body fluids and machine-washable cloth toys. Dress-up clothes (not worn on the head or come into contact with the head while dressing). Combs/hair-brushes, (none of these items should be shared among children).	X	Sanitize	Weekly or more often when visibly soiled.
(6) Bedding, blankets, sleeping bags, individual sheets, pillowcases (if used).	X	Sanitize	Weekly or more often when soiled.
			Items that are put in the washing machine must be cleaned by using laundry detergent and sanitized by temperature (hot or warm water cycle) or chlorine bleach.
(7) Wash cloths or single use towels.	X	Sanitize	After each use.

(8)	Hats and helmets.	X		After each child's use or use disposable hats that only one child wears.
(9)	Cribs and crib mattresses.	X	Sanitize	Weekly, before use by different child, and more often whenever soiled or wet.
(10)	Handwashing sinks, faucets, surrounding counters, soap dispensers, door-knobs.	X	Disinfect	Daily or more often when soiled.
(11)	Toilet seats, toilet training rings, toilet handles, doorknobs or cubicle handles, floors.	X	Disinfect	Daily or immediately if visibly soiled.
(12)	Toilet bowls.	X	Disinfect	Daily or more often as needed (e.g., child vomits or has explosive diarrhea, etc.).
(13)	Changing tables, potty chairs (use of potty chairs in child care is discouraged because of high risk of contamination).	X	Disinfect	After each child's use.
(14)	Waste receptacles.	X		Daily or more often as needed.

*This section revised as a result of comments on the proposed rule and for clarity.*

**WAC 170-296A-5700 Capacity and ratio table—Birth through twelve year license.** The table in this section describes the required staff-to-child ratio, age composition of children in care, and maximum licensed capacity permitted in a licensed family home child care depending on the:

- (1) Licensee's years of experience;
- (2) Number and qualifications of staff providing care;
- (3) Capacity and ratio table:

Staff	Licensee Minimum Experience and Requirements	Staff-Child Ratio	Age Range	Maximum Number of Children by Age Group:	Maximum Capacity
(a) Licensee working alone	Less than one year of experience	1:6	Birth through 12 years of age	Under 18 months of age 2 or	6  Maximum of 2 children under the age of two not walking independently
				Under two years of age (One must be walking independently)  3	
(b) Licensee working alone	At least one year of experience	1:8	18 months through 12 years of age	18 months to 2 years (Must be walking independently) 2 or	8  All children must be walking independently
				Under three years of age (Not more than two under two years of age and must be walking independently)  4	

Staff	Licensee Minimum Experience and Requirements	Staff-Child Ratio	Age Range	Maximum Number of Children by Age Group:	Maximum Capacity
(c) Licensee working alone	At least two years of experience and 10 hours of annual ongoing early childhood education equivalent STARS training	1:10	Three years through 12 years of age	Not Applicable	10
(d) Licensee working with primary staff person or assistant (2 persons total)	Licensee has at least one year of experience	2:9	Birth through 12 years of age	Under 18 months of age 2 and	9
				18 months to two years of age and walking independently  1 and	
				Two years to three years of age 4	
(e) Licensee working with primary staff or assistant (2 staff persons total)	Licensee has two or more years child care experience and 10 hours of annual ongoing early childhood education equivalent STARS training	2:12	Birth through 12 years of age	Under 18 months of age 4 and	12  Maximum four children not walking independently
				18 months to two years of age and walking independently  2 and	
				Two years to three years of age 4	
(f) Licensee working with primary staff or assistant (2 persons total)	Licensee has two or more years child care experience and 10 hours of annual ongoing early childhood education equivalent STARS training	2:12	Two years of age through 12 years of age	Not Applicable	12

(4) As used in this section, "walking independently" means being able to stand and move about easily without the aid or assistance of or holding on to an object, wall, equipment or other person.

*This section revised as a result of comments on the proposed rules and for clarity.*

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 14, 2011.

Beth Hyde  
Director

## Chapter 170-296A WAC

### LICENSED FAMILY HOME CHILD CARE STANDARDS

#### NEW SECTION

**WAC 170-296A-0001 Authority.** The department of early learning was established under chapter 265, Laws of 2006. Chapter 43.215 RCW establishes the department's responsibility and authority to set and enforce licensing requirements and standards for licensed child care agencies in Washington state, including the authority to adopt rules to implement chapter 43.215 RCW.

#### NEW SECTION

**WAC 170-296A-0005 Intent.** This chapter reflects the department's commitment to quality early learning experiences for children, and promotes the health, safety, and positive development of children receiving care in a licensed family home setting.

#### NEW SECTION

**WAC 170-296A-0010 Definitions.** The following definitions apply throughout this chapter unless the context clearly indicates otherwise. Certain definitions appear in the section the term is used if the definition applies only to a specific section or sections:

**"Accessible to children"** means areas of the facility and materials that the children can easily get to on their own.

**"Agency"** as used in this chapter, has the same meaning as in RCW 43.215.010 (1) and (1)(c).

**"Available"** means accessible and ready for use or service.

**"Bathroom"** means any room containing a built-in flush-type toilet.

**"Capacity"** means the maximum number of children the licensee is authorized by the department to have in care at any given time.

**"Child"** means an individual who is younger than age thirteen, including any infant, toddler, preschool-age child, or school-age child as defined in this chapter.

**"Child abuse or neglect"** has the same meaning as "abuse or neglect" under RCW 26.44.020 and chapter 388-15 WAC.

**"Child care"** means the developmentally appropriate care, protection, and supervision of children that is designed to promote positive growth and educational experiences for children outside the child's home for periods of less than twenty-four hours a day.

**"Clean"** or **"cleaning"** means to remove dirt and debris (such as soil, food, blood, urine, or feces) by scrubbing and washing with a soap or detergent solution and rinsing with water. Cleaning is the first step in the process of sanitizing or disinfecting a surface or item.

**"Confidential"** means the protection of personal information, such as the child's records, from persons who are not authorized to see or hear it.

**"Denial of a license"** means an action by the department to not issue a child care license to an applicant for an initial license, or to a licensee operating under an initial license seeking a nonexpiring full license, based on the applicant's or initial licensee's inability or failure to meet the requirements of chapter 43.215 RCW or requirements adopted by the department pursuant to chapter 43.215 RCW.

**"Department"** or **"DEL"** means the Washington state department of early learning.

**"Developmentally appropriate"** means curriculum, materials or activities provided at a level that is consistent with the abilities or learning skills of the child.

**"Discipline"** means a method used to redirect a child in order to achieve a desired behavior.

**"Disinfect"** or **"disinfecting"** means to eliminate virtually all germs on a surface by the process of cleaning and rinsing, followed by:

(a) A chlorine bleach and water solution of appropriate concentration; or

(b) Other disinfectant product if used strictly according to the manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, adequate time to allow the product to dry or rinsing if applicable, and appropriateness for use on the surface to be disinfected. Any disinfectant used on food contact surfaces or toys must be labeled safe for food contact surfaces.

**"DOH"** means the Washington state department of health.

**"DSHS"** means the Washington state department of social and health services.

**"Enforcement action"** means a department issued:

(a) Denial, suspension, revocation or modification of a license;

(b) Probationary license;

(c) Civil monetary penalty (fine); or

(d) Disqualification from having unsupervised access to children in care.

**"Family home child care"** means a facility licensed by the department where child care is provided for twelve or fewer children in the family living quarters where the licensee resides as provided in RCW 43.215.010 (1)(c).

**"Family living quarters"** means a licensee's or license applicant's residence and other spaces or buildings on the premises that meet the facility requirements of this chapter and are approved by the department for child care.

**"Fine"** has the same meaning as "civil monetary penalty," "civil fines," or "monetary penalty" under chapter 43.215 RCW.

**"Inaccessible to children"** means an effective method or barrier that reasonably prevents a child's ability to reach, enter, or use items or areas.

**"Infant"** means a child age birth through eleven months of age.

**"Licensed space"** means the indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care.

**"Licensee"** for the purposes of this chapter, means the individual listed on a family home child care license issued by the department of early learning authorizing that individual to provide child care under the requirements of this chapter and chapter 43.215 RCW.

**"Licensor"** means an individual employed by the department and designated by the director to inspect and monitor an agency or other child care facility for compliance with the requirements of this chapter and chapter 43.215 RCW.

**"MERIT"** means the managed education registry information tool used to track professional development for early learning professionals. See also "STARS."

**"Modification of a license"** means department action to change the conditions identified on a current license.

**"Nonexpiring full license"** or **"nonexpiring license"** means a full license that is issued to a licensee following the initial licensing period as provided in WAC 170-296A-1450.

**"Nonprescription medication"** means any of the following:

- (a) Nonaspirin and aspirin fever reducers or pain relievers;
- (b) Nonnarcotic cough suppressants;
- (c) Cold or flu medications;
- (d) Antihistamines or decongestants;
- (e) Teething pain reducers;
- (f) Vitamins;
- (g) Ointments or lotions specially intended to relieve itching;
- (h) Diaper ointments and talc free powders specially used in the diaper area of children;
- (i) Sun screen;
- (j) Hand sanitizer gels; or
- (k) Hand wipes with alcohol.

**"One year of experience"** means at least twelve months of early learning experience as demonstrated by a resume and references:

(a) In a supervisory role in a child care setting where the individual was responsible for supervising staff and complying with licensing standards; or

(b) As a Washington state:

(i) Child care center or school age center director, program supervisor, or lead teacher as defined in chapters 170-151 and 170-295 WAC; or

(ii) Family home child care licensee or qualified primary staff person.

**"Overnight care"** means child care provided for a child anytime between the hours of eight o'clock at night and six o'clock in the morning that includes a sleep period for the child.

**"Personal needs"** means an individual's hygiene, toileting, medication, cleansing, eating or clothing needs. "Personal needs" does not mean smoking or use of tobacco products, illegal drug use or misuse of prescription drugs, conducting business or related activities, sleeping or napping, screen time, or leaving children in care unattended.

**"Physical restraint"** means the practice of rendering a child helpless or keeping a child in captivity.

**"Poison"** for the purposes of this chapter includes, but is not limited to, substances, chemicals, chemical compounds (other than naturally occurring compounds such as water or salt), or similar items, that even in small quantities are likely to cause injury or illness if it is swallowed or comes into contact with a child's skin, eyes, mouth, or mucus membranes.

**"Premises"** means the licensed or unlicensed space at the licensed address including, but not limited to, buildings, land and residences.

**"Preschool age child"** means a child age thirty months through five years of age who is not attending kindergarten or elementary school.

**"Primary staff person"** means a staff person other than the licensee who has been authorized by the department to care for and have unsupervised access to children in care.

**"RCW"** means Revised Code of Washington.

**"Revocation"** or **"revoke"** means the formal action by the department to close a child care business and take the license due to the licensee's failure to comply with chapter 43.215 RCW or requirements adopted pursuant to chapter 43.215 RCW.

**"Sanitize"** means to reduce the number of microorganisms on a surface by the process of:

(a) Cleaning and rinsing, followed by using:

(i) A chlorine bleach and water solution of appropriate concentration; or

(ii) Another sanitizer product if used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry, and appropriateness for use on the surface to be sanitized. If used on food contact surfaces or toys, a sanitizer product must be labeled as safe for food contact surfaces; or

(b) For laundry and dishwasher use only, "sanitize" means use of a bleach and water solution or temperature control.

**"School age child"** means a child not less than five years of age through twelve years of age who is attending kindergarten or school.

"**Screen time**" means watching, using or playing television, computers, video games, video or DVD players, mobile communication devices, and similar devices.

"**Sleeping equipment**" includes a bed, cot, mattress, mat, crib, bassinet, play yard or "pack and play." "Sleeping equipment" does not include any car seat or infant swing.

"**Staff**" unless referring specifically to a "primary staff person," means any primary staff person, assistant, or volunteer helping to provide child care, or a household member acting in the capacity of a primary staff person, assistant or volunteer, whether compensated or not compensated.

"**STARS**" means the state training and registry system.

"**Suspension of a license**" means a formal department action to stop a license pending a department decision regarding further enforcement action.

"**Toddler**" means a child age twelve months through twenty-nine months of age.

"**Unlicensed space**" means the indoor and outdoor areas of the premises, not approved as licensed space by DEL, that the licensee must make inaccessible to the children during child care hours.

"**Unsupervised access**" has the same meaning as "unsupervised access" in WAC 170-06-0020.

"**WAC**" means the Washington Administrative Code.

"**Weapons**" means an instrument or device of any kind that is used or designed to be used to inflict harm including, but not limited to, rifles, handguns, shotguns, antique firearms, knives, swords, bows and arrows, BB guns, pellet guns, air rifles, electronic or other stun devices, or fighting implements.

#### NEW SECTION

**WAC 170-296A-0050 Special needs accommodations.** The provisions of this section apply to any requirement in this chapter.

(1) The department may approve accommodations to requirements in these standards for the special needs of an individual child when:

(a) The licensee submits to the department a written plan, signed by the parent or guardian, that describes how the child's needs will be met in the licensed child care; and

(b) The licensee has supporting documentation of the child's special needs provided by a licensed or certified:

(i) Physician or physician's assistant;

(ii) Mental health professional;

(iii) Education professional;

(iv) Social worker with a bachelor's degree or higher degree with a specialization in the individual child's needs; or

(v) Registered nurse or advanced registered nurse practitioner.

(2) The documentation described in subsection (1) of this section must be in the form of an:

(a) Individual education plan (IEP);

(b) Individual health plan (IHP); or

(c) Individual family plan (IFP).

(3) The licensee's written plan and all documentation required under this section must be kept in the child's file and a copy submitted to the department.

(4) See WAC 170-296A-5625 regarding supervision, capacity, and staff-to-child ratios for children with documented special needs.

### LICENSING PROCESS

#### NEW SECTION

**WAC 170-296A-1000 License required.** (1) An individual who provides care for children in his or her home must be licensed by the department unless exempt under RCW 43.215.010(2).

(2) The individual claiming an exemption must provide to the department proof that they qualify for an exemption using a department approved form.

#### NEW SECTION

**WAC 170-296A-1025 Who must be licensed.** An individual must be licensed to care for children if any of the following apply:

(1) Care is provided in the individual's home and outside the child's home on a regular and ongoing basis for one or more children not related to the licensee. As used in this section, "not related" means not any of the relatives listed in RCW 43.215.010 (2)(a); or

(2) Care is provided in the individual's home for preschool age children for more than four hours a day.

See WAC 170-296A-8350 regarding providing child care without a license.

#### NEW SECTION

**WAC 170-296A-1050 The licensee.** (1) The licensee is the individual or individuals:

(a) Who resides in the home licensed for family home child care under this chapter;

(b) Whose name appears on the license issued by the department;

(c) Licensed by the department to provide child care and early learning services for not more than twelve children in the licensee's home in the family living quarters;

(d) Responsible for the overall management of the licensed family child care home;

(e) Responsible for complying with the standards in this chapter, chapter 43.215 RCW, chapter 170-06 WAC DEL background check rules, and other applicable laws or rules; and

(f) Responsible for training staff on the licensing standards in this chapter.

(2) The licensee must comply with all requirements in this chapter, unless another code or ordinance is more restrictive. Local officials are responsible for enforcing city or county ordinances and codes, such as zoning, building or environmental health regulations.

(3) The licensee may hold only one current family home child care license.

NEW SECTION

**WAC 170-296A-1075 Child care subsidy.** A licensee who receives child care subsidy payments must follow the requirements of the applicable subsidy program. A licensee who receives subsidy payments under the working connections child care or seasonal child care programs must follow the requirements of chapter 170-290 WAC.

NEW SECTION

**WAC 170-296A-1100 Tribal or military regulated or operated child care—Certification for payment.** (1) A family home child care that is regulated by an Indian tribe or the federal Department of Defense is exempt from licensing.

(2) A tribe or a child care regulated by the federal Department of Defense may request certification:

- (a) For subsidy payment only; or
- (b) As meeting licensing standards of this chapter.

(3) A child care seeking certification under this section must be located on the premises over which the tribe or federal Department of Defense has jurisdiction.

NEW SECTION

**WAC 170-296A-1125 Orientation required.** An individual applying for an initial license must complete an orientation provided by the department within twelve months prior to submitting a license application.

NEW SECTION

**WAC 170-296A-1150 Preservice training.**

NEW SECTION

**WAC 170-296A-1175 Basic twenty-hour STARS training.** A license applicant must complete the basic twenty-hour STARS training prior to an initial license being granted by the department.

NEW SECTION

**WAC 170-296A-1200 Background checks.** (1) The license applicant or licensee must submit a completed background check form and obtain an authorization (clearance) from the department consistent with the requirements of chapter 170-06 WAC for each of the following:

- (a) The license applicant;
- (b) The licensee;
- (c) Each new staff person or volunteer age sixteen or older;
- (d) Each individual age sixteen or older residing in the home;
- (e) Each individual age sixteen or older who moves into the home; and
- (f) Any individual age sixteen or older who may have unsupervised access to children in care.

(2)(a) Effective through June 30, 2012, any individual who must undergo a background check under chapter 170-06 WAC and who has resided in Washington state for less than

three years must complete the department fingerprint process.

(b) Effective July 1, 2012, each individual seeking a first time DEL background check must undergo a fingerprint-based FBI background check. See RCW 43.215.215.

(3) The licensee must keep background check authorization letters from the department on file for each individual listed in this section. Effective July 1, 2012, a licensee must keep a copy of the department authorization or certification for each primary staff person, assistant, or volunteer who works in the licensed home.

(4) The licensee must not allow any individual who has not been authorized by the department to have unsupervised access to the children in care at any time.

(5) The licensee must verify annually that each individual who is required to have a background check under this section has either obtained a department clearance or has applied for a department background check. The verification must be submitted with the licensee's annual license fee and declarations required under WAC 170-296A-1450.

NEW SECTION

**WAC 170-296A-1225 Noncriminal background checks for individuals thirteen to sixteen years of age.** (1) Each volunteer or assistant in the licensed family home child care age fourteen to sixteen years old, and each individual residing in the licensee's home age thirteen to sixteen years old, must undergo a noncriminal background check.

(2) The licensee must submit a signed and dated non-criminal background check application on a form approved by the department:

- (a) Within seven days after the volunteer or assistant age fourteen to sixteen starts work in the licensed child care; and
- (b) For each individual residing in the home age thirteen to sixteen:

(i) With the licensee's initial license application or annual nonexpiring license declaration under WAC 170-296A-1450;

(ii) Within seven days after an individual residing in the home reaches age thirteen; and

(iii) Within seven days after an individual age thirteen to sixteen moves into the home.

(3) The department conducts a noncriminal background check, and authorizes or disqualifies an individual age thirteen to sixteen as described in chapter 170-06 WAC, except that the department does not:

(a) Review convictions or pending charges for disqualifying crimes under WAC 170-06-0050(1), unless the conviction was the result of prosecution of the juvenile as an adult; and

(b) Disqualify an individual for a conviction under WAC 170-06-0070 (1) and (2), unless the conviction was the result of prosecution of the juvenile as an adult.

(4) An individual who is disqualified from providing child care or having access to children in care following a noncriminal background check as described in this section has the right to appeal the department's decision under WAC 170-06-0090.

(5) The licensee must keep authorization letters from the department on file for each individual listed in this section.

#### NEW SECTION

**WAC 170-296A-1250 Initial license application packet—Contents.** (1) The individual seeking an initial license under this chapter is the license applicant.

(2) A license applicant must submit a license application packet that includes:

(a) A completed department application form and copy of the applicant's orientation certificate;

(b) Copy of license applicant's current government issued photo identification;

(c) Documentation of the license applicant's high school diploma or equivalent education under WAC 170-296A-1725;

(d) Resume for the license applicant;

(e) References from three individuals not related to the license applicant;

(f)(i) Copy of license applicant's Social Security card pursuant to 42 U.S.C. 666 (a)(13) and RCW 26.23.150 regarding child support.

(ii) If the license applicant does not have a Social Security card, the applicant must provide a sworn declaration stating that he or she does not have a Social Security card.

(g) Copy of the federal Internal Revenue Service letter showing the applicant's employer identification number (EIN) if the applicant plans to employ staff;

(h) Tuberculosis test results or required documentation for the license applicant, each staff person, and household members sixteen years old or older. See WAC 170-296A-1750;

(i) Copy of first-aid/CPR training and HIV/AIDS training certificates for the license applicant and each staff person required to complete such training as described in WAC 170-296A-1825 and 170-296A-1850;

(j) Copy of the license applicant's state food handler permit as described in WAC 170-296A-7675;

(k) Completed background clearance forms for the license applicant and each staff person, household members sixteen years old and older, and anyone sixteen years and older who may have unsupervised access to the children in care;

(l) A completed noncriminal background check application form for each assistant and volunteer fourteen to sixteen years of age, and each individual age thirteen to sixteen residing in the home;

(m) Parent, staff and operation policies (handbooks). See WAC 170-296A-2350, 170-296A-2375, 170-296A-2400, and 170-296A-2425;

(n) Floor plan, including proposed:

(i) Licensed space;

(ii) Licensed space usage;

(iii) Evacuation routes and emergency exits;

(iv) Unlicensed space;

(v) Licensed space used specifically for sleeping infants, if applicable; and

(vi) Licensed space used for sleeping children for overnight care, if applicable.

(o) Septic system inspection report if applicable under WAC 170-296A-1375;

(p) Well water testing report if applicable under WAC 170-296A-1400;

(q) Lead or arsenic evaluation agreement, only if the home is located in the Tacoma smelter plume under WAC 170-296A-1360; and

(r) The license fees and other fees under WAC 170-296A-1325.

(3) If there will be more than one individual whose name will appear on the license, each individual license applicant must provide information required in subsection (2)(b) through (f) and (2)(h) through (k) of this section.

#### NEW SECTION

**WAC 170-296A-1275 Initial license application processing.** (1) The department may take up to ninety days to process an initial license application. The ninety days begins when the license applicant's signed and dated license application packet, fees and background check forms have been received by the department.

(2) If an incomplete application packet is submitted, the department will inform the license applicant of the deficiencies and provide a time frame for the applicant to provide the required information. If an application remains incomplete after ninety days the department may deny the license.

#### NEW SECTION

**WAC 170-296A-1300 Withdrawing an incomplete application.** (1) If the license applicant is unable to successfully complete the licensing process within ninety days the license applicant may withdraw the application and reapply when the applicant is able to meet licensing requirements.

(2) A license applicant who has not withdrawn his or her incomplete application and is unable to meet the application requirements will be denied a license. See RCW 43.215.300.

#### NEW SECTION

**WAC 170-296A-1325 Fees—When due. License fees.**

(1) The annual family home child care license fee is thirty dollars, or as otherwise set by the legislature;

(2) The license fee is nonrefundable and is due:

(a) With the license applicant's initial license application packet; and

(b) Annually thereafter, thirty days prior to the anniversary date of the license.

(3) Payment must be in the form of a check or money order.

**Background check fees.**

(4) Effective July 1, 2012:

(a) Each individual required to obtain a department background check must pay the fee established under chapter 170-06 WAC. The fee must be submitted with the individual's completed and signed background check application form.

(b) Each individual applying for a first-time license application or each individual applying for the first time for a

department background check clearance must be fingerprinted and pay the processing fee.

#### NEW SECTION

**WAC 170-296A-1360 Lead and arsenic hazards—Tacoma smelter plume.** A license applicant who lives in the designated Tacoma smelter plume (counties of King, Pierce, and Thurston) must contact the state department of ecology (DOE) and complete a signed access agreement with DOE for further evaluation of the applicant's property and possible arsenic and lead soil sampling.

#### NEW SECTION

**WAC 170-296A-1375 Private septic system—Inspection and maintenance.** (1) If the licensed premises is served by a private septic system (not connected to a sewer system) the septic system must be maintained in a manner acceptable to the local health jurisdiction.

(2) The licensee must follow the local health jurisdiction's requirements for periodic septic system inspection and maintenance.

(3) If there are no local health jurisdiction's requirements for periodic septic system inspections the licensee must:

(a) Have the system inspected by a septic system inspector certified by the local health jurisdiction:

(i) Within six months prior to submitting a license application under WAC 170-296A-1250; and

(ii) Every three years after an initial license is issued to the license applicant under this chapter.

(b) Maintain the septic system as required by the inspection report.

(4) Septic system inspection and maintenance records must be kept on the premises and made available to the department upon request.

#### NEW SECTION

##### **WAC 170-296A-1400 Private well and water system.**

(1) If the licensed family home child care gets water from a private well on the premises, the licensee must follow the local health jurisdiction's requirements for periodic water testing.

(2) If there are no local health jurisdiction requirements for periodic water testing, the licensee must have the water tested for coliform bacteria and nitrates by the local public health authority or private testing laboratory certified to analyze drinking water samples under chapter 173-50 WAC:

(a) Within six months prior to submitting an initial license application under WAC 170-296A-1250; and

(b) Every three years after the first initial license is issued to the license applicant under this chapter. The test results must indicate no presence of coliform bacteria, and must not exceed ten parts per million (ppm) for nitrate.

(3) If test results indicate the presence of coliform bacteria or nitrate greater than ten ppm the licensee must:

(a) Immediately retest the water;

(b) If the retest indicates the presence of coliform bacteria or nitrate greater than ten ppm, immediately stop using the

well water in the child care and inform the local health jurisdiction and the department;

(c) Take steps required by the local health jurisdiction to repair the well or water system; and

(d) Test the water as often as required by the local health jurisdiction until tests indicate no presence of coliform bacteria and nitrate levels not exceeding ten ppm.

(4)(a) If directed by the local health jurisdiction or the department, the licensee must suspend child care operations until repairs are made; or

(b) If the local health jurisdiction and the department determine that child care operations may continue with an alternate source of safe water, provide the alternate safe water as directed.

(5) Water testing and system repair records must be kept on the premises and made available to the department upon request.

#### NEW SECTION

**WAC 170-296A-1410 Department inspection.** (1) Prior to the department issuing a license, a department licensor must inspect the proposed indoor and outdoor spaces to be used for child care to verify compliance with the requirements of this chapter.

(2) The licensee must grant reasonable access to the department licensor during the licensee's hours of operation for the purpose of announced or unannounced monitoring visits to inspect the indoor or outdoor licensed space to verify compliance with the requirements of this chapter.

#### NEW SECTION

**WAC 170-296A-1420 Licensee declaration.** When compliance with a requirement in this section is being met in unlicensed space in the licensee's home, the licensee must provide a signed and dated declaration, on a department approved form, for the purpose of verifying that the licensee is in compliance with the requirements of this chapter regarding:

(1) The furnace area safety under WAC 170-296A-2600;

(2) Guns and weapons storage under WAC 170-296A-4725;

(3) Smoke detector locations and working condition under WAC 170-296A-2950; or

(4) Medication storage under WAC 170-296A-3325.

#### NEW SECTION

**WAC 170-296A-1430 Initial license.** An applicant who demonstrates compliance with health and safety requirements of this chapter, but may not be in full compliance with all requirements, may be issued an initial license.

(1) An initial license is valid for six months from the date issued.

(2) At the department's discretion, an initial license may be extended for up to three additional six-month periods not to exceed a total of two years.

(3) The department may limit the number of children or ages of children that the licensee may care for (capacity)

under an initial license based on the licensee's child care experience.

(4) The department must evaluate the licensee's ability to follow all of the rules contained in this chapter during the initial license period.

(5) The department may issue a nonexpiring full license to a licensee operating under an initial license who:

(a) Demonstrates full compliance with the health and safety requirements of this chapter at any time during the period of initial licensure;

(b) Demonstrates substantial compliance with other requirements of this chapter at any time; and

(c) Meets the requirements for a nonexpiring full license as provided in WAC 170-296A-1450(1).

(6) The department must deny a nonexpiring full license to a licensee operating under an initial license who does not demonstrate the ability to comply with all the rules contained in this chapter during the period of initial licensure.

#### NEW SECTION

**WAC 170-296A-1450 Nonexpiring full license.** (1) To qualify for a nonexpiring full license, a licensee must submit the following to the department on an annual basis, at least thirty calendar days prior to the anniversary date of the license. The anniversary date is the date the licensee's first initial license is issued:

(a) The annual nonrefundable license fee as provided in WAC 170-296A-1325(1);

(b) A declaration to the department on a department-approved form indicating:

(i) The licensee's intent to continue operating a licensed family home child care; or

(ii) The licensee's intent to cease operation on a date certain.

(c) A declaration on a department-approved form that the licensee is in compliance with all department licensing rules; and

(d) Documentation of completed background check applications as determined by the department established schedule as provided in RCW 43.215.215 (2)(f). For each individual required to have a background check clearance, the licensee must verify a current background check clearance or submit a background check application at least thirty days prior to the license anniversary date.

(2) The requirements of subsection (1) of this section must be met:

(a) Before a licensee operating under an initial license is issued a nonexpiring full license; and

(b) Every twelve months after issuance of a nonexpiring full license.

(3) If the licensee fails to meet the requirements in subsection (1) of this section for continuation of a nonexpiring full license, the license expires and the licensee must submit a new application for licensure.

(4) Nothing about the nonexpiring license process in this section may interfere with the department's established monitoring practice.

(5) A licensee has no right to an adjudicated proceeding (hearing) to appeal the expiration, nonrenewal, or noncontin-

uation of a nonexpiring full license as a result of the licensee's failure to comply with the requirements of this section.

#### NEW SECTION

**WAC 170-296A-1475 Moves.** If the licensee moves the child care to a different residence than currently licensed, even if located on the same premises, the department must inspect the new location and must approve that it meets the requirements of this chapter.

(1) The licensee must:

(a) Notify the department of a proposed move and the date the licensee plans to move;

(b) Submit an application before the move, as soon as the licensee plans to move and has an identified address, but not more than ninety days before moving; and

(c) Not operate more than two weeks following the move as provided by statute without a department inspection of the new location.

(2) If the licensee moves and does not notify the department, or submits an application after a move, the license becomes invalid and is closed by the department effective on the date of the move. If the license is closed, the licensee must submit a new application for licensure under WAC 170-296A-1250 to reinstate the license.

#### NEW SECTION

**WAC 170-296A-1525 Change in circumstances.** (1) The licensee must report the following changes in the licensee's circumstances to the department within twenty-four hours, including:

(a) Household members, including individuals age sixteen or older moving into or out of the home;

(b) Fire or other structural damage to the licensed child care space or other parts of the premises; or

(c) Prior to making structural changes to the licensed space or changing licensed space usage. An updated floor plan must be submitted and approved by the department.

(2) Within twenty-four hours after a licensee becomes aware of a charge or conviction involving (a) the licensee; (b) a staff person; or (c) a household member, and the charge or conviction is a disqualifying crime under WAC 170-06-0120, the licensee must report to the department the fact that there is a charge or conviction involving a disqualifying crime against the licensee, staff person, or a household member.

(3) Within twenty-four hours after a licensee becomes aware of an allegation or finding made against (a) the licensee; (b) a staff person; or (c) a household member involving the abuse or neglect of a child or vulnerable adult, the licensee must report to the department the fact that there is an allegation of abuse or neglect of a child or vulnerable adult made against the licensee, staff person or household member.

#### NEW SECTION

**WAC 170-296A-1600 Multiple licenses, certifications or authorizations.** (1) The licensee must have department approval to have a department-issued child care license and

another care giving license, certification or similar authorization.

(2) If the department determines that the health and safety needs of the children in licensed child care are not being met:

(a) The department and licensee may agree to a modification to the child care license;

(b) The licensee may give up one of the licenses, certifications or authorizations; or

(c) The department may suspend, deny or revoke the child care license.

#### NEW SECTION

**WAC 170-296A-1625 Exception to rule.** (1) The department cannot waive a requirement in state or federal law.

(2) The department may approve an exception to a rule in this chapter.

(3) An exception to rule request must be:

(a) In writing on a department form;

(b) Submitted by the licenser; and

(c) Approved by the director or director's designee.

(4) The department may approve an exception only for a specific purpose or child.

(5) An exception is time limited and may not exceed the specific time period approved by the department.

(6) If the exception request is approved, the licensee must post notice of the approved exception with other notices that must be posted for parent and public view, unless the exception is for a specific child.

(7) The department's denial of an exception request is not subject to appeal under chapter 170-03 WAC.

#### NEW SECTION

**WAC 170-296A-1650 Exception to rule—Alternate method of meeting a requirement.** The department may approve an alternate method of achieving a specific requirement's intent as an exception to rule. The process for requesting and approving an exception is described in WAC 170-296A-1625 (3) through (5).

(1) The alternate method must not jeopardize the health, safety or welfare of the children in care.

(2) A copy of the department approved exception must be posted on the premises for parent and public view.

### STAFF QUALIFICATIONS

#### NEW SECTION

**WAC 170-296A-1700 Licensee minimum age.** The minimum age to be a licensee is eighteen years old.

#### NEW SECTION

**WAC 170-296A-1725 License applicant minimum education.** (1) For any initial family home child care license issued on or after March 31, 2012, the applicant must have a high school diploma.

(2) If the applicant does not have a high school diploma, he or she must submit written evidence of equivalent education. As used in this section, "equivalent education" means:

(a) Passing the general educational development (GED) tests;

(b) Completion of twelve years of elementary and secondary education;

(c) Possessing a current child development associate (CDA) credential as approved through the council for professional recognition; or

(d) Completion of forty-five credits of post secondary education.

#### NEW SECTION

**WAC 170-296A-1735 Minimum education—Licensees licensed prior to March 31, 2012.** Effective March 31, 2017, every family home child care licensee, including licensees licensed prior to March 31, 2012, must meet the minimum education requirements of WAC 170-296A-1725.

#### NEW SECTION

**WAC 170-296A-1750 Tuberculosis.** The applicant, and each staff person fourteen years old and older, and each household member sixteen years old and older, must provide documentation signed by a licensed health care professional of tuberculosis (TB) testing or treatment consisting of:

(1) A negative Mantoux test (also known as a tuberculin skin test (TST)) or negative interferon gamma release assay (IGRA) completed within twelve months before license application or employment; or

(2) A previous or current positive TST or positive IGRA with documentation within the previous twelve months:

(a) Of a chest X ray with negative results; or

(b) Showing that the individual is receiving or has received therapy for active or latent TB disease and is cleared to safely work in a child care setting. As used in this section, "latent TB" means when a person is infected with the TB germ but has not developed active TB disease.

#### NEW SECTION

**WAC 170-296A-1800 Ongoing training.** (1) The licensee and each primary staff person must complete ten hours of department approved ongoing training each year. The training may include:

(a) Licensee's or primary staff person's choice; and

(b) Department directed training.

(2) The licensee must complete the ongoing training requirement each year prior to continuing a nonexpiring full license.

(3) A primary staff person must complete the ongoing training requirement each year beginning from the date of initial employment.

(4) A licensee who exceeds the ten-hour ongoing training requirement in any year may carry over up to five hours of ongoing training toward meeting the next year's requirement.

NEW SECTION

**WAC 170-296A-1825 First aid and cardio pulmonary resuscitation (CPR) certification.** (1) The licensee and each staff person must have a current first aid and cardio pulmonary resuscitation (CPR) certification as established by the expiration date of the document.

(2) Proof of certification may be a card, certificate or instructor letter.

(3) The first aid and CPR training and certification must:

(a) Be certified by the American Red Cross, American Heart Association, American Safety and Health Institute or other nationally recognized certification approved by the department;

(b) Include infant, child, and adult CPR; and

(c) Include a hands-on component.

NEW SECTION

**WAC 170-296A-1850 HIV/AIDS training—Bloodborne pathogens plan.** (1) The licensee, each staff, and each household member who is responsible for the care of children must complete one time the state department of health training under chapter 70.24 RCW on the prevention and transmission of HIV/AIDS (human immunodeficiency virus/acquired immunodeficiency syndrome).

(2) The licensee must have a written bloodborne pathogens plan that includes:

(a) A list of the staff, volunteers and household members providing child care who may be exposed to bloodborne pathogens; and

(b) Procedures for cleaning up bodily fluid spills (blood, feces, nasal or eye discharge, saliva, urine or vomit), including the use of gloves, proper cleaning and disinfecting of contaminated items, disposal of waste materials, and handwashing.

NEW SECTION

**WAC 170-296A-1875 Primary staff person.** Other than the licensee, only an individual meeting all the qualifications of a primary staff person is qualified to be left unsupervised with the children in the licensed family home child care.

NEW SECTION

**WAC 170-296A-1900 Primary staff person minimum age.** A primary staff person must be a minimum of eighteen years of age.

NEW SECTION

**WAC 170-296A-1910 Basic twenty-hour STARS training.** A primary staff person must complete the basic twenty hours of STARS training prior to working unsupervised with the children.

NEW SECTION

**WAC 170-296A-1925 Assistants and volunteers—Supervision.** (1) Assistants and volunteers are the individuals who help in the licensed child care but are supervised by the licensee or primary staff person at all times.

(2) The licensee or primary staff person must be within visual or auditory range of an assistant or volunteer sixteen years old or older, and must be available and able to respond.

(3) The licensee or primary staff person must be within visual and auditory range of an assistant or volunteer fourteen years to sixteen years old, and must be available and able to respond. When the licensee or primary staff person is the only supervisor, the assistant or volunteer may be in visual or auditory range for brief periods of time while the licensee or primary staff person attends to their personal needs on the premises.

NEW SECTION

**WAC 170-296A-1950 Assistants and volunteers—Minimum age.** The minimum age to be an assistant or volunteer is fourteen years of age.

NEW SECTION

**WAC 170-296A-1975 Licensee/staff qualifications and requirements table.** The following table summarizes the licensee and staff qualifications and requirements found in WAC 170-296A-1700 through 170-296A-1950, and 170-296A-7675. An "X" indicates a requirement.

**Licensee and Staff Qualifications Table**

Position	Minimum age	High school diploma or equivalent	Background check	TB test	DEL orientation	Basic 20-hour STARS	Ongoing training 10-hours per year	Fire safety training	First aid/CPR	HIV/AIDS	Food handler permit
Licensee	18	X	X	X	X	X	X	X	X	X	X
Primary staff person	18		X	X		X	X	X	X	X	See WAC 170-296A-7675(3) regarding when other staff must have a food handler permit

Position	Minimum age	High school diploma or equivalent	Back-ground check	TB test	DEL orientation	Basic 20-hour STARS	Ongoing training 10-hours per year	Fire safety training	First aid/ CPR	HIV/ AIDS	Food handler permit
Assistant/volunteer	14		X Noncriminal background check only age 14-15	X				X	X	X	See WAC 170-296A-7675(3) regarding when other staff must have a food handler permit

**RECORDKEEPING, REPORTING AND POSTING**

NEW SECTION

**WAC 170-296A-2000 Recordkeeping—Records available to the department.** The licensee must keep all records required in this chapter for a minimum of five years:

- (1) Current records, including records from the previous twelve months, must be kept in the licensed space as defined in WAC 170-296A-0010 and be available for the department's review.
- (2) Records older than twelve months to five years old must be provided to the department within two weeks of the date of the department's written request.

NEW SECTION

**WAC 170-296A-2025 Child records—Confidentiality.** (1) The licensee must maintain records for all children in a confidential manner.

- (2) Each enrolled child's health record must be available to staff when needed for medical administration or emergencies.
- (3) A child's parent or guardian must be allowed access to all records for their child.

NEW SECTION

**WAC 170-296A-2050 Child records—Contents.** (1) The licensee must have an enrollment record for every child who is enrolled and counted in capacity. Each child's enrollment record must include the following:

- (a) Beginning enrollment date;
- (b) End of enrollment date for children no longer in the licensee's care;
- (c) The child's birth date;
- (d)(i) The child's current immunization record, on a DOH child immunization status form or comparable form completed by a health care professional; or
- (ii) A medical exemption form signed by a health care professional; or
- (iii) A religious, philosophical, or personal exemption form or similar statement signed by the child's parent or guardian.
- (e) The child's known allergies;
- (f) Names of persons authorized to pick up the child;
- (g) Emergency contacts. If no emergency contact is available, a written emergency contact plan may be accepted;

(h) Parent or guardian information including name, phone numbers, home address, and other contact information for reaching the family while the child is in care;

(i) Medical and dental care provider names and contact information, if the child has providers. If the child has no medical or dental provider, the licensee and parent or guardian must have a written plan for medical or dental injury or incident; and

(j) Consent to seek medical care and treatment of minor child in the event of injury or illness, signed by the child's parent or guardian.

(2) If applicable, a child's records must include:

- (a) Injury/incident reports (see WAC 170-296A-3575 and 170-296A-3600);
  - (b) Medication authorization and administration log (see WAC 170-296A-3375);
  - (c) Plan for special or individual needs of the child (see WAC 170-296A-0050); or
  - (d) Documentation of use of physical restraint (see WAC 170-296A-6250).
- (3) The child's records must include signed parent permissions (see WAC 170-296A-6400) as applicable for:
- (a) Field trips;
  - (b) Picture taking;
  - (c) Transportation; and
  - (d) Visiting health professionals providing services to the child at the family home child care.

NEW SECTION

**WAC 170-296A-2075 Licensee and staff records.** Records on file for the licensee and each staff person must include documentation of:

- (1) Current first aid and infant, child and adult CPR training certification;
- (2) HIV/AIDS training certification;
- (3) TB test results or documentation as required under WAC 170-296A-1750;
- (4) Current state food handler permit for the licensee, and for other staff if required under WAC 170-296A-7675 (3);
- (5) Completed background check form, or noncriminal background check form if applicable under WAC 170-296A-1225, and copy of the department-issued authorization;
- (6) Copy of a current government issued picture identification;
- (7) Emergency contact information;
- (8) Completed application form or resume for staff when hired;

- (9) Documentation for the licensee's and primary staff person only of:
- (a) Basic twenty hour STARS training;
  - (b) Ongoing training completed; and
  - (c) Registration in MERIT.
- (10) Record of training provided by the licensee to staff and volunteers; and
- (11) Resume for the licensee only.

#### NEW SECTION

**WAC 170-296A-2100 Required records for household members.** The licensee must keep the following records for household members:

- (1) Completed background check form and the department-issued clearance under chapter 170-06 WAC for each individual sixteen years old and older;
- (2) The department-issued clearance for household members age thirteen to sixteen years old under WAC 170-296A-1225; and
- (3) TB test results or documentation under WAC 170-296A-1750 for:
  - (a) Household members sixteen years old or older; and
  - (b) Any household member fourteen to sixteen years old who is an assistant or volunteer.

#### NEW SECTION

**WAC 170-296A-2125 Child attendance records—Staff to child ratio records.** The licensee must also keep records of:

- (1) Daily attendance for each child counted in capacity that includes the:
  - (a) Child's dates of attendance;
  - (b) Time the child arrives or returns to the child care, including signature of the person authorized by the child's parent or guardian to sign the child in; and
  - (c) Time the child leaves from the licensee's care including signature of the person authorized by the child's parent or guardian to sign the child out; and
- (2) Names of staff being counted to meet the daily staff-to-child ratio requirements.

#### NEW SECTION

**WAC 170-296A-2150 Facility records.** The licensee must keep the following facility records:

- (1) Monthly fire inspections required under WAC 170-296A-3050;
- (2) Fire extinguisher annual maintenance or receipts indicating annual purchase of new fire extinguisher(s), under WAC 170-296A-3000;
- (3) Septic system inspection and maintenance, if required under WAC 170-296A-1375;
- (4) Water testing results, if required under WAC 170-296A-1400;
- (5) Installation or assembly instructions for new play equipment under WAC 170-296A-5000(3). This requirement does not apply to used or "hand-made" play equipment built or installed by the licensee or homeowner, or to play equipment purchased prior to March 31, 2012;

(6) Emergency preparedness evacuation drills under WAC 170-296A-2925;

(7) Documents from any department visits, inspections or monitoring checklists; and

(8) As applicable, compliance agreements or safety plans between the licensee and the department.

#### NEW SECTION

##### **WAC 170-296A-2175 Materials that must be posted.**

The following must be posted in the licensed space during operating hours and clearly visible to the parents, guardians and staff:

- (1) A statement of the licensee's philosophy of child development;
- (2) Emergency information, including:
  - (a) 911 or emergency services number;
  - (b) Name of the licensee, telephone number(s), emergency contact information, address, and directions from the nearest major arterial street or nearest cross street to the licensed home;
  - (c) Washington poison center toll-free phone number; and
  - (d) DSHS children's administration intake (child protective services) toll-free telephone number;
- (3) Emergency preparedness plan and drills with the following information:
  - (a) Dates and times of previous drills;
  - (b) Procedure for sounding alarm;
  - (c) Monthly smoke detector check, and carbon monoxide detector check if carbon monoxide detectors are required under WAC 170-296A-2950;
  - (d) Floor plan with escape routes and emergency exits identified; and
  - (e) Emergency medical information or explanation of where that information can be found;
- (4) Child care licensing information including:
  - (a) The current department-issued child care license;
  - (b) If applicable, a copy of current department-approved exceptions to the rules;
  - (5) If applicable, notice of any current or pending department enforcement action. Notice must be posted:
    - (a) Immediately upon receipt; and
    - (b) For at least two weeks or until the violation causing the enforcement action is corrected, whichever is longer;
  - (6) A notice stating that additional information about the child care license is available upon request to the licensee. This information includes:
    - (a) Copies of department monitoring checklists;
    - (b) If applicable, any facility licensing compliance agreements (FLCA);
    - (c) If applicable, copy of any enforcement action taken by the department for the previous three years; and
    - (d) If applicable, notice that the licensee does not have liability insurance coverage, or that the coverage has lapsed or been terminated. See RCW 43.215.535;
  - (7) A statement on how the licensee will communicate with the parent or guardian on their child's development and parenting support; and

(8) A typical daily schedule as described in WAC 170-296A-6550.

#### NEW SECTION

**WAC 170-296A-2200 Reporting incidents to 911 (emergency services).** The licensee or primary staff person must call 911 and report to emergency services the following:

- (1) A child missing from care, as soon as the licensee or staff realizes the child is missing;
- (2) Medical emergency (injury or illness) that requires immediate professional medical care;
- (3) Giving a child too much of any oral, inhaled or injected medication, or a child taking or receiving another child's medication;
- (4) Fire and other emergencies;
- (5) Poisoning or suspected poisoning; or
- (6) Other incidents requiring emergency response.

#### NEW SECTION

**WAC 170-296A-2225 Reporting incidents to Washington poison center.** The licensee or primary staff person must report to the Washington poison center, after calling 911, and follow any instructions of the poison center:

- (1) Any poisoning or suspected poisoning;
- (2) A child receiving too much of any oral, inhaled or injected medication; or
- (3) A child taking or receiving another child's medication.

#### NEW SECTION

**WAC 170-296A-2250 Reporting incidents to a child's parent or guardian and the department.** The licensee must report to a child's parent or guardian and the department:

- (1) Immediately:
  - (a) Any incident reported under WAC 170-296A-2200, after calling 911;
  - (b) Any incident reported under WAC 170-296A-2225, after calling 911 and Washington poison center;
  - (c) A child's demonstrated acts, gestures or behaviors that may cause serious intentional harm to self, others or property; or
  - (d) Use of physical restraint with a child.
- (2) Within twenty-four hours:
  - (a) Their child's injury or other health concern that does not require professional medical treatment (report to parent only);
  - (b) Change in child care staff, including serious illness or incapacity of the licensee that may impact child care staffing;
  - (c) Additions to the household of persons sixteen years old or older;
  - (d) Change in the licensee's phone number or e-mail; or
  - (e) Their child's exposure to a communicable disease from the list in WAC 170-296A-3210; and
- (3) The licensee's plans to move, as soon as the licensee plans to move. See WAC 170-296A-1475.

#### NEW SECTION

**WAC 170-296A-2275 Other incident reporting to the department.** (1) The licensee must report to the department any incidents or changes as required under WAC 170-296A-2200, or 170-296A-2225, 170-296A-2250, 170-296A-2300, and 170-296A-2325.

(2) The licensee or another person must report to the department within twenty-four hours:

(a) The licensee's emergency absence, serious illness or incapacity of the licensee, staff or member of household, if the licensee:

(i) Has a reasonable expectation the absence, illness, or incapacity will affect the licensee's ability to provide care; and

(ii) Is going to continue to provide care.

(b) For the licensee, staff, volunteer or household member age fourteen or older, any:

(i) Pending charge or conviction for a crime listed in WAC 170-06-0120;

(ii) Allegation or finding of child abuse or neglect under chapter 26.44 RCW or chapter 388-15 WAC;

(iii) Allegation or finding of abuse or neglect of a vulnerable adult under chapter 74.34 RCW; or

(iv) Pending charge, conviction, or negative action from outside Washington state consistent with or the same crime listed in WAC 170-06-0120, or "negative action" as defined in RCW 43.215.010.

#### NEW SECTION

**WAC 170-296A-2300 Reporting to DSHS children's administration intake.** (1) The licensee and each staff person are required to report the following to DSHS children's administration intake-child protective services (CPS) or law enforcement within forty-eight hours as required under RCW 26.44.030, and to the department:

- (a) Any suspected child abuse or neglect;
- (b) A child's disclosure of sexual or physical abuse;
- (c) Inappropriate sexual contact between two or more children; or
- (d) A child's attempted suicide or talk about attempting suicide.

(2) The licensee or primary staff person must immediately report to CPS or law enforcement and the department the death of a child while in the licensee's care or from injury or illness that may have occurred while the child was in the licensee's care.

#### NEW SECTION

**WAC 170-296A-2325 Reporting notifiable condition to health department.** The licensee must report a child in care diagnosed with a notifiable condition as defined in chapter 246-101 WAC to the local health jurisdiction or the state department of health. Contact the local health jurisdiction for the list of notifiable conditions and reporting requirements.

NEW SECTION

**WAC 170-296A-2350 Policies.** (1) The licensee must have written policies for:

- (a) Parents and guardians, also known as the parent handbook;
  - (b) Program and staff.
- (2) The licensee must submit all policies and revisions of policies to the department.

NEW SECTION

**WAC 170-296A-2375 Parent/guardian policies (handbook).** The licensee's written parent/guardian policies (handbook) must include:

- (1) Hours of operation including closures and vacations;
- (2) Information on how children's records are kept current, including immunization records;
- (3) Enrollment and disenrollment process;
- (4) Parent/guardian access to their child during child care hours;
- (5) Program philosophy (the licensee's view of child learning and development);
- (6) Typical daily schedule, including food and rest periods. See WAC 170-296A-6550;
- (7) Communication plan with parents/guardians including:
  - (a) How the parent or guardian may contact the licensee with questions or concerns; and
  - (b) How the licensee will communicate the child's progress with the parent or guardian at least twice a year;
  - (c) How the licensee will support parents regarding parenting;
  - (8) Written plan for any child's specific needs if applicable. See WAC 170-296A-0050;
  - (9) Fees and payment plans;
  - (10) Religious activities and how the parent's or guardian's specific religious preferences are addressed;
  - (11) How holidays are recognized in the program;
  - (12) Confidentiality policy including when information may be shared. See WAC 170-296A-2025;
  - (13) Items that the licensee requires the parent or guardian to provide;
  - (14) Guidance and discipline policy. See WAC 170-296A-6050;
  - (15) If applicable, infant/toddler care including SIDS prevention, feeding, diapering and toilet training;
  - (16) Reporting suspected child abuse or neglect. See WAC 170-296A-6275;
  - (17) Food service practices. See WAC 170-296A-7125 through 170-296A-7200, and 170-296A-7500 through 170-296A-7650;
  - (18) Off-site field trips requirements. See WAC 170-296A-2450;
  - (19) Transportation requirements. See WAC 170-296A-6475;
  - (20) Staffing plan. See WAC 170-296A-5600 and 170-296A-5775;
  - (21) Access to licensee's and staff training and professional development records;
  - (22) Pet policies. See WAC 170-296A-4800;

(23) Health care and emergency preparedness policies including:

- (a) Emergency preparedness and evacuation plans. See WAC 170-296A-2825;
- (b) Injury or medical emergency response and reporting. See WAC 170-296A-3575, 170-296A-3600, and 170-296A-2275;
- (c) Medication management including storage and giving medications. See WAC 170-296A-3325;
- (d) Exclusion/removal policy of ill persons. See WAC 170-296A-3210;
- (e) Reporting of notifiable conditions to public health;
- (f) Immunization tracking. See WAC 170-296A-3250; and
- (g) Infection control methods, including:
  - (i) Handwashing (WAC 170-296A-3625) and, if applicable, hand sanitizers (WAC 170-296A-3650); and
  - (ii) Cleaning and sanitizing, or cleaning and disinfecting procedures including the methods and products used. See WAC 170-296A-3850 through 170-296A-3925 and definitions in WAC 170-296A-0010;
  - (24) Napping/sleeping;
  - (25) No smoking policy consistent with WAC 170-296A-4050;
  - (26) Drug and alcohol policy consistent with WAC 170-296A-4025;
  - (27) If applicable, guns and weapons storage. See WAC 170-296A-4725; and
  - (28) If applicable, overnight care requirements. See WAC 170-296A-6850.

NEW SECTION

**WAC 170-296A-2400 Program/operations policies.** In addition to parent policies and procedures required under WAC 170-296A-2375, the licensee must have written program/operations policies that include:

- (1) Plans to keep required program/staff records current;
- (2) Child supervision requirements;
- (3) Mandatory reporting requirement of suspected child abuse and neglect and other incidents under WAC 170-296A-2300;
- (4) Plan for off-site field trips;
- (5) Plan for transporting children;
- (6) Plans for preventing children's access to unlicensed space;
- (7) Medical emergency, fire, disaster and evacuation responsibilities;
- (8) Guidance and discipline responsibilities;
- (9) Overnight care, if applicable; and
- (10) Plan for staff (when applicable) to include:
  - (a) Staff responsibilities;
  - (b) Staff training;
  - (c) Staff expectations; and
  - (d) Professional development.

NEW SECTION

**WAC 170-296A-2425 Staff policies.** If the licensee hires staff or uses volunteers, the licensee must have written

staff policies and provide training on the policies to all staff and volunteers. Staff policies must include:

- (1) All the information in the parent/guardian handbook under WAC 170-296A-2375, except fees;
- (2) Plan for keeping staff records current including:
  - (a) Completed background check forms and department clearances;
  - (b) First aid and CPR certification;
  - (c) TB test results;
  - (d) Required training and professional development for primary staff persons; and
  - (e) Training that the licensee must provide to staff;
- (3) Job description;
- (4) Staff responsibilities for:
  - (a) Child supervision requirements;
  - (b) Guidance/discipline techniques;
  - (c) Food service practices;
  - (d) Off-site field trips;
  - (e) Transporting children;
  - (f) Preventing children's access to unlicensed space;
  - (g) Health, safety and sanitization procedures;
  - (h) Medical emergencies, fire, disaster and evacuations;
  - (i) Mandatory reporting of suspected child abuse and neglect;
  - (j) Overnight care, if applicable; and
  - (k) Staff responsibilities if the licensee is absent from the child care operation.
- (5) The licensee must keep documentation of all staff training on policies.

#### NEW SECTION

**WAC 170-296A-2450 Off-site activity policy.** The licensee must have a written policy for off-site activities that includes:

- (1) Parent notification and permissions. See WAC 170-296A-6400;
- (2) Supervision plan;
- (3) Transportation plan. See WAC 170-296A-6475;
- (4) Emergency procedures including bringing each child's:
  - (a) Emergency contact information;
  - (b) Medical records;
  - (c) Immunization records;
  - (d) Individual medications for children who have them;
 and
  - (e) Medication administration log;
  - (5) Medication management;
  - (6) Maintaining a complete first-aid kit; and
  - (7) Charging of fees if any.

#### **FIRE AND EMERGENCY PREPAREDNESS**

#### NEW SECTION

**WAC 170-296A-2525 Building codes.** A single-family residence used for licensed family home child care is considered a group R (residential), division 3 occupancy structure by the state building code adoption of the international residential code.

#### NEW SECTION

**WAC 170-296A-2550 Requesting local fire department visit.** (1) The licensee must request the local fire department to visit the home to become familiar with the facility and to assist in planning evacuation or emergency procedures.

(2) If the local fire department does not provide this service, the licensee must have written documentation on file that the request was made.

#### NEW SECTION

**WAC 170-296A-2575 Combustible and flammable materials.** (1) The licensee must not allow combustible materials (including, but not limited to, lint, or rags soaked in grease, oils, or solvent) to accumulate; those items must be removed from the building or stored in a closed metal container.

(2) The licensee must store items labeled "flammable," in areas that are inaccessible to children and away from exits.

#### NEW SECTION

**WAC 170-296A-2600 Furnaces and other heating devices.** (1) The licensee must keep paper, rubbish, or combustible materials at least three feet away from any furnace, fireplace, or other heating device.

(2) A furnace must be inaccessible to the children, isolated, enclosed or protected.

(3) Any appliance or heating device that has a hot surface capable of burning a child must be made inaccessible to the children in care during operating hours when the appliance or device is in use or is still hot after use.

#### NEW SECTION

**WAC 170-296A-2625 Electrical motors.** The licensee must keep electrical motors on appliances free of accumulated dust or lint.

#### NEW SECTION

**WAC 170-296A-2650 Inspection of fireplaces, wood stoves, or similar wood-burning heating devices.** Any chimney, fireplace, wood stove or similar wood-burning device in use in the licensed home must be inspected yearly unless the licensee provides a written statement that the chimney, fireplace, wood stove or similar wood-burning device will not be used at any time.

#### NEW SECTION

**WAC 170-296A-2675 Open flame devices, candles, matches and lighters.** (1) Except as provided in WAC 170-296A-2650 or kitchen ranges using natural gas or propane, the licensee must not use or allow the use of open flame devices in the licensed space or any space accessible to the children during operating hours.

(2) The licensee must not use or allow the use of candles during operating hours.

(3) The licensee must keep matches and lighters inaccessible to children.

NEW SECTION

**WAC 170-296A-2700 Emergency flashlight.** The licensee must have a working flashlight available for use as an emergency light source and extra batteries if the flashlight is powered by batteries.

NEW SECTION

**WAC 170-296A-2725 Portable heaters and generators.** (1) The licensee must not use or allow the use of portable heaters or fuel powered generators in any area inside of the family home child care or building during operating hours.

(2) When a portable fuel-powered generator is in use:

(a) The generator must be placed at least fifteen feet from buildings, windows, doors, ventilation intakes, or other places where exhaust fumes may be vented into the home; and

(b) Appliances must be plugged directly into the generator or to a heavy duty outdoor-rated extension cord that is plugged into the generator.

NEW SECTION

**WAC 170-296A-2750 House numbers.** The licensee must place house numbers or address where the numbers are legible and plainly visible from the street or road in front of the premises.

NEW SECTION

**WAC 170-296A-2775 Telephone.** (1) The licensee must have a working telephone in the licensed space.

(2) The licensee must have a telephone readily available with sufficient backup power to function for at least five hours in the event of an electrical power outage.

NEW SECTION

**WAC 170-296A-2800 Access for emergency vehicles.** The licensed family home child care must be accessible to emergency vehicles.

NEW SECTION

**WAC 170-296A-2825 Fire evacuation plan.** (1) If there is a fire in the home during child care operating hours, the licensee's and staff's first responsibility is to evacuate the children in care to a safe place outside the home.

(2) The licensee must develop a written fire evacuation plan and post it at a place that is clearly visible to the staff, parents and guardians. The evacuation plan must be evaluated annually and updated as needed.

(3) The evacuation plan must include:

(a) An evacuation floor plan that identifies emergency exit pathways, emergency exit doors, and emergency exit windows;

(b) Method(s) to be used for sounding an alarm;

(c) Actions to be taken by the person discovering the fire;

(d) How the licensee and staff will evacuate all children, especially children who cannot walk;

(e) Calling 911 after evacuating the children;

(f) How the licensee and staff will account for all of the children in attendance;

(g) Where children and staff will gather away from the building pending arrival of the fire department or emergency response; and

(h) How the licensee will inform parents or guardians and arrange pick up of children if needed.

NEW SECTION

**WAC 170-296A-2850 Disaster plan.** (1) The licensee must have a written disaster plan for emergencies other than fire. The plan must be reviewed annually and updated as needed.

(2) The written disaster plan must cover at minimum the following:

(a) For disasters that may require evacuation:

(i) How the licensee and staff will evacuate all children, especially those who cannot walk.

(ii) What to take when evacuating the children, including:

(A) First aid kit;

(B) Child medication records; and

(C) If applicable, individual children's medication;

(iii) Where to go; and

(iv) How the licensee and staff will account for all of the children in attendance.

(b) Earthquake procedures including:

(i) What the licensee and staff will do during an earthquake;

(ii) How the licensee and staff will account for all of the children in attendance; and

(iii) After an earthquake, how the licensee will assess whether the licensed space is safe for the children;

(c) Lockdown of the facility or shelter-in-place, including:

(i) How doors and windows will be secured if needed; and

(ii) Where children will stay safely inside the facility; and

(d) How parents and guardians will be contacted after the emergency situation is over.

(3) The licensee must keep on the premises a three-day supply of food, water, and medications required by individual children for use in a disaster, lockdown, or shelter-in-place incident.

(4) As used in this section, "lockdown" or "shelter-in-place" means to remain inside the family home child care when police or an official emergency response agency notifies the licensee or primary staff person in charge that it is unsafe to leave the facility or be outdoors during an emergency situation.

NEW SECTION

**WAC 170-296A-2875 Fire, disaster training for staff and volunteers.** (1) The licensee must provide fire, evacuation and disaster training for all staff and volunteers when the individual is first employed and at least once each calendar year. The training must include:

- (a) All elements of the fire, evacuation and disaster plans;
  - (b) Operation of the fire extinguishers;
  - (c) How to test the smoke detectors and, if required, test carbon monoxide detectors and replace detector batteries; and
  - (d) Staff responsibilities in the event of a fire or disaster.
- (2) The training must be documented in the staff's or volunteer's personnel file.

NEW SECTION

**WAC 170-296A-2900 Emergency drills.** The licensee and staff must practice emergency drills with the children as follows:

- (1) Fire/evacuation drill: Once each calendar month;
- (2) Earthquake drill: Once every three calendar months; and
- (3) Lockdown/shelter-in-place drill: Once annually.

NEW SECTION

**WAC 170-296A-2925 Record of emergency drills.** The licensee must keep records of emergency drills performed, and post the records as required in WAC 170-296A-2175. Records must include:

- (1) The date and time the drill took place;
- (2) Staff who participated;
- (3) Number of children who participated;
- (4) Length of drill; and
- (5) Notes about how the drill went and improvements, if any, that need to be made.

NEW SECTION

**WAC 170-296A-2950 Smoke and carbon monoxide detectors.** (1)(a) The licensee must have and maintain working smoke detectors in the home.

- (b) At least one smoke detector must be located:
  - (i) In each licensed sleeping area; and
  - (ii) On each level of the home.
- (c) Smoke detectors must be placed on the ceiling or wall, but not on the wall above any door.

(2) To comply with RCW 19.27.530 and WAC 51-51-0315, if the licensee's home was built on or after July 1, 2010, a working carbon monoxide detector must be installed in each area licensed for sleeping or napping. The licensee may use combination smoke/carbon monoxide detectors.

(3) One extra battery for each smoke detector and each carbon monoxide detector must be kept on the premises.

NEW SECTION

**WAC 170-296A-2975 Additional method to sound an alarm.** In addition to working smoke detectors, the licensee must have an additional method to sound an alarm that is used only in a fire, emergency situation or drill.

NEW SECTION

**WAC 170-296A-3000 Fire extinguishers.** (1) The licensee must have working fire extinguishers, minimum 2 A: 10 BC, readily available. A fire extinguisher must be:

- (a) Located on each level of the home used for child care; and
  - (b) Mounted:
    - (i) Within seventy-five feet of an exit; and
    - (ii) Along the path of an exit.
- (2) A fire extinguisher may be mounted in a closed unlocked closet. There must be:
- (a) A sign on the closet door to indicate that a fire extinguisher is mounted inside; and
  - (b) No obstructions blocking access to the closet.
- (3) The licensee must have documentation on file of annual:
- (a) Fire extinguisher maintenance; or
  - (b) Proof of purchasing new extinguishers.

NEW SECTION

**WAC 170-296A-3025 Fire extinguisher, smoke/carbon monoxide detector use and testing.** The licensee and staff must demonstrate to the licensor how to:

- (1) Use fire extinguishers;
- (2) Test and operate the smoke detectors;
- (3) Test and operate carbon monoxide detectors if required under WAC 170-296A-2950; and
- (4) Test alternate alarm device(s).

NEW SECTION

**WAC 170-296A-3050 Monthly fire inspection.** The licensee must inspect the home once each calendar month to identify possible fire hazards and take action to eliminate any hazards found. If the licensee employs a primary staff person, the primary staff person must participate in monthly fire hazard inspections. The licensee must keep records of monthly inspections.

**HEALTH**NEW SECTION

**WAC 170-296A-3200 Health plan.** The licensee must have a written health plan. The health plan must include:

- (1) Communicable disease procedures and exclusion of ill persons under WAC 170-296A-3210;
- (2) Immunization tracking under WAC 170-296A-3250 through 170-296A-3300;
- (3) Medication management under WAC 170-296A-3315 through 170-296A-3550;

- (4) Injury treatment under WAC 170-296A-3575 through 170-296A-3600;
- (5) Handwashing and hand sanitizers under WAC 170-296A-3625 through 170-296A-3675;
- (6) Caring for children with special health needs under WAC 170-296A-0050;
- (7) Cleaning, sanitizing, and disinfecting procedures;
- (8) A bloodborne pathogens plan under WAC 170-296A-1850; and
- (9) Notifying the health department when a child is diagnosed with a notifiable condition as required under WAC 170-296A-2325.

**NEW SECTION**

**WAC 170-296A-3210 Communicable disease procedure.** When the licensee becomes aware that he or she, a household member, staff person or child in care has been diagnosed with any of the following communicable diseases:

Disease:	Also known as:
Chickenpox	Varicella
Conjunctivitis (bacterial)	Pink eye
Diphtheria	
E. coli infection	
Giardiasis	
Hepatitis A virus	
Invasive haemophilus influenza disease (except otitis media)	
Measles	
Meningitis (bacterial)	Meningococcal meningitis
Mumps	
Pertussis	Whooping cough
Rubella	German measles
Salmonellosis	Salmonella or "food poisoning"
Shigellosis	Shigella
Tuberculosis (active)	TB

- (1) The licensee must, within twenty-four hours notify:
  - (a) The local health jurisdiction or DOH, except notice is not required for a diagnosis of chickenpox, conjunctivitis, or invasive haemophilus influenza;
  - (b) The department; and
  - (c) Parents or guardians of each of the children in care.
- (2) The licensee must follow the health plan before providing care or before readmitting the household member, staff person or child into the child care.
- (3) The licensee's health plan must include provisions for excluding or separating a child, staff person, or household member with communicable disease as described in subsection (1) of this section or any of the following:
  - (a) Fever of one hundred one degrees Fahrenheit or higher measured orally, or one hundred degrees Fahrenheit or

- higher measured under the armpit (axially), if the individual also has:
  - (i) Earache;
  - (ii) Headache;
  - (iii) Sore throat;
  - (iv) Rash; or
  - (v) Fatigue that prevents the individual from participating in regular activities.
- (b) Vomiting that occurs two or more times in a twenty-four hour period;
- (c) Diarrhea with three or more watery stools, or one bloody stool, in a twenty-four hour period;
- (d) Rash not associated with heat, diapering, or an allergic reaction; or
- (e) Drainage of thick mucus or pus from the eye.

**NEW SECTION**

**WAC 170-296A-3250 Immunization tracking.** The licensee is required to track each child's immunization status. The licensee must:

- (1) Except as provided in WAC 170-296A-3275 or 170-296A-3300, have a complete current certificate of immunization status (CIS) form or similar form supplied by a health care professional for each child, submitted on or before the child's first day of child care;
- (2) Develop a system to update and keep individual immunization records current to include when immunizations are received; and
- (3) Have the CIS or similar forms for each currently enrolled child available in the licensed space for review by the licensor.

**NEW SECTION**

**WAC 170-296A-3275 Accepting a child who does not have current immunizations.** (1) The licensee may accept a child who is not current with immunizations on a conditional basis if immunizations are:

- (a) Initiated before or on enrollment; and
  - (b) Completed as soon as medically possible.
- (2) The licensee must have on file a document signed and dated by the parent or guardian stating when the child's immunizations will be brought up to date.

**NEW SECTION**

**WAC 170-296A-3300 Immunizations—Exemption.** The licensee may accept a child without any immunizations if the parent or guardian provides:

- (1) A DOH medical exemption form signed by a health care professional; or
- (2) A DOH form or similar statement signed by the child's parent or guardian expressing a religious, philosophical or personal objection to immunization.

**NEW SECTION**

**WAC 170-296A-3315 Medication management.** (1) The licensee's medication management policy must include:

(a) Safe medication storage, including the licensee's family medications; and

(b) Whether the licensee chooses to give medications to children in care.

(2) If the licensee chooses to give medications to children in care, the licensee's policy must include:

(a) How giving medications will be documented (medication log), including documenting when a medication is given or not given as prescribed or as indicated on the permission form;

(b) Permission to give medications to a child signed by the child's parent or guardian, and by a licensed medical professional when appropriate; and

(c) That only the licensee or primary staff person may give medication or observe a child taking his or her own medication as described in WAC 170-296A-3550.

(3) If the licensee chooses not to give any medications to children in care, the licensee must inform parents in the parent/guardian handbook.

(4) If the licensee or primary staff person decides not to give a specific medication to a child after having received written permission by the child's parent or guardian, the licensee or primary staff person must immediately notify the parent or guardian of the decision to not give the medication.

(5) The licensee must make reasonable accommodations and give medication if a child has a condition where the Americans with Disabilities Act (ADA) would apply.

**NEW SECTION**

**WAC 170-296A-3325 Medication storage.** The licensee must store all medications, as well as vitamins, herbal remedies, dietary supplements and pet medications as described in the following table:

(1) In a locked container or cabinet until used; or

(2) Inaccessible to children. The licensee must keep emergency rescue medications listed in subsection (3)(a)(i) through (vi) inaccessible but available for emergency use to meet the individual's emergency medical needs:

Medication Storage Table		
This list is not inclusive of all possible items in each category. Medications must be maintained as directed on the medication label, including refrigeration if applicable.		
(3) If the medication is a (an):	The medication must be stored in a locked container or cabinet.	The medication must be stored inaccessible to children.
(a) Individual's emergency rescue medications:		
(i) Any medication used to treat an allergic reaction;		X
(ii) Nebulizer medication;		X
(iii) Inhaler;		X
(iv) Bee sting kit;		X
(v) Seizure medication;		X
(vi) Other medication needed for emergencies.		X

Medication Storage Table		
This list is not inclusive of all possible items in each category. Medications must be maintained as directed on the medication label, including refrigeration if applicable.		
(b) Nonprescription medications, including herbal or natural:		
(i) Pain reliever, cough syrup, cold or flu medication;	X	
(ii) Vitamins, all types including natural;	X	
(iii) Topical nonprescription medication;		X
(iv) Hand sanitizer, when not in use.		X
(c) Prescription medication:		
(i) Intended use - Topical;	X	
(ii) Intended use - Ingestible, inhaled or by injection.	X	
(d) Pet medications (all types).	X	

**NEW SECTION**

**WAC 170-296A-3375 Medication permission.** (1) The licensee must have written permission from a child's parent or guardian to give a child any medication. The permission must include:

- (a) Child's name;
- (b) Name of the medication and condition being treated;
- (c) Dose and frequency to be given;
- (d) Instructions for any specialized equipment or procedures for giving the child's medication;
- (e) Start and stop date for administering medication not to exceed thirty calendar days, except as provided in subsection (2) of this section;
- (f) Parent or guardian signature; and
- (g) Date of signature.

(2) A parent or guardian may give the licensee ninety calendar days permission for use of the following:

(a) Diaper ointments and talc free powders used as needed that are intended specifically for use in the diaper area of children;

- (b) Sun screen;
- (c) Hand sanitizers; or
- (d) Hand wipes with alcohol.

(3) The licensee must keep a written record of medication administration (medication log) that includes the:

- (a) Child's name;
- (b) Name of medication;
- (c) Dose given;
- (d) Dates and time of each medication given; and
- (e) Name and signature of the person giving the medication.

(4) The licensee must return any unused medication to the child's parent or guardian.

(5) Medication permission forms and medication logs must be kept confidential. The licensee must allow a child's parent or guardian to review their own child's medication administration records.

(6) Medication permission forms and medication logs for the previous twelve months must be kept in the licensed space and be available for review by the licenser.

#### NEW SECTION

**WAC 170-296A-3425 Medication requirements.** The licensee or primary staff person must follow the medication directions for managing and administering prescription and nonprescription medication for the individual children in care. The licensee or primary staff person must not give or allow giving of an expired medication.

#### NEW SECTION

**WAC 170-296A-3450 Sedating a child prohibited.** The licensee or primary staff person must not give or allow giving of any medication for the purpose of sedating a child unless the medication has been prescribed for that purpose by a qualified health care professional and prescribed for the child receiving the medication.

#### NEW SECTION

**WAC 170-296A-3475 Prescription medication.** The licensee or primary staff person may give a prescribed medication to a child only if the following conditions are met:

- (1) The medication is prescribed only for the child the medication is being given to;
- (2) The parent or guardian has provided written permission as described in WAC 170-296A-3375;
- (3) The prescribed medication is given in the amount and frequency prescribed by the child's health care professional with prescription authority;
- (4) The prescribed medication must only be given for the purpose or condition that the medication is prescribed to treat;
- (5) The medication must:
  - (a) Be in the original container;
  - (b) Be labeled with the child's first and last name;
  - (c) Have a nonexpired expiration date;
- (6) The container must have or the parent or guardian must provide information from the pharmacy about:
  - (a) Medication storage;
  - (b) Potential adverse reactions or side effects; and
- (7) The medication has been stored at the proper temperature noted on the container label or pharmacy instructions.

#### NEW SECTION

**WAC 170-296A-3525 Nonprescription medications.** The licensee or primary staff person may give nonprescription medications, as defined in this chapter, only when the following conditions are met:

- (1) The parent or guardian has given signed written permission as provided in WAC 170-296A-3375.
- (2) The nonprescription medication is:

- (a) Given to or used with a child only in the dosage, frequency and as directed on the manufacturer's label;
  - (b) Given in accordance to the age or weight of the child needing the medication;
  - (c) Given only for the purpose or condition that the medication is intended to treat;
  - (d) Is in the original container; and
  - (e) Has a nonexpired expiration date, if applicable.
- (3) The medication container or packaging includes, or the parent or guardian provides information about:
- (a) Medication storage;
  - (b) Potential adverse reactions or side effects.
- (4) The medication has been stored at the proper temperature noted on the container label or instructions.

#### NEW SECTION

**WAC 170-296A-3550 Children taking their own medication.** The licensee may permit a child to take his or her own prescription medication if:

- (1) The licensee follows all of the requirements in WAC 170-296A-3475 (1) through (6);
- (2) The child is physically and mentally capable of properly taking the medicine;
- (3) The licensee has on file the child's parent or guardian written approval for the child to take his or her own medication;
- (4) The medication and related medical supplies are locked and inaccessible to other children and unauthorized persons, except emergency rescue medications that may be stored inaccessible to other children but not locked; and
- (5) The licensee or a primary staff person observes and documents in the child's medication administration record that the medication was taken.

#### NEW SECTION

**WAC 170-296A-3575 Injuries requiring first aid only.** When a child has an injury that requires first aid only, the licensee must give a written or verbal notice to the child's parent or guardian and keep a record of the notice on file.

#### NEW SECTION

**WAC 170-296A-3600 Injuries or illness requiring professional medical treatment.** (1) When the licensee becomes aware that a child's injury or illness may require professional medical treatment, the licensee must:

- (a) Call 911, when applicable and follow their recommendations;
  - (b) Administer first aid;
  - (c) Call the child's parent or guardian;
  - (d) Call the department; and
  - (e) Within twenty-four hours, submit an injury/incident report form to the department.
- (2) The injury/incident report form must include:
- (a) The name of child;
  - (b) The date, time and location where the injury or illness occurred;
  - (c) A description of the injury or illness;
  - (d) The names of staff present;

- (e) The action taken by staff; and
- (f) The signature of licensee.

NEW SECTION

**WAC 170-296A-3625 Handwashing.** (1) The licensee and staff must follow and teach children proper handwashing procedures. Proper handwashing procedures include:

- (a) Wetting hands with warm water;
  - (b) Apply soap to the hands;
  - (c) Washing hands;
  - (d) Rinsing hands;
  - (e) Drying hands with a paper towel, single-use cloth towel or air hand dryer; and
  - (f) Turning off the water with paper towel or single use cloth towel.
- (2) Paper towels must be disposed of after a single use.
- (3) If cloth towels are used, the licensee must wash and sanitize each cloth towel after a single use.
- (4) If an air hand dryer is used, it must have a heat guard to prevent burning and must turn off automatically.

NEW SECTION

**WAC 170-296A-3650 Hand sanitizers.** (1) If the licensee has a written and signed parent or guardian permission as described in WAC 170-296A-3375(2), the licensee may use hand sanitizer products only with children over twenty-four months old. Hand sanitizer products may be used:

- (a) When handwashing facilities are not available, such as an outing, emergency, or disaster; or
  - (b) After proper handwashing.
- (2) Hand sanitizer gels must not be used in place of proper handwashing if handwashing facilities are available.

NEW SECTION

**WAC 170-296A-3675 When handwashing is required.** (1) The licensee and staff must wash their hands and follow proper handwashing techniques:

- (a) Before and after preparing foods, eating, or feeding a child;
  - (b) After handling raw or undercooked meat, poultry or fish;
  - (c) After using the toilet or helping a child with toileting;
  - (d) Before and after diapering a child. If needed during diapering, a disposable hand wipe cloth may be used;
  - (e) After touching bodily fluids as described in the licensee's bloodborne pathogens plan;
  - (f) After being outdoors with the children;
  - (g) After handling animals or cleaning up animal waste;
  - (h) After handling garbage and garbage receptacles;
  - (i) Before and after giving medication or applying topical ointment; or
  - (j) As needed.
- (2) The licensee and staff must direct children to wash their hands or assist children with handwashing:
- (a) Before and after the eating or participating in food activities;

- (b) After toileting or diapering (the licensee may use a diaper wipe to clean hands of a child age zero to six months);
  - (c) After touching bodily fluids, including after sneezing, coughing;
  - (d) After outdoor play;
  - (e) After playing with animals or handling animal toys;
- or
- (f) As needed.

NEW SECTION

**WAC 170-296A-3700 Carpets.** The licensee must clean installed carpet in the licensed space at least once each calendar year or more often when soiled, using a carpet shampoo machine, steam cleaner, or dry carpet cleaner.

NEW SECTION

**WAC 170-296A-3725 Where children may sleep.** (1) The licensee must provide mats, cots, or other sleeping equipment long enough and wide enough for the size of the child.

- (2) The licensee must never place the children directly on the floor to sleep.
- (3) When children are sleeping there must be enough space between children to give staff access to each child.

NEW SECTION

**WAC 170-296A-3750 Mats, cots and other sleeping equipment.** (1) The licensee must provide mats, cots, or other approved sleeping equipment that are made of material that can be cleaned and sanitized.

- (2) Mats, cots, or other sleeping equipment must be in good repair, not torn or with holes or repaired with tape.
- (3) A sleeping mat must be at least one inch thick.
- (4) Mats, cots, or other sleeping equipment must be cleaned, sanitized, and air dried:
  - (a) At least once a week or as needed if used by one child; or
  - (b) Between each use if used by different children.
- (5)(a) If a bleach solution is used to sanitize, the solution must be one-quarter teaspoon of bleach to one quart of cool water;
  - (b) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.
- (6) When in use, mats, cots, or other sleeping equipment must be arranged to allow the licensee or staff to access the children.
- (7) Mats, cots, and other sleeping equipment must be stored so that the sleeping surfaces are not touching each other, unless they are cleaned and sanitized after each use.

NEW SECTION

**WAC 170-296A-3775 Bedding.** Each child's bedding, including sleeping bags and slumber bags, must:

- (1) Meet the child's developmental needs;

- (2) Consist of a clean sheet or blanket to cover the sleeping surface;
- (3) Include a waterproof moisture barrier under the sheet or blanket;
- (4) Have a clean, suitable cover for the child; children must not nap directly on the waterproof moisture barrier or the floor;
- (5) Be laundered weekly or more often if soiled or used by different children; and
- (6) Be stored separately from bedding used by another child.

**NEW SECTION**

**WAC 170-296A-3800 Overnight sleeping.** If the licensee is approved by the department to provide overnight care, the licensee must provide every child a bed or other sleeping equipment to sleep that:

- (1) Is safe and in good condition;
- (2) Is waterproof or washable; and
- (3) Meets the child's developmental needs.

**NEW SECTION**

**WAC 170-296A-3825 Loft style and bunk beds.** The licensee must not allow children less than six years of age to use:

- (1) Loft style beds; or
- (2) Upper bunks of bunk beds.

**NEW SECTION**

**WAC 170-296A-3850 Cleaning laundry.** The licensee must wash child care laundry using:

- (1) Laundry soap or detergent; and
- (2)(a) Temperature control (warm or hot cycle); or
- (b) Chlorine bleach.

**NEW SECTION**

**WAC 170-296A-3875 Cleaning and sanitizing toys.**

- (1) The licensee must clean and sanitize toys:
  - (a) Before a child plays with a toy that has come into contact with another child's mouth or bodily fluids;
  - (b) After being contaminated with bodily fluids or visibly soiled; or
  - (c) Not less than weekly when the toys have been used by the children.
- (2)(a) If a bleach solution is used to sanitize, the solution must be three-quarter teaspoon of bleach to one quart of cool water;
- (b) If another sanitizer product is used, it must be labeled as approved for food contact surfaces, used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry, and rinsed if required by the product instructions.

**NEW SECTION**

**WAC 170-296A-3925 Cleaning, sanitizing, and disinfecting table.** The following table describes the minimum frequency for cleaning, sanitizing, or disinfecting items in the licensed space.

CLEANING, SANITIZING, AND DISINFECTING TABLE				
	"X" means CLEAN	And SANITIZE or DISINFECT	FREQUENCY	
(1) Kitchen countertops/tabletops, floors, doorknobs, and cabinet handles.	X	Sanitize	Daily or more often when soiled.	
(2) Food preparation/surfaces.	X	Sanitize	Before/after contact with food activity; between preparation of raw and cooked foods.	
(3) Carpets and large area rugs/small rugs.	X		(a) Vacuum daily.	
	X	Sanitize	(b) Installed carpet - Clean yearly or more often when soiled. (c) Small rugs - Shake outdoors or vacuum daily. Launder weekly or more often when soiled.	
(4) Utensils, surfaces/toys that go in the mouth or have been in contact with other body fluids.	X	Sanitize	(d) Removable rugs - May be used in the bathroom. They must be easily removable and able to be washed when needed. Launder and sanitize weekly or more often when soiled. After each child's use; may use disposable, one-time utensils.	

CLEANING, SANITIZING, AND DISINFECTING TABLE			
	"X" means CLEAN	And SANITIZE or DISINFECT	FREQUENCY
(5) Toys that are not contaminated with body fluids and machine-washable cloth toys. Dress-up clothes (not worn on the head or come into contact with the head while dressing). Combs/hairbrushes, (none of these items should be shared among children).	X	Sanitize	Weekly or more often when visibly soiled.
(6) Bedding, blankets, sleeping bags, individual sheets, pillowcases (if used).	X	Sanitize	Weekly or more often when soiled.  Items that are put in the washing machine must be cleaned by using laundry detergent and sanitized by temperature (hot or warm water cycle) or chlorine bleach.
(7) Wash cloths or single use towels.	X	Sanitize	After each use.
(8) Hats and helmets.	X		After each child's use or use disposable hats that only one child wears.
(9) Cribs and crib mattresses.	X	Sanitize	Weekly, before use by different child, and more often whenever soiled or wet.
(10) Handwashing sinks, faucets, surrounding counters, soap dispensers, doorknobs.	X	Disinfect	Daily or more often when soiled.
(11) Toilet seats, toilet training rings, toilet handles, doorknobs or cubicle handles, floors.	X	Disinfect	Daily or immediately if visibly soiled.
(12) Toilet bowls.	X	Disinfect	Daily or more often as needed (e.g., child vomits or has explosive diarrhea, etc.).
(13) Changing tables, potty chairs (use of potty chairs in child care is discouraged because of high risk of contamination).	X	Disinfect	After each child's use.
(14) Waste receptacles.	X		Daily or more often as needed.

NEW SECTION

**WAC 170-296-3950 Pest control.** When pests are present in the licensed space, the licensee must:

- (1) Take action to remove or eliminate pests; and
- (2)(a) Where possible, use nonchemical methods of control instead of chemical controls; or
- (b) If chemical pesticides are used, the licensee must:
  - (i) Not spray pesticides when children are present. Wipe down surfaces that have been sprayed and air out rooms before allowing children to use sprayed areas;
  - (ii) Place and store rodent poison or insect baits inaccessible to children; and
  - (iii) Post a notice visible to parents and guardians of children in care forty-eight hours in advance of the application of pesticides, except when pesticides must be used to control pests that may pose an immediate risk to children's health or safety.

**Reviser's note:** The above new section was filed by the agency as WAC 170-296-3950. This section is placed among sections forming new chapter 170-296A WAC, and therefore should be numbered WAC 170-296A-3950. Pursuant to the requirements of RCW 34.08.040, the section is published in the same form as filed by the agency.

NEW SECTION

**WAC 170-296A-4000 Lead, asbestos, arsenic and other hazards.** The licensee must take action to prevent child exposure when the licensee becomes aware that any of the following are present in the indoor or outdoor licensed space:

- (1) Lead based paint;
- (2) Plumbing containing lead or lead solders;
- (3) Asbestos; or
- (4) Arsenic or lead in the soil or drinking water;
- (5) Toxic mold; or
- (6) Other identified toxins or hazards.

NEW SECTION

**WAC 170-296A-4025 Drugs and alcohol.** (1) The licensee, staff, volunteers, or household members must not, or allow others to:

- (a) Have or use illegal drugs on the premises;
  - (b) Consume alcohol during operating hours; or
  - (c) Be under the influence of alcohol, illegal drugs or misused prescription drugs when working with or in the presence of children in care.
- (2) The licensee must keep and store all alcohol, including closed and open containers, inaccessible to children.

NEW SECTION

**WAC 170-296A-4050 No smoking.** (1) As required by chapter 70.160 RCW, the licensee must, under the following conditions, prohibit smoking by anyone during operating hours:

- (a) Inside the home;
  - (b) In any outdoor or indoor licensed space;
  - (c) Within twenty-five feet from any entrance, exit, window, or ventilation intake of the home; or
  - (d) In motor vehicles while transporting children.
- (2) The licensee must keep tobacco products, cigarettes and containers holding cigarette butts, cigar butts, or ashes inaccessible to the children.

NEW SECTION

**WAC 170-296A-4075 First aid kit.** (1) The licensee must have a complete first aid kit at all times:

- (a) In the licensed space;
  - (b) On any off-site trip; and
  - (c) In any vehicle used to transport children in care.
- (2) A complete first aid kit must include clean:
- (a) Disposable nonporous protective gloves;
  - (b) Adhesive bandages of various sizes;
  - (c) Small scissors;
  - (d) Tweezers;
  - (e) An elastic wrapping bandage;
  - (f) Sterile gauze pads;
  - (g) Ice packs;
  - (h)(i) Mercury free thermometer that is:
    - (A) Used with a disposable sleeve; or
    - (B) Cleaned and sanitized after each use; or
  - (ii) A single-use thermometer that is disposed of after a single use;
    - (i) A sling, or a large triangular bandage; and
    - (j) Adhesive tape.
- (3) The first aid kit must include a current first aid manual.

NEW SECTION

**WAC 170-296A-4100 Poisons, chemicals and other substances.** (1) The licensee must:

- (a) Store poisons inaccessible to children and where poisons will not contaminate food.
- (b) If poisons are not in the original container, clearly label the container with the name of the product and the words "poison" or "toxic."
- (2) The following describes chemicals and other substances that must be stored inaccessible to children:
  - (a) Nail polish remover;
  - (b) Sanitizers and disinfectants;
  - (c) Household cleaners and detergents;
  - (d) Toxic plants;
  - (e) Plant fertilizer;
  - (f) Ice melt products;
  - (g) Pool chemicals;
  - (h) Pesticides or insecticides;
  - (i) Fuels, oil, lighter fluid, or solvents;
  - (j) Matches or lighters;

- (k) Air freshener or aerosols;
- (l) Personal grooming products including, but not limited to:
  - (i) Lotions, creams, toothpaste, or diaper creams when not in use;
  - (ii) Liquid, powder, or cream personal hygiene products;
  - (iii) Shampoo, conditioners, hair gels or hair sprays;
  - (iv) Bubble bath or bath additives;
  - (v) Makeup or cosmetics.
- (m) Dish soap, dishwasher soap or additives;
- (n) Tobacco products, including cigarette/cigar butts and contents of ashtrays; or
- (o) Alcohol, open or unopened.

**ENVIRONMENTS**NEW SECTION

**WAC 170-296A-4200 Toys, equipment, and recalled items.** The licensee must maintain equipment, toys or other items in the child care in good and safe working condition. The licensee must remove a recalled item as soon as the licensee becomes aware that the item used in the licensee's child care operation has been recalled.

NEW SECTION

**WAC 170-296A-4225 Indoor licensed space—Minimum space.** (1) The indoor licensed space must have thirty-five square feet per child for the maximum number of children stated on the license, measured to include only the space intended for use by children in care.

- (2) The space under furniture used by the children is counted in square footage.
- (3) Indoor space that is not counted in the minimum square footage requirement includes:
  - (a) Unlicensed space that is made inaccessible to children in care;
  - (b) Space under furniture not used by the children;
  - (c) Hallway space that leads to an exit;
  - (d) Bathrooms; and
  - (e) Closets.
- (4) An office or kitchen that is made inaccessible to the children and is not intended for their use may be included as licensed space but is not counted as part of the minimum square footage.

NEW SECTION

**WAC 170-296A-4250 Indoor temperature.** The indoor temperature must be no less than:

- (1) Sixty degrees Fahrenheit when children are sleeping or napping; and
- (2) Sixty-five degrees Fahrenheit when the majority of the children are awake.

NEW SECTION

**WAC 170-296A-4275 Fans, air conditioning or cross ventilation.** The licensee must use a fan, air conditioner or cross ventilation in licensed space when the inside tempera-

ture exceeds eighty degrees Fahrenheit. Fans and air conditioners must be kept inaccessible to the children.

#### NEW SECTION

**WAC 170-296A-4300 Window coverings.** (1) Window coverings with pull cords or inner cords capable of forming a loop are prohibited as provided by RCW 43.215.360.

(2) Window coverings may be allowed that have been manufactured or altered to eliminate the formation of a loop.

(3) A window covering may not be secured to the frame of a window or door used as an emergency exit in any way that would prevent the window or door from opening easily.

#### NEW SECTION

**WAC 170-296A-4325 Stairs.** (1) If there are stairs in the licensed space, the licensee must:

- (a) Keep the stairway well lit;
- (b) Keep the stairway free of clutter; and
- (c) Have a handrail not higher than thirty inches high or sturdy slats on one side of the stairs.

(2) The licensee must provide a pressure gate, safety gate, or a door to keep the stairs inaccessible to infants and toddlers when not in use.

(3) Openings between slats or on pressure gates or safety gates must not be larger than three and one-half inches wide.

### ELECTRICAL AND LIGHTING

#### NEW SECTION

**WAC 170-296A-4350 Electrical outlets, cords and power strips.** (1) The licensee must provide tamper-resistant outlet covers or receptacles in areas accessible to children. As used in this section "tamper-resistant receptacle" also means tamper-resistant outlets or child safety outlets that have automatic shutters which allow insertion of electrical plugs but block insertion of other objects.

- (2) Interior outlets near sinks, tubs or toilets must be:
  - (a) Tamper-resistant ground fault circuit interrupter (GFCI) type; or
  - (b) Made inaccessible to the children.
- (3) Electrical cords must be:
  - (a) Secured to prevent a tripping hazard;
  - (b) In good working order, not torn or frayed and without any exposed wire; and
  - (c) Plugged directly into an outlet or a surge protector.
- (4) Power strips with a surge protector may be used and must be made inaccessible to the children.
- (5) Extension cords may be used only for a brief or temporary purpose and must be plugged directly into an outlet or into a surge protected power strip.

#### NEW SECTION

**WAC 170-296A-4360 Area lighting.** (1) In the licensed space, lighting must be bright in the children's activity areas, eating areas and the bathroom.

(2) All other areas in the licensed space must have lighting so children are safe.

#### NEW SECTION

**WAC 170-296A-4375 Lighting safety.** (1) When ceiling-mounted light fixtures are in the licensed space accessible to children, the licensee must provide one or more of the following:

- (a) Shatter-resistant covers;
  - (b) Shatter-resistant light bulbs; or
  - (c) Otherwise make the light fixtures safe.
- (2) The licensee must not:
- (a) Allow bare light bulbs in any play space;
  - (b) Use lights or light fixtures indoors that are intended or recommended for outdoor use; or
  - (c) Use halogen lamps in any area accessible to children during operating hours.

### EXITS

#### NEW SECTION

**WAC 170-296A-4400 Exit doors.** (1) "Exit door" means any door in the licensed space that opens to the exterior of the home. Emergency exit doors are covered in WAC 170-296A-4500.

(2) The licensee must have a method on exit doors to alert the licensee or staff when an exit door is opened. The licensee may use a chime, bell, alarm, or other device as an alert method.

(3) An exit door that is not designated as an emergency exit door may be locked during operating hours. The door knob or handle must be of the type that can be opened from the inside without use of a key, tools, or special knowledge, and must automatically unlock when the door knob or handle is turned.

(4) At least one exit door must be of the pivoted or side-hinged swinging type. Other exit doors may be sliding glass doors.

#### NEW SECTION

**WAC 170-296A-4425 Night latches, deadbolts and security chains.** When overnight care is provided, the licensee must have a department approved safety plan in place before using any of the following on an exit door that is not used as an emergency exit:

- (1) Night latches;
- (2) Deadbolts; or
- (3) Security chains.

#### NEW SECTION

**WAC 170-296A-4450 Interior door and locks.** An interior door is any door that does not exit to the exterior of the home. Any interior door in the licensed space that locks must be able to be unlocked from either side. An unlocking device must be readily available for staff to unlock any interior door when a child is locked in.

NEW SECTION

**WAC 170-296A-4475 Emergency exit pathways.** The licensee must keep pathways to all emergency exits free from clutter and obstructions. Emergency exits and pathways to emergency exits are licensed space.

NEW SECTION

**WAC 170-296A-4500 Emergency exits—General.** (1) Each level of the home (floor) used for licensed child care space must have at least two emergency exits that open directly to the exterior of the home.

(a) The emergency exits on each floor must be remotely located from each other, at opposite ends of the building or as widely spaced as possible.

(b) One exit must be an emergency exit door as defined in WAC 170-296A-4525 and the other exit may be a door or an emergency window as defined in WAC 170-296A-4550.

(2) Every room used for child care, except bathrooms, must have two separate ways to exit that must be:

(a) An emergency exit door and emergency exit window leading directly to the exterior of the building;

(b) An emergency exit door or emergency exit window and an interior door or doorway leading to an emergency exit pathway; or

(c) Two separate doors or doorways leading to two separate emergency exit pathways.

See WAC 170-296A-4575 for additional requirements for rooms used for sleeping or napping.

(3) If child care is provided in a basement or level of the home accessed by an interior stairway, the stairway must have a self closing door at the top or bottom. As used in this section "basement" means the portion of the home that is partly or completely below grade.

(4) Any basement approved for licensed child care must have two means of emergency exit, which may be one of the following:

(a) Two emergency exit doors that exit directly to the exterior of the home without entering the first floor; or

(b) One of the two emergency exits is an emergency exit window or emergency exit door, and the other exit is an interior stairway that leads to an emergency exit.

NEW SECTION

**WAC 170-296A-4525 Emergency exit doors.** (1) An emergency exit door must open to the exterior of the home.

(2) Any door used as an emergency exit door must:

(a) Remain unlocked from the inside during operating hours; and

(b) Be easy to open to the full open position.

(3) If the emergency exit door opens to a landing that is four feet (forty-eight inches) or more above grade, the landing must lead to a stairway or ramp to get to ground level.

NEW SECTION

**WAC 170-296A-4550 Emergency exit windows.** (1) Any window used as an emergency exit window must:

(a) Remain unlocked during operating hours, except a manufacturer-installed latch may be latched;

(b) Be designed to open from the inside of the room without the use of keys, tools or special knowledge; and

(c) Be easy to open to the full open position.

(2) An emergency exit window must be at least five point seven square feet of opened area, except emergency exit windows on the ground floor may be five square feet of opened area. When open, the window opening must be at least:

(a) Twenty inches wide; and

(b) Twenty-four inches tall.

(3) An emergency exit window must have an interior sill height of forty-four inches or less above the interior floor. If the interior sill height is more than forty-four inches above the interior floor, a sturdy platform (which may be a table or other device) may be used to make the distance forty-four inches or less to the interior window sill. The platform must be in place below the window sill at all times during operating hours.

(4) An emergency exit window must have a place to land outside that is forty-eight inches or less below the window which may be either:

(a) The ground; or

(b) A deck, landing or platform constructed to meet current building codes.

NEW SECTION

**WAC 170-296A-4575 Emergency exits from areas used only for sleeping/napping areas.** Each room used for sleeping or napping must have two ways to exit:

(1) One exit must be an emergency exit door or emergency exit window leading directly to the exterior of the building;

(2) The other exit may be an interior door leading to an emergency exit pathway.

NEW SECTION

**WAC 170-296A-4600 Commercial use areas—Fire wall.** (1) The licensed space must have a fire resistant wall separating the child care space from any space used as a commercial:

(a) Kitchen;

(b) Boiler;

(c) Maintenance shop;

(d) Laundry;

(e) Woodworking shop;

(f) Storage where flammable or combustible materials are stored;

(g) Painting operation;

(h) Automobile or boat building or repair;

(i) Parking garage; or

(j) Other similar commercial operation.

(2) Emergency exits pathways must not exit to or go through the commercial space.

NEW SECTION

**WAC 170-296A-4625 Bathrooms.** (1) The licensee must provide at least one indoor bathroom in the licensed space with:

- (a) A working flush-type toilet;
  - (b) Privacy for toileting for children of the opposite sex who are four years of age or older and for other children demonstrating a need for privacy;
  - (c) A mounted toilet paper dispenser and toilet paper for each toilet; and
  - (d) A toilet of an appropriate height and size for children, or have a platform for the children to use that is safe, easily cleanable and resistant to moisture.
- (2) Bathroom and toileting areas must be ventilated by the use of a window that can be opened or an exhaust fan.

NEW SECTION

**WAC 170-296A-4650 Bathroom floors.** (1) Floors in a bathroom or toileting area must have a washable surface and be resistant to moisture. The floor must be cleaned and disinfected daily or more often if needed.

- (a) If a bleach solution is used to disinfect, the solution must be one tablespoon of chlorine bleach to one gallon of cool water;
- (b) If another disinfectant product is used, it must be used strictly according to manufacturer's label instructions, including but not limited to quantity used, time the product must be left in place, and adequate time to allow the product to dry.
- (2) Removable rugs may be used in the bathroom. The rugs must be laundered and sanitized at least weekly or more often if needed.

NEW SECTION

**WAC 170-296A-4675 Bathroom sinks.** A sink used for handwashing must be located in or next to bathrooms. The sink must:

- (1) Have warm running water; and
- (2) Be of appropriate height and size for children, or have a platform for the children to use that is safe, easily cleanable and resistant to moisture.

NEW SECTION

**WAC 170-296A-4700 Water temperature.** Hot water must be kept at temperature not less than eighty degrees and not more than one hundred twenty degrees Fahrenheit.

NEW SECTION

**WAC 170-296A-4725 Guns and other weapons.** (1) The licensee must store guns, ammunition and other weapons inaccessible to children in a:

- (a) Locked gun safe; or
- (b) Locked room.
- (2) If stored in a locked room, each gun must be stored unloaded and with a trigger lock or other disabling feature.

NEW SECTION

**WAC 170-296A-4750 Storage for each child's belongings.** The licensee must provide separate storage for each child's belongings. Belongings of children from the same family may be stored together.

**PETS AND OTHER ANIMALS**NEW SECTION

**WAC 170-296A-4800 Pet and animal policy.** A licensee who has a pet or other animals on the premises must:

- (1) Inform children's parents and guardians that the licensee has a pet or other animals; and
- (2) Have a pet/animal policy in the parent handbook that includes:
  - (a) How children will have access to pets or other animals;
  - (b) How children will be kept safe around pets or other animals;
  - (c) Pet or animal immunizations; and
  - (d) Handling of pet or animal waste.

NEW SECTION

**WAC 170-296A-4850 Pet/animal health and safety.** Pets or other animals that have contact with children must:

- (1) Have current immunizations for communicable diseases if applicable;
- (2) Show no signs of disease, worms or parasites; and
- (3) Be nonaggressive.

NEW SECTION

**WAC 170-296A-4875 Pets or other animals interacting with children.** The licensee:

- (1) Or primary staff person must directly supervise, or instruct staff to directly supervise, children preschool age and younger when the children are interacting with pets or other animals.
- (2) Must have children and staff wash their hands as required under WAC 170-296A-3625 after interacting with pets or other animals, or after handling an animal's toys, bedding, litter or equipment.
- (3) Must have a written plan to keep a pet or other animal inaccessible to the children if the pet or animal is known to be dangerous or aggressive.
- (4) Must make reptiles and amphibians inaccessible to the children due to the risk of Salmonella.

NEW SECTION

**WAC 170-296A-4900 Pet wastes.** The licensee must:

- (1) Keep litter boxes inaccessible to the children.
- (2) For pets that do not have an indoor litter area, have a designated area outside for pets to relieve themselves that is inaccessible to children in care. This area may not be counted in the licensed outdoor square footage under WAC 170-296A-4925.

(3) Remove feces right away if an animal relieves itself in the outdoor licensed space.

(4) Clean and disinfect the area immediately when a pet leaves feces, urine, blood, or vomit in the indoor licensed space.

### OUTDOOR ENVIRONMENT

#### NEW SECTION

**WAC 170-296A-4925 Licensed outdoor space.** (1) The licensee must provide a safe outdoor play area on the premises.

(a) The outdoor play space must contain seventy-five square feet of usable space per child for the number of children stated on the license.

(b) If the premises does not have seventy-five square feet of available outdoor space per child, the licensee may provide an alternative plan, approved by the department, to meet the requirement for all children in care to have daily opportunities for active outdoor play.

(2) The licensed outdoor play space must be securely enclosed with a fence of a minimum height of four feet. When a fence has slats, openings between the slats must be no wider than three and one-half inches.

(3) When the licensed outdoor play space is not adjacent to the home the licensee must:

(a) Identify and use a safe route to and from the licensed outdoor space that is approved by the department; and

(b) Supervise the children at all times when passing between the licensed outdoor space and the home.

(4) The licensee must provide a written plan, approved by the department, to make roadways and other dangers adjacent to the licensed outdoor play space inaccessible to children.

#### NEW SECTION

**WAC 170-296A-4950 Rails on platforms, decks, and stairs.** (1) Platforms or decks (not including play equipment) used at any time for child care activities with a drop zone of more than eighteen inches must have guardrails in any area where there are no steps.

(2) Outdoor stairs with four or more steps must have slats (balusters) or a hand rail not higher than thirty inches high on at least one side. Openings between the slats must be no wider than three and one-half inches. This requirement does not apply to outdoor play equipment with stairs.

#### NEW SECTION

**WAC 170-296A-5000 Play equipment.** (1) The licensee must have play equipment that is developmentally appropriate and maintained in a safe working condition. The licensee must inspect play equipment at least weekly for injury hazards, broken parts, or damage. Unsafe equipment must be repaired immediately or must be made inaccessible to children until repairs are made.

(2) Play equipment must be arranged so that it does not interfere with other play equipment when in use.

(3) The licensee must install or assemble new play equipment acquired after March 31, 2012, according to manufacturer specifications, and keep specifications on file for review by the licensor.

(4) For used or "hand-made" play equipment, or for play equipment acquired and installed prior to March 31, 2012, the licensee must assemble the equipment in a manner that provides a safe play experience for the children.

#### NEW SECTION

**WAC 170-296A-5025 Outdoor physical activities.** The licensee must have an outdoor play area that promotes a variety of age and developmentally appropriate active play for the children in care.

#### NEW SECTION

**WAC 170-296A-5050 Bouncing equipment prohibited.** The licensee must not use or allow the use of bouncing equipment including, but not limited to, trampolines, rebounders and inflatable equipment. This requirement does not apply to bounce balls with or without handles for use by individual children.

#### NEW SECTION

**WAC 170-296A-5075 Playground equipment—Ground cover—Fall zones.** (1) The licensee must not place climbing play equipment on concrete, asphalt, packed soil, lumber, or similar hard surfaces when being used by children.

(2) The ground under swings and play equipment intended to be climbed must be covered by a shock absorbing material. Grass alone is not an acceptable ground cover material under swings or play equipment intended to be climbed. Acceptable ground cover includes:

(a) Pea gravel - At least nine inches deep;

(b) Playground wood chips - At least nine inches deep;

(c) Shredded recycled rubber - At least six inches deep;

or

(d) Other department approved material.

(3) A six-foot fall zone must surround all equipment that has a platform over forty-eight inches tall that is intended to be climbed.

(4) The fall zone area must extend at least six feet beyond the perimeter of the play equipment. For swings, the fall zone must be the distance to the front and rear of the swing set equal to or greater than twice the height of the top bar from which the swing is suspended.

(5) Swing sets must be positioned further away from structures to the front and rear of the swing set. The distance to the front and rear of the swing set from any playground equipment or other structure must be the distance equal to or greater than twice the height of the top bar from which the swing is suspended.

#### NEW SECTION

**WAC 170-296A-5125 Daily outdoor activity.** The licensee or staff must provide outdoor activities at least thirty minutes each day unless conditions pose a health and safety

risk to the children. Conditions that may pose a health and safety risk include, but are not limited to:

- (1) Heat in excess of one hundred degrees Fahrenheit;
- (2) Cold less than twenty degrees Fahrenheit;
- (3) Lightning storm, tornado, hurricane, or flooding, if there is immediate or likely danger to the children;
- (4) Earthquake;
- (5) Air quality emergency ordered by a local or state air quality authority or public health authority;
- (6) Lockdown order by a public safety authority; or
- (7) Other similar incidents.

### WATER SAFETY

#### NEW SECTION

##### **WAC 170-296A-5150 Water activity—Supervision.**

When children in care are attending a swimming or water play activity outside the licensed premises:

- (1) The licensee must have written permission from each child's parent or guardian;
- (2) There must be a certified lifeguard on duty; and
- (3) When infants or toddlers are in water depth that is:
  - (a) Twenty-four inches or less, the licensee or staff must stay within reach of infants or toddlers; or
  - (b) Greater than twenty-four inches, the licensee must provide one-to-one staff-to-child ratio for each infant or toddler. Staff must hold or be in constant touch contact with each infant or toddler.

#### NEW SECTION

##### **WAC 170-296A-5175 Wading pools—Defined—Supervision.** (1) A wading pool:

- (a) Is an enclosed pool with water depth of two feet or less measured without children in the pool; and
- (b) Can be emptied and moved.
- (2) When a wading pool on the premises is intended for use by the children, the licensee must:
  - (a) Directly supervise or have a primary staff person directly supervise the children;
  - (b) Obtain written permission from each child's parent or guardian to allow the child to use a wading pool;
  - (c) Maintain staff-to-child ratios when children are in a wading pool;
  - (d) Keep infants or toddlers in the wading pool within reach of the licensee or staff;
  - (e) Use a door alarm or bell to warn staff that children are entering the outdoor area when pool water could be accessed, or keep the wading pool empty when not in use;
  - (f) Empty the pool daily; and
  - (g) Clean and disinfect the pool daily or immediately if the pool is soiled with urine, feces, vomit, or blood:
    - (i) If a bleach solution is used to disinfect, the solution must be one tablespoon of chlorine bleach to one gallon of cool water;
    - (ii) If another disinfectant product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.

#### NEW SECTION

**WAC 170-296A-5200 Swimming pools defined—Barriers and supervision.** (1) A swimming pool is a pool that has a water depth greater than two feet.

(2) When there is a swimming pool on the premises the licensee must provide:

- (a) A door alarm or bell on each door opening to the pool area to warn staff when the door is opened;
- (b) A five-foot high fence that blocks access to the swimming pool. When the fence has slats the openings between slats must not be wider than three and one-half inches wide;
- (c) Gates with a self-latching device at entrance and exit points to the swimming pool and lock each gate; and
- (d) An unlocking device that is inaccessible to children but readily available to the licensee or staff.
- (3) The licensee must maintain the swimming pool according to manufacturer's specifications, including cleaning and sanitizing.
- (4) When the swimming pool on the premises is used by the children:
  - (a) The licensee must obtain written permission from the parent or guardian of each child using the swimming pool;
  - (b) One person present at the swimming pool must have lifeguard training;
  - (c) The licensee must provide:
    - (i) One additional staff person more than the required staff-to-child ratio than provided in WAC 170-296A-5700 to help supervise children preschool age and older;
    - (ii) A one-to-one staff-to-child ratio for infants or toddlers in the swimming pool;
  - (d) Staff must hold or be in constant touch contact with infants or toddlers in the swimming pool; and
  - (e) Children in diapers or toilet training must wear swim pants to lower the risk of contaminating the water.

#### NEW SECTION

**WAC 170-296A-5225 Bodies of water or water hazards on the licensed premises.** (1)(a) As used in WAC 170-296A-5150 through 170-296A-5250, a "body of water" is a natural area or man-made area or device that contains or holds more than two inches of water.

(b) "Body of water" does not include a wading pool as defined in WAC 170-296A-5175, a water activity table, small bird baths or rain puddles with a water depth of two inches or less.

(2) When children are in care the licensee must:

- (a) Make any body of water in the licensed space inaccessible with a physical barrier (not to include a hedge or vegetation barrier) or fence that is at least five feet tall, except as provided in subsection (c) of this section. When a fence has slats or open grids, openings must not be wider than three and one-half inches;
- (b) Directly supervise or have a primary staff person directly supervise children, with the staff-to-child ratios observed, whenever children play in any area with a body of water;
- (c) Make hot tubs, spas, or jet tubs inaccessible with a tub cover that is locked; and

(d) Not use five gallon buckets or similar containers for infant or toddler water play.

#### NEW SECTION

**WAC 170-296A-5250 Bodies of water outside and near licensed space.** (1) The licensee must make the following bodies of water inaccessible to children in care, and have a written safety plan approved by the department for:

(a) Ponds, lakes, storm retention ponds, ditches, fountains, fish ponds, landscape pools or similar bodies of water located outside and near (in close proximity to) the licensed space, regardless of whether the body of water is on or off the premises; or

(b) Any uncovered well, septic tank, below grade storage tank; farm manure pond or similar hazards that are on the premises.

(2) Unless attending a swimming or water play activity, when outside the licensed premises the licensee or staff must keep children from having access to bodies of water that pose a drowning hazard.

(3) When the licensee or primary staff person takes children near a body of water outside the licensed premises and children have access to a body of water that is more than four inches deep, there must be:

(a) One additional staff person more than the required staff-to-child ratio provided in WAC 170-296A-5700 to help with the children; and

(b) At least one staff person in attendance must be able to swim.

### **SUPERVISION, CAPACITY AND RATIO**

#### NEW SECTION

**WAC 170-296A-5400 Infant-toddler only license (birth to two years old).**

#### NEW SECTION

**WAC 170-296A-5450 Two through five year old only license.**

#### NEW SECTION

**WAC 170-296A-5500 School age only license (over five years through twelve years).**

#### NEW SECTION

**WAC 170-296A-5550 Birth through twelve years license.** (1) The department issues an initial license or nonexpiring full license for the licensee to care for not more than twelve children birth through twelve years of age.

(2) The department may issue an initial license or nonexpiring full license for fewer than twelve children if the total square footage of licensed indoor or outdoor space is less than the minimum square footage required to care for twelve children.

(3) If the licensee has less than one year of child care experience, the department may issue an initial license limited to:

(a) Caring for not more than six children; or

(b) Caring for children older than eighteen months of age and walking independently.

(4) See the table in WAC 170-296A-5700 for the number and ages of children a licensee may care for and the staff-to-child ratios required based on the licensee's experience and staffing levels.

#### NEW SECTION

**WAC 170-296A-5600 Staff-to-child ratio.** (1) The licensee must provide qualified staff to fulfill the staffing requirements and ratios described in WAC 170-296A-5700 at all times during all operating hours, including off-site trips or when transporting children in care.

(2) The licensee must provide additional staff as described in WAC 170-296A-5150, 170-296A-5175, or 170-296A-5225 when children are participating in water activities or activities near water.

#### NEW SECTION

**WAC 170-296A-5625 Capacity and ratio.** (1) The licensee must not exceed the total number or ages of children in care (capacity) stated on the child care license.

(2) All children in care through twelve years of age in attendance on the premises or being transported by the licensee or staff or a household member are counted in capacity.

(3) Any child within the age range on the license count in ratio, including the licensee's own children, children of staff, or visiting children who are not accompanied by an adult.

(4) The licensee must receive department approval to care for a child with special needs as documented in WAC 170-296A-0050 if the child is older than the maximum age identified on the license. A child with documented special needs may be in care up to age nineteen and must be counted in ratio.

(5) If an individual child with special needs requires individualized supervision, a staff member providing individualized supervision for that child does not count in the staff-to-child ratio for the other children in care.

#### NEW SECTION

**WAC 170-296A-5700 Capacity and ratio table—Birth through twelve year license.** The table in this section describes the required staff-to-child ratio, age composition of children in care, and maximum licensed capacity permitted in a licensed family home child care depending on the:

(1) Licensee's years of experience;

(2) Number and qualifications of staff providing care:

Staff	Licensee Minimum Experience and Requirements	Staff-Child Ratio	Age Range	Maximum Number of Children by Age Group:	Maximum Capacity
(a) Licensee working alone	Less than one year of experience	1:6	Birth through 12 years of age	Under 18 months of age 2 or	6  Maximum of 2 children under the age of two not walking independently
				Under two years of age (One must be walking independently) 3	
(b) Licensee working alone	At least one year of experience	1:8	18 months through 12 years of age	18 months to 2 years (Must be walking independently) 2 or	8  All children must be walking independently
				Under three years of age (Not more than two under two years of age and must be walking independently) 4	
(c) Licensee working alone	At least two years of experience and 10 hours of annual ongoing early childhood education equivalent STARS training	1:10	Three years through 12 years of age	Not Applicable	10
(d) Licensee working with primary staff person or assistant (2 persons total)	Licensee has at least one year of experience	2:9	Birth through 12 years of age	Under 18 months of age 2 and	9
				18 months to two years of age and walking independently  1 and	
				Two years to three years of age 4	
(e) Licensee working with primary staff person or assistant (2 persons total)	Licensee has two or more years child care experience and 10 hours of annual ongoing early childhood education equivalent STARS training	2:12	Birth through 12 years of age	Under 18 months of age 4 and	12  Maximum four children not walking independently
				18 months to two years of age and walking independently  2 and	
				Two years to three years of age 4	
(f) Licensee working with primary staff person or assistant (2 persons total)	Licensee has two or more years child care experience and 10 hours of annual ongoing early childhood education equivalent STARS training	2:12	Two years of age through 12 years of age	Not Applicable	12

(3) As used in this section, "walking independently" means being able to stand and move about easily without the aid or assistance of or holding on to an object, wall, equipment or other person.

### LICENSEE RESPONSIBILITIES

#### NEW SECTION

#### **WAC 170-296A-5750 Supervision. Supervising children.**

(1) The licensee must provide required staffing levels, staff-to-child ratios and supervision for the number of children in attendance.

(2) The licensee or primary staff person must be aware of what the children are doing at all times and be available and able to promptly assist or redirect activities when necessary. If unable to see the children, the licensee or primary staff person must frequently go to the area where the children are located to check on them. For the purposes in this section frequently is defined as on many occasions with little time between them.

(3) The licensee must consider the following when deciding how closely to supervise the children:

- (a) Ages of the children;
- (b) Individual differences and abilities;
- (c) Layout of the indoor and outdoor licensed space and play area;
- (d) The risk associated with the activities children are engaged in; and
- (e) Any nearby hazards including those in the licensed or unlicensed space.

(4) A baby monitor or video monitor must not be used in place of direct supervision of the children.

#### **Additional requirements when the children are indoors.**

(5) The licensee or primary staff person must be within sight or hearing range when children are indoors and be available and able to respond if the need arises for the safety of the children.

(6) When children are present on more than one level (floor) of the home, the licensee or primary staff person must be supervising the children on each level and maintain required staff-to-child ratios. Each level of the home used by the children must be licensed space.

#### **Additional requirements when children are outdoors.**

(7) The licensee or primary staff person must be within sight and hearing range when children preschool age or younger are using the licensed outdoor space and be available and able to respond if the need arises for the safety of the children.

(8) The licensee or primary staff person must be within sight or hearing range of school age children when in the licensed outdoor space and be available and able to respond if the need arises for the safety of the children.

(9) The required staff-to-child ratio must be maintained when the children are in the licensed outdoor space, except as provided in subsection (10) of this section.

(10) Except when children in care are using a wading pool or swimming pool, a second staff person or assistant

may engage in other child care activities temporarily as long as he or she is in sight or hearing range and is available and able to respond if the need arises for the safety of the children.

(11) See:

(a) WAC 170-296A-5150 for additional supervision requirements when children are engaged in an off-site water-play or swimming activity;

(b) WAC 170-296A-5175 for additional supervision requirements when children are using a wading pool; and

(c) WAC 170-296A-5200 for additional supervision requirements when children are using a swimming pool.

#### **Supervising staff.**

(12) When the licensee or primary staff person is supervising staff, he or she must be:

- (a) Aware of what staff are doing; and
- (b) Available and able to respond if the need arises to protect the health and safety of children in care.

(13) See WAC 170-296A-1925 for additional supervision requirements for assistants and volunteers.

#### NEW SECTION

**WAC 170-296A-5775 Licensee absence.** (1) The licensee must have a written policy and procedure for staff to follow any time the licensee is absent from the child care. The policy and procedure must include, but is not limited to:

- (a) A staffing plan to include:
  - (i) That a qualified primary staff person will be present and in charge at all times during the licensee's absence;
  - (ii) Staff roles and responsibilities;
  - (iii) How staff-to-child ratios will be met; and
  - (iv) How staff will meet the individual needs of children in care;
- (b) How parents will be notified in writing of the licensee's absence described in WAC 170-296A-5810(1), closures, or staffing changes;
- (c) Responsibility for meeting the requirements of this chapter and chapter 43.215 RCW;
- (d) Emergency contact information for the licensee; and
- (e) Licensee's expected outside work schedule if applicable.

(2) Prior to engaging in outside employment or ongoing activities outside the child care during operating hours, the licensee must inform the department in writing.

(3) The department must approve the licensee's policy and procedure for licensee absence. The department may require modifications to the proposed policy and procedure if it does not meet licensing requirements.

#### NEW SECTION

**WAC 170-296A-5810 Licensee notice of absences.** (1) The licensee must notify the department forty-eight hours prior to the following absences when the absence is during child care hours:

- (a) Outside employment;
- (b) Vacation or absence exceeding seven consecutive days when the child care will remain open; or

(c) Regular absences scheduled during child care hours. As used in this section, "regular absence" is an absence that is planned and reoccurring, and is more than four hours duration.

(2) The licensee must inform the department of the following regarding the licensee's absence:

- (a) Time period of the absence;
- (b) Written plan including who will be left in charge of the child care. See WAC 170-296A-5775;
- (c) Contact information for licensee; and
- (d) How parents will be informed prior to the absence.

#### NEW SECTION

**WAC 170-296A-5825 Licensee absence—Retraining for staff if standards are violated.** (1) The licensee must provide an orientation to all staff on licensing standards in this chapter, including the licensee's policies and procedures, and document when the training occurred and identify staff that received the training.

(2) If the department issues a facility license compliance agreement as a result of staff not following the licensing standards of this chapter in the licensee's absence, the licensee must:

- (a) Retrain the staff on the licensing standards in this chapter; and
- (b) Document that the retraining occurred.

### NURTURE AND GUIDANCE

#### NEW SECTION

**WAC 170-296A-6000 Interactions with children.** The licensee and staff members must:

- (1) Demonstrate positive interactions with children and other adults when children are present;
- (2) Interact with children through listening and responding to what the children have to say;
- (3) Be in frequent verbal communication with children in a positive, reinforcing, cheerful and soothing way. Explain actions, even to very young babies;
- (4) Treat each child with consideration and respect;
- (5) Appropriately hold, touch and smile at children;
- (6) Speak to the children at their eye level when possible and appropriate;
- (7) Be responsive to children, encouraging them to share experiences, ideas and feelings;
- (8) Respond to and investigate cries or other signs of distress immediately;
- (9) Perform age or developmentally appropriate nurturing activities that:
  - (a) Take into consideration the parent's own nurturing practices;
  - (b) Promote each child's learning self-help and social skills; and
  - (c) Stimulate the child's development.
- (10) Provide each child opportunities for vocal expression; and
- (11) Adult voices must not always dominate the overall sound of the group.

#### NEW SECTION

**WAC 170-296A-6025 Prohibited interactions.** In the presence of the children in care the licensee and staff must not or allow others to:

- (1) Use profanity, obscene language, "put downs," or cultural or racial slurs;
- (2) Have angry or hostile interactions;
- (3) Use name calling or make derogatory, shaming or humiliating remarks; or
- (4) Use or threaten to use any form of physical harm or inappropriate discipline, such as, but not limited to:
  - (a) Spanking children;
  - (b) Biting, jerking, kicking, hitting, or shaking;
  - (c) Pulling hair;
  - (d) Pushing, shoving or throwing a child; or
  - (e) Inflicting pain or humiliation as a punishment.

#### NEW SECTION

**WAC 170-296A-6050 Guidance and discipline.** The licensee and staff must use consistent, fair and positive guidance and discipline methods. These methods must be appropriate to the child's developmental level, abilities, culture and are related to the child's behavior.

(1) Only the licensee or primary staff person trained in the licensee's expected standards may discipline a child in care.

(2) The licensee is responsible for developing a written policy including:

- (a) Setting standards for guidance and discipline;
- (b) Communicating to parents, guardians, and children in care what the policy is;
- (c) Training staff and volunteers in the standards of guidance and discipline policy; and
- (d) Any disciplinary actions by the licensee or staff that occur during child care hours.

#### NEW SECTION

**WAC 170-296A-6075 Positive options for discipline.** The licensee and staff must use positive guidance methods. The guidance methods may include any of the following:

- (1) Distracting;
- (2) Redirecting;
- (3) Planning ahead to prevent problems;
- (4) Encouraging appropriate behavior;
- (5) Explaining consistent, clear rules;
- (6) Allowing children to be involved in solving problems; and
- (7) Explaining to the child the reasonable and age appropriate natural and logical consequences related to the child's behaviors.

#### NEW SECTION

**WAC 170-296A-6100 Separating a child from the group.** (1) The licensee or staff may separate a child three years or older from other children as a form of discipline only long enough to allow the child to regain control of himself or

herself. The child must remain under the direct supervision of the licensee or primary staff person.

(2) The licensee or primary staff person must:

(a) Take into account the child's developmental level and ability to understand the consequences of his or her actions;

(b) Communicate to the child the reason for being separated from the other children;

(c) Not discipline any child by separating the child from the group and placing him or her in a closet, a bathroom, a locked room, outside or in unlicensed space; or

(d) Not use high chairs, car seats and other confining space or equipment for the purpose of punishment or restricting a child's movements.

#### NEW SECTION

**WAC 170-296A-6125 Harmful or aggressive acts of children.** The licensee and staff must:

(1) Take steps to protect children from the harmful acts of other children; and

(2) Immediately intervene when a child becomes physically aggressive.

#### NEW SECTION

**WAC 170-296A-6150 Prohibited actions.** The licensee or staff must not or allow others to:

(1) Restrict a child's breathing;

(2) Deprive a child of:

(a) Sleep, food, clothing, shelter, or physical activity;

(b) Needed first aid; or

(c) Required or emergency medical or dental care;

(3) Interfere with a child's ability to take care of his or her own hygiene and toileting needs; or

(4) Withhold hygiene care, toileting care or diaper changing to any child unable to provide such care for him or herself.

#### NEW SECTION

**WAC 170-296A-6175 Using alternate methods before using physical restraint.** (1) The licensee must train the primary staff person on alternate methods to use before using physical restraint.

(2) Before using physical restraint, the licensee and staff must first use other methods described in WAC 170-296A-6075 to redirect or deescalate a situation.

#### NEW SECTION

**WAC 170-296A-6200 Physical restraint—Prohibited uses or methods.** The licensee, staff, or household members must not use:

(1) Physical restraint as a form of punishment or discipline;

(2) Mechanical restraints including, but not limited to, handcuffs and belt restraints;

(3) Locked time-out or isolation space;

(4) Bonds, ties, tape, or straps to restrain a child; or

(5) Physical restraint techniques that restrict breathing or inflict pain. These include, but are not limited to:

(a) Restriction of body movement by placing pressure on joints, chest, heart, or vital organs;

(b) Sleeper holds, which are holds used by law enforcement officers to subdue a person;

(c) Arm twisting;

(d) Pulling hair;

(e) Choking or putting arms around the throat; or

(f) Chemical restraint such as mace or pepper spray.

#### NEW SECTION

**WAC 170-296A-6225 Physical restraint—holding method allowed.** When a child's behavior makes it necessary for his or her own or other's protection, the licensee or primary staff person may restrain the child, by holding the child as gently as possible. A child must not be physically restrained longer than necessary to control the situation.

#### NEW SECTION

**WAC 170-296A-6250 Notice and documenting use of physical restraint.** (1) If physical restraint is used, the licensee must within twenty-four hours:

(a) Report the use of physical restraint to the child's parent or guardian and the department as required under WAC 170-296A-2250;

(b) Assess any incident of physical restraint to determine if the decision to use physical restraint and its application were appropriate; and

(c) Document the incident in the child's file, including what happened before, during and after the child was restrained.

(2) The licensee must develop a safety plan with the licenser if required by the department.

#### NEW SECTION

**WAC 170-296A-6275 Abuse and neglect—Protection and training.** (1) The licensee and staff must:

(a) Protect children in child care from all forms of child abuse or neglect as defined in RCW 26.44.020; and

(b) Report suspected or actual abuse or neglect as required under RCW 26.44.030 to DSHS children's administration intake (child protective services) or law enforcement.

(2) The licensee must provide training for staff, volunteers and household members on:

(a) Prevention of child abuse and neglect as defined in RCW 26.44.020; and

(b) Mandatory reporting requirements under RCW 26.44.030.

### PROGRAM

#### NEW SECTION

**WAC 170-296A-6400 Off-site activities—Parent or guardian permission.** (1) The licensee must:

(a) Have written permission from the parent or guardian prior to the child engaging in off-site activities. The written permission must be kept in the child's file.

(b) Have a separate permission for activities that occur less often than once per calendar month.

(2) For scheduled or unscheduled off-site activities that may occur more than once a month, the licensee must:

(a) Have a signed parent or guardian permission on file for each child; and

(b) Inform parents and guardians about how to contact the licensee when children are on an off-site activity.

#### NEW SECTION

##### **WAC 170-296A-6425 Off-site activity supervision.**

When on an off-site activity, the licensee and staff responsible for the care of the children must at all times provide supervision, and be able to promptly assist or redirect the children's activities.

#### NEW SECTION

**WAC 170-296A-6450 Off-site activity—Emergency information and supplies.** When on an off-site activity, the licensee must have available:

(1) An emergency consent form for each child that includes:

(a) Emergency contact information;

(b) Permission to obtain medical treatment for the child in the event of a medical emergency;

(c) A list of the child's allergies, if applicable;

(d) Permission to administer medications, if applicable; and

(2) Emergency supplies, including:

(a) A first aid kit; and

(b) Each child's required medication or emergency medicine, if applicable.

#### NEW SECTION

**WAC 170-296A-6475 Transportation.** When transporting children the licensee, staff, and volunteers must:

(1) Follow RCW 46.61.687 and other applicable law regarding child restraints and car seats;

(2) Carry in the vehicle all items required under WAC 170-296A-6450 and a current copy of each child's completed enrollment form;

(3) Maintain the vehicle in safe operating condition;

(4) Have a valid driver's license;

(5) Have a current insurance policy that covers the driver, the vehicle, and all occupants;

(6) Take attendance each time children are getting in or getting out of the vehicle;

(7) Never leave children unattended in the vehicle; and

(8) Maintain required staff-to-child ratio and capacity.

#### NEW SECTION

##### **WAC 170-296A-6500 Using public transportation.**

The licensee may transport children using public transportation, provided that children are supervised at all times and required staff-to-child ratios are maintained. The licensee or staff must not allow or send children on public transportation unsupervised.

#### NEW SECTION

**WAC 170-296A-6525 Transporting children—Limited periods.** The licensee must not transport or allow the transport of children in care for periods of more than two hours per day on a regular and ongoing basis.

#### NEW SECTION

##### **WAC 170-296A-6550 Developmental activities.** (1)

The licensee must have and post a typical daily schedule that includes program activities.

(2) The typical daily schedule must include:

(a) Hours of operation;

(b) Types of activities, including screen time;

(c) General timelines for activities;

(d) Routine transportation times;

(e) Meal service;

(f) Rest periods;

(g) Outdoor times; and

(h) If applicable, overnight care.

(3) Evidence of daily activities may be shared or demonstrated through:

(a) Display;

(b) Writing; or

(c) A checklist.

#### NEW SECTION

**WAC 170-296A-6575 Activities to promote child growth and development.** The licensee must provide activities that support each child's developmental stage including:

(1) Social, emotional and self development;

(2) Positive self concepts;

(3) Language and literacy;

(4) Physical development, including daily opportunities to develop the child's small and large muscles;

(5) Spatial concepts (including, but not limited to, size or position); and

(6) Numeracy (counting and numbers).

#### NEW SECTION

**WAC 170-296A-6600 Toys and play materials.** The licensee must provide toys, objects, and other play materials that are:

(1) Washable and clean;

(2) Nonpoisonous or free of toxins; and

(3) For infants, toddlers, or children at those developmental levels, large enough to avoid swallowing or choking.

#### NEW SECTION

**WAC 170-296A-6625 Art materials.** (1) All prepackaged art materials used in the family home child care must be labeled "nontoxic" and as conforming to or meeting "ASTM D-4236." This does not apply to food items used as art materials, bulk paper, or items from the natural environment.

(2) Infants, toddlers, and preschool age children must be closely supervised when using art materials.

NEW SECTION

**WAC 170-296A-6650 Screen time.** If the licensee or staff provide screen time for children in care, the screen time must:

- (1) Be educational, and developmentally and age appropriate;
- (2) Have child-appropriate content; and
- (3) Not have violent or adult content.

NEW SECTION

**WAC 170-296A-6675 Screen time—Limitations.** The licensee or staff must:

- (1) Limit screen time for any child to less than two hours per day during operating hours;
- (2) Not require children to participate in screen time;
- (3) Provide alternative activities to screen time; and
- (4) Place children at least three feet from a television screen.

NEW SECTION

**WAC 170-296A-6700 Limiting screen time for children under two.** The licensee must minimize exposure to screen time for any child under the age of two by:

- (1) Providing alternative activities for the child;
- (2) Moving the child away from direct view of the screen; and
- (3) Positioning the child so the child is not able to view the screen.

NEW SECTION

**WAC 170-296A-6775 Diversity.** The licensee must:

- (1) Provide an environment that reflects each child's daily life, family culture and language, and the diversity in society.
- (2) Describe or demonstrate to the licensor, or have a written plan for how:
  - (a) The licensee will discuss with parents how the child care reflects that child's daily life and family's culture or language; and
  - (b) The child care environment reflects the diversity in society.

NEW SECTION

**WAC 170-296A-6800 Rest periods.** (1) The licensee must offer a daily supervised rest period for children.

- (2) The supervised rest period must be:
  - (a) Offered to all children five years of age and younger who remain in care more than six hours per day; and
  - (b) Offered to any child who shows a need for rest.
- (3) The licensee must:
  - (a) Not force a child to sleep;
  - (b) Provide quiet activities for the children who do not require rest. These activities must be offered with a minimum of disruption to sleeping children;
  - (c) Communicate with the parent or guardian about the child's sleep needs and patterns; and

(d) Allow infants and toddlers to follow individual sleep patterns.

(4) See WAC 170-296A-3725 through 170-296A-3825 regarding sleeping equipment and bedding requirements.

NEW SECTION

**WAC 170-296A-6850 Overnight care.** The licensee must be approved by the department to provide overnight care. If the licensee provides overnight child care:

- (1) The licensee or primary staff person must be awake until all children in care are asleep;
- (2) The licensee or a primary staff person must be on the same level of the home as the children in care;
- (3) The licensee or primary staff person must maintain required staff-to-child ratios; and
- (4) The daily schedule under WAC 170-296A-6550 must include evening or overnight care.

See WAC 170-296A-3725 through 170-296A-3825 regarding sleeping equipment and bedding requirements.

See WAC 170-296A-4400 and 170-296A-4425 regarding door alarms, night latches, deadbolts, and security chains.

**INFANT CARE**NEW SECTION

**WAC 170-296A-7000 Wheeled baby walkers prohibited.** The licensee must not use or allow the use of wheeled baby walkers in the family home child care during operating hours.

NEW SECTION

**WAC 170-296A-7025 Infant "tummy time" positioning.** When infants are awake, the licensee or staff must allow each infant supervised tummy time at least three times daily. As used in this section, "tummy time" means placing the infant in a nonrestrictive prone position, lying on his or her stomach, when not in sleeping equipment.

NEW SECTION

**WAC 170-296A-7075 Infant and toddler sleeping or napping equipment.** (1) The licensee must:

- (a) Provide and use a single level crib, toddler bed, playpen or other sleeping equipment for each infant or toddler in care that is safe and not subject to tipping. The equipment must be of a design approved for infants or toddlers by the U.S. Consumer Product Safety Commission (see WAC 170-296A-7085 regarding approved cribs).
- (b) Provide sleeping or napping equipment with clean, firm, and snug-fitting mattresses that do not have tears or holes or is repaired with tape.
- (c) Provide mattresses covered with waterproof material that is easily cleaned and sanitized.
  - (i) If a bleach solution is used to sanitize, the solution must be three-quarters teaspoon of chlorine bleach to one quart of cool water.
  - (ii) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions includ-

ing, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.

(d) Arrange sleeping equipment to allow staff access to children;

(e) Remove sleeping children from car seats, swings or similar equipment; and

(f) Consult with a child's parent or guardian before the child is transitioned from infant sleeping equipment to other approved sleeping equipment.

(2) Children able to climb out of their sleeping equipment must be transitioned to an alternate sleeping surface.

#### NEW SECTION

**WAC 170-296A-7085 Cribs.** In order to meet federal requirements, a licensee who uses a crib with children in care must comply with this section.

(1) Effective December 28, 2012, each crib in use in licensed child care must meet U.S. Consumer Product Safety Commission (CPSC) requirements for full size cribs as defined in 16 Code of Federal Regulations (C.F.R.) 1219, or nonfull size cribs as defined in 16 C.F.R. 1220.

(2) A crib meets the requirements of this section if the crib is labeled by the manufacturer as made on or after June 28, 2011.

(3) A crib labeled as made from July 1, 2010, through June 27, 2011, may meet the requirements of this section if the licensee has obtained a certificate of compliance from the crib manufacturer or importer, or the licensee has other documentation from the manufacturer that the crib is certified as meeting the CPSC regulations.

(4) Any crib that does not meet the requirements of subsection (2) or (3) of this section must be removed from the child care facility not later than December 28, 2012.

(5) The licensee must keep in the licensed space a log documenting that each crib in use meets the requirements of this section.

#### NEW SECTION

**WAC 170-296A-7100 Infant care—Procedures to reduce the risk of sudden infant death syndrome (SIDS).** To reduce the risk of sudden infant death syndrome (SIDS), the licensee or staff must:

(1) Place an infant to sleep on his or her back. If the infant has turned over while sleeping, the infant does not need to be returned to his or her back;

(2) Place an infant in sleeping equipment that has a clean, firm, and snug-fitting mattress and a tight-fitting sheet;

(3) Not allow soft fluffy bedding, stuffed toys, pillows, crib bumpers and similar items in the infant sleeping equipment, or allow a blanket to cover or drape over the sleeping equipment;

(4) Not cover an infant's head and face during sleep;

(5) Take steps so infants do not get too warm during sleep. If a blanket is used, it must be lightweight and be placed no higher than the infant's chest with the infant's arms free; and

(6) Not place the infant in another sleeping position other than on their backs, or use a sleep positioning device unless required by a written directive or medical order from the

infant's health care provider. This directive or medical order must be in the infant's file.

#### NEW SECTION

**WAC 170-296A-7125 Infant bottles.** The licensee must:

(1) Use glass bottles or use plastic bottles labeled with "1," "2," "4," or "5" on the bottle. A plastic bottle must not contain the chemical bisphenol-A or phthalates.

(2) If heating a bottle, heat the bottle in warm water that is not more than one hundred twenty degrees Fahrenheit;

(3) Not use a microwave oven to warm the contents of a bottle;

(4) Clean bottles and nipples before each use, only with warm soapy water and a bottlebrush, or in a dishwasher;

(5) Keep bottle nipples covered if bottles are prepared ahead, and label the bottle with the date it was prepared;

(6) Not allow infants to share bottles or infant cups;

(7) Have a method to identify the individual child's bottle or cup;

(8) Keep the contents of a child's bottle inaccessible to other children; and

(9) Throw away milk, breast milk, or formula if it has been sitting at room temperature for more than one hour.

#### NEW SECTION

**WAC 170-296A-7150 Breast milk.** When breast milk is provided for a child, the licensee must:

(1) For breast milk to be used on the day received, refrigerate and label the breast milk container;

(2) If the breast milk is to be frozen, label the container with the child's name and date the milk was brought to the child care. The licensee must:

(a) Store frozen breast milk at ten degrees Fahrenheit or less;

(b) Keep frozen breast milk not more than two weeks;

(c) Use frozen breast milk within twenty-four hours after thawing;

(d) Thaw breast milk in the refrigerator, under warm running water, or in a container with warm water that is not more than one hundred twenty degrees Fahrenheit; and

(e) Never thaw or heat breast milk in a microwave oven or on the stove.

#### NEW SECTION

**WAC 170-296A-7175 Bottle feeding infants.** (1) When bottle feeding, the licensee or staff must:

(a) Test the bottle contents before feeding, to avoid scalding or burning the infant's mouth;

(b) Hold infants when the infant is unable to hold his or her bottle;

(c) Not prop bottles when feeding an infant;

(d) Not give a bottle or cup to an infant who is lying down;

(e) Feed infants on demand or based on the parent or guardian's recommended feeding schedule;

(f) Stop feeding the infant when he or she shows signs of fullness; and

(g) Not add medication, cereal, supplements, or sweeteners to the contents of the bottle unless prescribed by a health care provider.

(2) When an infant can hold his or her own bottle, the licensee or staff:

(a) May hold the infant or place the infant in a semi-reclining or upright position during bottle feeding; and

(b) Must be in the same room within visual range of the infant during feeding.

(3) The licensee or staff must take the bottle from the infant when the child finishes feeding.

#### NEW SECTION

##### **WAC 170-296A-7200 Feeding solid food to infants.**

(1) The licensee must consult with and have approval from an infant's parent or guardian before introducing solid food to an infant.

(2) When serving infants solid food the licensee or staff must:

(a) Hold or sit the infant in a semi-reclining or upright position;

(b) Not allow infants to share the same dish or utensil;

(c) Stir and test for safe temperature after heating food and before serving;

(d) Throw away any uneaten food from the serving container;

(e) Serve solid food by utensil or let the child feed themselves; and

(f) Feed the infant when hungry unless the parent or guardian gives written instructions for an alternative feeding schedule, and stop feeding when the infant shows signs of fullness.

#### NEW SECTION

**WAC 170-296A-7225 High chairs.** (1) If the licensee uses high chairs in the child care, each high chair must:

(a) Have a base that is wider than the seat;

(b) Have a safety device that prevents the child from climbing or sliding down the chair;

(c) Be free of cracks and tears; and

(d) Have a washable surface.

(2) When a child is seated in a high chair, the chair's safety device must be used to secure the child.

(3) The licensee or staff must clean and sanitize high chairs after each use.

(a) If a bleach solution is used to sanitize, the solution must be one-quarter teaspoon of bleach to one quart of cool water.

(b) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.

#### NEW SECTION

**WAC 170-296A-7250 Diapering and toileting.** (1) The licensee must provide a diaper changing area that is separate from any area where food is stored, prepared or served.

(2) The diaper changing area must:

(a) Have a sink with hot and cold running water close to the diaper changing area. The sink must not be used for food preparation and clean up;

(b) Have a sturdy surface or mat that is:

(i) Not torn or repaired with tape;

(ii) Easily cleanable;

(iii) Waterproof; and

(iv) Large enough to prevent the area underneath from being contaminated with bodily fluids.

(3) The diapering area must be cleaned and disinfected between each use.

(a) If a bleach solution is used to disinfect, the solution must be one tablespoon of chlorine bleach to one quart of cool water.

(b) If another disinfectant product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.

(4) A nonabsorbent, disposable covering that is discarded after each use may be used on the diaper changing mat.

(5) The diaper changing surface must be free of all other items not used in diapering the child.

#### NEW SECTION

**WAC 170-296A-7275 Diaper disposal.** (1) The licensee must provide a container specifically for diaper and diapering supply disposal that is not used for other household trash. The diaper disposal container must:

(a) Have a tight cover;

(b) Be lined with a disposable plastic trash bag; and

(c) Be within arm's reach of the diaper changing area.

(2) If disposable diapers are used, the diaper disposal container must be emptied to the outside garbage can or container daily.

(3) If cloth diapers are used, the diapers must:

(a) Not be rinsed; and

(b)(i) Be kept in the diaper disposal container until picked up by the diaper service; or

(ii) Placed in a securely closed plastic bag and sent home with the child daily.

(4) If soiled diapers are sent home they must be kept in a separate closed container used only for diapers and not placed with the child's other belongings.

#### NEW SECTION

**WAC 170-296A-7300 Diaper changing.** (1) The licensee or staff must:

(a) Check diapers at least every two hours;

(b) Change the diaper when necessary, or whenever the child indicates discomfort;

(c) Attend to the child at all times when diapering a child;

(d) Not rinse soiled diapers; and

(e) Place soiled diapers directly into a diaper waste container.

(2) Diapers used must be:

(a) Disposable; or

- (b) Cloth diapers supplied by a commercial diaper service; or
- (c) Reusable cloth diapers supplied by the child's family.
- (3) When cloth diapers are used, a waterproof, washable barrier must be used between the diaper and the child's clothes.
- (4) The licensee or staff must wash their hands before and after diapering, and wash the child's hands immediately after diapering the child. Baby wipes may be used to wash the child's hands.

NEW SECTION

**WAC 170-296A-7350 Toilet training.** The licensee must discuss toilet training with the child's parent or guardian when a child is ready for training. The licensee or staff must use:

- (1) Positive reinforcement;
- (2) Culturally sensitive methods;
- (3) Developmentally appropriate methods; and
- (4) A routine developed in agreement with the parent or guardian.

NEW SECTION

**WAC 170-296A-7375 Potty chairs or modified toilet seats.** (1) When potty chairs are used, the licensee or staff must immediately after each use:

- (a) Empty the potty chair into the toilet; and
- (b) Clean and disinfect the potty chair.
- (2) The floor under the potty chairs must be made of a material that is resistant to moisture.
- (3) When a modified toilet seat is used, it must be cleaned and disinfected daily or more often when soiled.
- (4)(a) If a bleach solution is used to disinfect, the solution must be one tablespoon of chlorine bleach to one quart of cool water;
- (b) If another disinfectant product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.
- (5) If a sink or basin is used to clean a potty chair or modified toilet seat, the sink or basin must be cleaned and disinfected afterwards.

**FOOD SERVICE AND NUTRITION**NEW SECTION

**WAC 170-296A-7500 Food must meet USDA guidelines.** The licensee must provide meals and snack foods to children in care according to the current edition of the U.S. Department of Agriculture (USDA) - Child and adult care food program (CACFP) charts for the ages of children in the licensee's care.

NEW SECTION

**WAC 170-296A-7525 Parent or guardian-provided food.** (1) A parent or guardian may provide alternative food

for their child if a written food plan is completed and signed by the parent or guardian and the licensee.

(2) A written food plan is not required for infant formula, breast milk or baby food supplied by the child's parent or guardian.

(3) A written food plan may include accommodations for:

- (a) The child's medical needs;
- (b) Special diets;
- (c) Religious or cultural preference; or
- (d) Family preference.

(4) The licensee must supplement the food provided by the parent or guardian with foods listed in the USDA CACFP requirements if the food provided by the parent or guardian does not meet the nutritional needs of the child.

NEW SECTION

**WAC 170-296A-7550 Home canned foods.** The licensee must not serve home canned foods due to the risk of botulism poisoning.

NEW SECTION

**WAC 170-296A-7575 Drinking water.** The licensee must supply safe drinking water for the children in care. Drinking water must be served in a safe and sanitary manner and be available throughout the day. See WAC 170-296A-1400 for water testing requirements for a family home child care that receives its drinking water from a private well and water system.

NEW SECTION

**WAC 170-296A-7600 Serving milk.** (1) The licensee must serve milk according to the ages of the children in care. The licensee is responsible to serve:

- (a) Breast milk or formula to children from birth to twelve months old. The parent or guardian may request breast milk or formula be served to their child after the child turns twelve months of age.
- (b) Whole pasteurized milk to children from twelve months through twenty-four months old if the child is ready to be served whole milk.
- (c) Pasteurized milk or pasteurized milk product to children over twenty-four months old.

(2) Variations of subsection (1)(a), (b), or (c) of this section require a written statement from the child's health provider.

NEW SECTION

**WAC 170-296A-7625 Meal and snack schedule.** (1) The licensee must offer meals and snacks to the children in care at intervals of at least two hours apart and no more than three hours unless the child is asleep.

(2) The licensee must offer a snack to children arriving from school.

NEW SECTION

**WAC 170-296A-7650 Serving foods.** (1) The licensee or staff may:

- (a) Serve each child individually; or
  - (b) Serve family style in serving containers that allow each child the opportunity to serve themselves.
- (2) The licensee or staff must:
- (a) Stir and test for safe temperature any heated food before serving;
  - (b) Closely supervise all children when eating;
  - (c) Not force or shame a child to eat or try any food;
  - (d) Not punish a child for refusing to try or eat foods;
  - (e) Serve meals in a safe and sanitary manner;
  - (f) Be respectful of each child's cultural food practices;
- and
- (g) Sit with children during meals when possible.

NEW SECTION

**WAC 170-296A-7675 Food handler permits.** (1) New license applicants must obtain a current state food handler permit prior to being licensed.

(2) By March 31, 2013, every licensee must obtain and maintain a current state food handler permit.

(3) When the licensee is not present, one staff person with a current state food handler permit must be present whenever food is prepared or served to children in care.

(4) The licensee or staff person with a current state food handler permit must prepare or supervise preparation of all food served to children in care.

(5) The licensee must keep a copy of each individual's food handler permit on file.

NEW SECTION

**WAC 170-296A-7680 Safe food handling.** (1) The licensee and staff must follow the safe food storage, preparation, cooking, holding proper temperature, and serving guidelines in the current edition of the food workers manual prepared by the state department of health.

(2) The licensee and staff must:

- (a) Wash their hands as required under WAC 170-296A-3675; and
- (b) Not prepare food when ill with vomiting or diarrhea.

NEW SECTION

**WAC 170-296A-7700 Washing dishes.** The licensee or staff must wash dishes thoroughly after each use by one of the following methods:

(1) Automatic dishwasher, using the sanitizing cycle if available; or

(2) Handwashing method, by emersion in hot soapy water, rinse, sanitize and air dry:

(a) If a bleach solution is used to sanitize, the solution must be three-quarters teaspoon of chlorine bleach to one gallon of cool water;

(b) If another sanitizer product is used, it must be labeled as approved for food contact surfaces and be used strictly according to manufacturer's label instructions including, but

not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.

NEW SECTION

**WAC 170-296A-7725 Food containers and utensils.**

(1) The licensee must not use or allow cookware containers to be used to cook or reheat food in a microwave oven, unless the container is labeled by the manufacturer as "for microwave use," "microwave safe," or similar labeling.

(2) The licensee may use disposable serving containers, dishes and utensils that are sturdy, used only once and thrown away after use.

(3) The licensee must keep sharp utensils and other utensils that may cause serious injury or a choking hazard inaccessible to children when the utensils are not in use.

(4) The licensee must not serve food to infants or toddlers using polystyrene foam (commonly known as styro-foam) cups, bowls and plates.

NEW SECTION

**WAC 170-296A-7750 Food preparation area.** (1) The licensee or staff must clean and sanitize food preparation and eating surfaces before and after use. The licensee's food preparation area must:

(a) Have surfaces that are free of cracks and crevices; and

(b) Have a floor area made of a material that is resistant to moisture.

(2) The licensee must not allow pets in the food preparation area while food is being prepared or served.

(3) The licensee may use the kitchen for other child care activities provided there is continual supervision of the children.

(4)(a) If a bleach solution is used to sanitize surfaces, the solution must be one tablespoon of chlorine bleach to one gallon of cool water;

(b) If another sanitizer product is used, it must be labeled as approved for food contact surfaces and be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.

**ENFORCEMENT OF LICENSING STANDARDS**NEW SECTION

**WAC 170-296A-8000 Facility licensing compliance agreements.** At the department's discretion, when a licensee is in violation of this chapter or chapter 43.215 RCW, a facility licensing compliance agreement may be issued in lieu of the department taking enforcement action.

(1) The facility licensing compliance agreement contains:

(a) A description of the violation and the rule or law that was violated;

(b) A statement from the licensee regarding the proposed plan to comply with the rule or law;

(c) The date the violation must be corrected;

(d) Information regarding other licensing action that may be imposed if compliance does not occur by the required date; and

(e) Signature of the licensor and licensee.

(2) The licensee must return a copy of the completed facility license compliance agreement to the department by the date indicated when corrective action has been completed.

(3) The licensee may request a supervisory review regarding the violation of rules or laws identified on the facility license compliance agreement.

(4) A facility license compliance agreement is not subject to appeal under chapter 170-03 WAC.

#### NEW SECTION

**WAC 170-296A-8010 Nonreferral status.** In addition to or in lieu of an enforcement action under this chapter, the department may place a family home child care on nonreferral status as provided in RCW 43.215.300(4).

#### NEW SECTION

**WAC 170-296A-8025 Time period for correcting a violation.** The length of time the licensee has to make the corrections depends on:

(1) The seriousness of the violation;

(2) The potential threat to the health, safety and well-being of the children in care; and

(3) The number of times the licensee has violated rules in this chapter or requirements under chapter 43.215 RCW.

#### NEW SECTION

**WAC 170-296A-8050 Civil monetary penalties (fines).** A civil monetary penalty (fine) may be imposed when the licensee violates a rule in this chapter or a requirement in chapter 43.215 RCW.

(1) A fine of one hundred fifty dollars per day may be imposed for each violation.

(2) The fine may be assessed and collected with interest for each day a violation occurs.

(3) A fine may be imposed in addition to other action taken against the license including probation, suspension, revocation or denial of a license renewal.

(4) At the department's discretion, a fine may be withdrawn or reduced if the licensee comes into compliance during the notification period in WAC 170-296A-8075.

(5) When a fine is assessed the licensee has the right to a hearing under chapter 170-03 WAC. The fine notice will include information about the licensee's hearing rights and how to request a hearing.

#### NEW SECTION

**WAC 170-296A-8060 When fines are levied.** The department may base a fine for violation of a rule under this chapter or a requirement in chapter 43.215 RCW, according to whether the licensee:

(1) Has allowed the existence of any condition that creates a serious safety and health risk;

(2) Or any staff person or household member uses corporal punishment or humiliating methods of control or discipline;

(3) Or any staff person fails to provide the required supervision;

(4) Fails to provide required light, ventilation, sanitation, food, water, or heating;

(5) Provides care for more than the highest number of children permitted by the license; or

(6) Repeatedly fails to follow the rules in this chapter or the requirements in chapter 43.215 RCW. As used in this section, "repeatedly" means a violation that has been the subject of a facility license compliance agreement that occurs more than once in a twelve-month time period.

#### NEW SECTION

**WAC 170-296A-8075 Fines—Payment period.** A fine must be paid within twenty-eight calendar days after the licensee receives the notice unless:

(1) The department approves a payment plan if requested by the licensee; or

(2) The licensee requests a hearing as provided in RCW 43.215.307(3).

#### NEW SECTION

**WAC 170-296A-8100 Notice of fine—Posting.** The licensee must post the department letter notifying the licensee of a final notice of a civil penalty:

(1) Immediately upon receipt;

(2) In the licensed space where it is clearly visible to parents and guardians; and

(3) For two weeks or until the violation causing the fine is corrected, whichever is longer.

#### NEW SECTION

**WAC 170-296A-8125 Failure to pay a fine—Department action.** If the licensee fails to pay a fine within twenty-eight calendar days after the fine assessment becomes final the department may suspend, revoke or not continue the license.

#### NEW SECTION

**WAC 170-296A-8150 Denial, suspension, revocation, modification, or noncontinuation of a license.** A license may be denied, suspended, modified, revoked, or not continued when the licensee fails to comply with the requirements in this chapter or any provisions of chapter 43.215 RCW.

#### NEW SECTION

**WAC 170-296A-8175 Violations—Enforcement action.** The department may deny, suspend, revoke, or not continue a license when:

(1) The licensee is unable to provide the required care for the children in a way that promotes their health, safety and well-being;

(2) The licensee is disqualified under chapter 170-06 WAC (DEL background check rules);

(3) The licensee or household member has been found to have committed child abuse or child neglect;

(4) The licensee has been found to allow staff or household members to commit child abuse or child neglect;

(5) The licensee has a current charge or conviction for a disqualifying crime under WAC 170-06-0120;

(6) There is an allegation of child abuse or neglect against the licensee, staff, or household member;

(7) The licensee fails to report to DSHS children's administration intake or law enforcement any instances of alleged child abuse or child neglect;

(8) The licensee tries to obtain or keep a license by deceitful means, such as making false statements or leaving out important information on the application;

(9) The licensee commits, permits or assists in an illegal act at the child care premises;

(10) The licensee uses illegal drugs or alcohol in excess, or abuses prescription drugs;

(11) The licensee knowingly allowed a staff or household member to make false statements on employment or background check application related to their suitability or competence to provide care;

(12) The licensee fails to provide the required level of supervision for the children in care;

(13) The licensee cares for more children than the maximum number stated on the license;

(14) The licensee refuses to allow department authorized staff access during child care operating hours to:

(a) Requested information;

(b) The licensed space;

(c) Child, staff, or program files; or

(d) Staff or children in care.

(15) The licensee is unable to manage the property, fiscal responsibilities or staff in the facility;

(16) The licensee cares for children outside the ages stated on the license;

(17) A staff person or a household member residing in the licensed home is disqualified under chapter 170-06 WAC (DEL background check rules);

(18) The licensee, staff person, or household member residing in the licensed home has a current charge or conviction for a crime described in WAC 170-06-0120;

(19) A household member residing in the licensed home had a license to care for children or vulnerable adults denied or revoked;

(20) The licensee does not provide the required number of qualified staff to care for the children in attendance; or

(21) The department is in receipt of information that the licensee has failed to comply with any requirement described in WAC 170-296A-1420.

#### NEW SECTION

**WAC 170-296A-8225 Notice of license denial, suspension, revocation, or modification.** (1) The department notifies the licensee of the denial, suspension, revocation, or modification of the license by sending a certified letter or by personal service.

(2) The letter contains information on what the licensee may do if the licensee disagrees with the decision to deny, suspend, revoke, or modify the license.

(3) The licensee has a right to appeal the denial, suspension, revocation or modification of the license. The department notice will include information on hearing rights and how to request a hearing.

#### NEW SECTION

**WAC 170-296A-8250 Probationary license.** A probationary license may be issued to a licensee operating under a nonexpiring full license as part of a corrective action plan. The department refers the licensee for technical assistance as provided in RCW 43.215.290 prior to issuing a probationary license.

#### NEW SECTION

**WAC 170-296A-8275 Probationary license—Cause.** A department decision to issue a probationary license must be based on the following:

(1) Negligent or intentional noncompliance with the licensing rules;

(2) A history of noncompliance with the licensing rules;

(3) Current noncompliance with the licensing rules; or

(4) Any other factors relevant to the specific situation and consistent with the intent or purpose of chapter 43.215 RCW.

#### NEW SECTION

**WAC 170-296A-8300 Issuing a probationary license.** When the department issues a probationary license, the licensee must:

(1) Provide the parents and guardians of enrolled children notice of the probationary license in a department approved format within five working days of the licensee receiving the probationary license;

(2) Provide documentation to the department that parents or guardians of enrolled children have been notified;

(3) Inform new parents or guardians about the probationary status before enrolling new children;

(4) Post documentation of the approved written probationary license as required by RCW 43.215.525; and

(5) Return the licensee's nonexpiring full license to the department.

#### NEW SECTION

**WAC 170-296A-8325 Refusing a FLCA or probationary license.** (1) The licensee has the right to:

(a) Refuse or refuse to sign a facility licensing compliance agreement; or

(b) Refuse to agree to a probationary license.

(2) Refusing a facility license compliance agreement or probationary license may result in one of the following enforcement actions:

(a) Modification of the license;

(b) Noncontinuation of a nonexpiring full license;

(c) Suspension of the license; or

(d) Revocation of the license.

**NEW SECTION**

**WAC 170-296A-8350 Providing unlicensed care—**

**Notice.** (1) If the department determines that an individual is providing unlicensed child care in his or her home, the department will send the individual written notice within ten calendar days to explain:

- (a) Why the department suspects that the individual is providing child care without a license;
- (b) That a license is required and why;
- (c) That the individual must immediately stop providing child care;
- (d) That if the individual wishes to obtain a license, within thirty calendar days from the date of the department's notice in this subsection (1) the individual must submit a written agreement, on a department form, stating that he or she agrees to:

- (i) Attend the next available department child care licensing orientation; and
- (ii) Submit a child care licensing application after completing orientation; and
- (e) That the department has the authority to issue a fine of one hundred fifty dollars per day for each day that the individual continues to provide child care without a license.

(2) The department's written notice in subsection (1) of this section must inform the individual providing unlicensed child care:

- (a) How to respond to the department;
- (b) How to apply for a license;
- (c) How a fine, if issued, may be suspended or withdrawn if the individual applies for a license;
- (d) That the individual has a right to request an adjudicative proceeding (hearing) if a fine is assessed; and
- (e) How to ask for a hearing.

(3) If an individual providing unlicensed child care does not submit an agreement to obtain a license as provided in subsection (1)(d) of this section within thirty calendar days from the date of the department's written notice, the department will post information on its web site that the individual is providing child care without a license.

**NEW SECTION**

**WAC 170-296A-8375 Unlicensed care—Fines and other penalties.** A person providing unlicensed child care may be:

- (1) Assessed a fine of one hundred fifty dollars a day for each day unlicensed child care is provided;
- (2) Guilty of a misdemeanor; or
- (3) Subject to an injunction.

**NEW SECTION**

**WAC 170-296A-8400 Hearing process.** (1) Department notice of an enforcement action includes information about the individual's or licensee's right to request an adjudicative proceeding (hearing) and how to request a hearing.

(2) The hearing process is governed by chapter 34.05 RCW Administrative Procedure Act, applicable sections of

chapter 43.215 RCW department of early learning, and chapter 170-03 WAC, DEL hearing rules.

**REPEALER**

The following chapter of the Washington Administrative Code is repealed:

WAC 170-296-0010	What is the purpose of this chapter?
WAC 170-296-0020	What definitions do I need to know to understand this chapter?
WAC 170-296-0110	Who needs to become licensed?
WAC 170-296-0120	When does the department establish an overpayment for payment I receive through the child care subsidy program?
WAC 170-296-0125	Must I comply with local ordinances and codes?
WAC 170-296-0130	How old do I have to be to apply for a license?
WAC 170-296-0140	What personal characteristics does an individual need to provide care to children?
WAC 170-296-0160	How do I apply for a license?
WAC 170-296-0170	Am I required to pay a fee when applying for a family home child care license?
WAC 170-296-0180	Am I required to have a criminal history background check?
WAC 170-296-0200	Will my license be denied or revoked if I have been disqualified from providing licensed child care?
WAC 170-296-0210	What are my responsibilities if I am notified that a family member, staff person, volunteer, or anyone else residing at the same address as me has been disqualified?
WAC 170-296-0215	Will my license be denied, suspended, or revoked if a family member, or someone else residing at the same address as me has been disqualified from having unsupervised access to children?
WAC 170-296-0220	Must I keep a record of submitted background check forms and the results of the

	background checks on family members, staff and volunteers?	WAC 170-296-0410	What happens if I fail to pay the fine?
WAC 170-296-0230	What CPR (cardiopulmonary resuscitation) and first-aid training is required?	WAC 170-296-0420	Does the department assess a civil penalty if I provide unlicensed child care?
WAC 170-296-0240	What HIV/AIDS training and bloodborne pathogen information is needed?	WAC 170-296-0430	What will happen if the department believes I am providing unlicensed child care?
WAC 170-296-0250	How long do I have to complete the licensing application process?	WAC 170-296-0440	When would the department issue a probationary license?
WAC 170-296-0260	Do I need to renew my license?	WAC 170-296-0450	When will my license be denied, suspended or revoked?
WAC 170-296-0270	Am I required to submit an application if I move to a new address while my license is current?	WAC 170-296-0460	Are there any other reasons that could potentially cause me to lose my license?
WAC 170-296-0280	May a family home child care have more than one type of license to provide care to children?	WAC 170-296-0470	How will the department notify me if my license is denied, suspended, or revoked?
WAC 170-296-0290	What hours may a family home child care be open?	WAC 170-296-0480	What may I do if I disagree with the department's decision to deny, suspend, revoke, or modify my license?
WAC 170-296-0300	What does the department look for when inspecting my home for licensed child care?	WAC 170-296-0490	What written procedures am I required to establish for my child care business?
WAC 170-296-0315	Issuance of license.		
WAC 170-296-0320	How many children may I care for?	WAC 170-296-0500	What written information am I required to give to parents?
WAC 170-296-0330	Is there more than one category of license?	WAC 170-296-0510	What forms am I required to have before a child can attend my child care program?
WAC 170-296-0340	When will the department issue an initial license to me?	WAC 170-296-0520	How long must I keep child records and what am I required to document while operating my business?
WAC 170-296-0350	When will the department issue a full license to me?		
WAC 170-296-0360	What happens if I fail to follow the rules?	WAC 170-296-0530	Am I required to keep child and family records confidential?
WAC 170-296-0370	How does the department notify me if I am in violation of the licensing rules and what am I required to do?	WAC 170-296-0540	What items am I required to post and where do I post them?
WAC 170-296-0380	How does the department determine the amount of time I have to make corrections?	WAC 170-296-0550	What change of circumstance must I report to my licensor?
WAC 170-296-0390	What does the department base a fine on?	WAC 170-296-0560	What are the occupancy restrictions for a family home child care?
WAC 170-296-0400	Am I required to inform the public if the department has assessed a civil penalty to me?	WAC 170-296-0570	What are the requirements for hazardous areas of my home?

WAC 170-296-0580	What are the requirements for smoke detectors in my home?	WAC 170-296-0810	Are there requirements for the storage of medications?
WAC 170-296-0590	Am I required to have other ways to sound a fire alarm?	WAC 170-296-0820	Are there requirements for storing dangerous chemicals or other substances?
WAC 170-296-0600	Are there requirements for fire extinguishers?	WAC 170-296-0830	Are first-aid supplies required?
WAC 170-296-0610	What must I do to prevent fire in my home?	WAC 170-296-0840	What are the requirements for health care policies and procedures for a family home child care?
WAC 170-296-0620	What are the requirements for maintaining my sprinkler system?	WAC 170-296-0850	Must all children in my care have current immunizations?
WAC 170-296-0630	Must I have a fire evacuation plan?	WAC 170-296-0860	What must I do to prevent the spread of infections and communicable diseases?
WAC 170-296-0640	Must I have fire evacuation drills?	WAC 170-296-0870	How do I manage medications for children?
WAC 170-296-0650	Are there any requirements for staff training related to fire safety?	WAC 170-296-0880	What are the requirements for labeling and dispensing of medications to children?
WAC 170-296-0700	How often must staff wash their hands?	WAC 170-296-0890	When may children take their own medicine?
WAC 170-296-0710	How often must children wash their hands?	WAC 170-296-0900	Are there general nutrition requirements?
WAC 170-296-0720	What are the physical structure and equipment safety requirements for a family home child care?	WAC 170-296-0910	How often must I feed children in my care?
WAC 170-296-0730	What are the requirements for the location of a family home child care?	WAC 170-296-0920	What are the requirements for meals and snacks served to children in my care?
WAC 170-296-0740	What are the requirements for emergency aid vehicle access to my home?	WAC 170-296-0930	How do I handle a child's special diet?
WAC 170-296-0750	What steps must I take to ensure children's safety around outdoor bodies of water?	WAC 170-296-0940	Are there special requirements for serving milk?
WAC 170-296-0760	What measures must I take for pest control?	WAC 170-296-0950	What home canned foods may I use?
WAC 170-296-0770	What are the requirements regarding pets and animals at a family home child care?	WAC 170-296-0960	What requirements must I meet for feeding infants?
WAC 170-296-0780	Are alcoholic beverages allowed during operating hours?	WAC 170-296-0970	Are there requirements for the rooms that I use to provide child care?
WAC 170-296-0790	Is smoking permitted around children?	WAC 170-296-0980	What does the room temperature need to be?
WAC 170-296-0800	May I have weapons at my home?	WAC 170-296-0990	What are the kitchen requirements?
		WAC 170-296-1000	How do I wash, rinse and sanitize dishes and eating utensils?
		WAC 170-296-1010	May I use the kitchen for activities for children?

WAC 170-296-1020	May I use a room for more than one purpose?	WAC 170-296-1230	What are the size requirements for an outdoor play area?
WAC 170-296-1030	What are the general requirements for bedrooms?	WAC 170-296-1240	What are the requirements for outdoor play equipment?
WAC 170-296-1040	What are the requirements for mats and cots used for napping?	WAC 170-296-1250	What are the requirements I must follow when I transport children?
WAC 170-296-1050	What are the requirements for the use of cribs?	WAC 170-296-1260	What are the requirements for protecting a child under my care from abuse or neglect?
WAC 170-296-1060	What sleeping arrangements must I make to reduce the risk of sudden infant death syndrome (SIDS)?	WAC 170-296-1280	What requirements must I follow when guiding and disciplining children?
WAC 170-296-1070	What are the requirements for beds?	WAC 170-296-1290	What types of disciplinary practices must not be used?
WAC 170-296-1080	What is the requirement for napping and resting?	WAC 170-296-1300	Is the use of physical restraint allowed?
WAC 170-296-1090	What are the requirements for diapers and diaper changing areas?	WAC 170-296-1320	What types of restraint are not acceptable for children?
WAC 170-296-1100	What are the requirements for bathing children in care?	WAC 170-296-1330	What must I do following an incident that involved using physical restraint?
WAC 170-296-1110	Do I need a telephone?	WAC 170-296-1340	What incidents involving children must I report?
WAC 170-296-1120	What are the lighting requirements?	WAC 170-296-1350	What are the capacity and the ratio of child care staff to children based on?
WAC 170-296-1130	What are the requirements for ventilation?	WAC 170-296-1360	What am I required to do to supervise children?
WAC 170-296-1140	What are the requirements for drinking water?	WAC 170-296-1370	What types of play materials, equipment and activities must I provide for the children in my care?
WAC 170-296-1150	What are the requirements for sewage and liquid wastes?	WAC 170-296-1380	Are there additional requirements regarding American Indian children?
WAC 170-296-1160	What are the requirements for laundry facilities?	WAC 170-296-1390	How am I required to interact with the children in my care?
WAC 170-296-1170	What are the requirements for washing laundry used in child care?	WAC 170-296-1400	What are the responsibilities of the family home provider?
WAC 170-296-1180	What are the requirements for handwashing sinks?	WAC 170-296-1410	What are the required staffing qualifications for child care?
WAC 170-296-1190	What are the requirements for toilets and toileting?	WAC 170-296-1420	Must I be present while children are at my family home child care?
WAC 170-296-1200	Must a family home child care have toilet training equipment for children?	WAC 170-296-1430	Are child care assistants and volunteers allowed to pro-
WAC 170-296-1210	What are the requirements for indoor play areas?		
WAC 170-296-1220	What are the requirements for an outdoor play area?		

- WAC 170-296-1440      vide care to a group of children without supervision?  
Am I required to offer training to my staff?
- WAC 170-296-1450      What personnel records must I have?

**WSR 12-01-001**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed December 7, 2011, 12:04 p.m., effective January 7, 2012]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of amending these rules is to comply with changes to state law made by the 2011 legislature in SSB 5042.

Highlights of proposed changes:

- Expands the definition of "financial exploitation" to include improper control over or withholding of a vulnerable adult's resources by another person or entity.
- Refers to examples of "financial exploitation" found in chapter 74.34 RCW.

Citation of Existing Rules Affected by this Order: Amending WAC 388-111-0001.

Statutory Authority for Adoption: Chapter 74.34 RCW, RCW 74.08.090 and 71A.12.030.

Adopted under notice filed as WSR 11-18-093 on September 7, 2011.

Changes Other than Editing from Proposed to Adopted Version: Changes are shown below with new language underlined and deleted text lined through.

**WAC 388-111-0001 Definitions.**

"Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment of a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation of a vulnerable adult, which have the following meanings:

(1) **"Mental abuse"** means any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a resident from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating, yelling, or swearing.

(2) **"Physical abuse"** means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, prodding, or the use of chemical or physical restraints unless the restraint is consistent with certification requirements.

(3) **"Sexual abuse"** means any form of nonconsensual sexual contact, including, but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual contact may include interactions that do not involve touching, including but not limited to sending a resident sexually explicit messages, or cuing or encouraging a resident/ ~~client~~ to perform sexual acts. Sexual abuse includes any sexual contact between a staff person and a resident, whether or not it is consensual.

(4) **"Exploitation"** means an act of forcing, compelling, or exerting undue influence over a resident causing the resident to act in a way that is inconsistent with relevant past behavior, or causing the resident to perform services for the benefit of another.

[Statutory Authority: Chapter 74.34 RCW, RCW 74.08.090, and 71A.12.030. 11-07-025, § 388-111-0001, filed 3/10/11, effective 4/10/11.]

The changes were made because of comments received and to make the requirements clearer.

SUMMARY OF COMMENTS RECEIVED	THE DEPARTMENT CONSIDERED ALL THE COMMENTS. THE ACTIONS TAKEN IN RESPONSE TO THE COMMENTS, OR THE REASONS NO ACTIONS WERE TAKEN, FOLLOW.
<b>WAC 388-111-0001 Definitions.</b> Under the definition of "sexual abuse," specify that the sexually explicit messages are sent to residents.	A change was made in response to this comment. Wording was changed to clarify that the rule applies to sexually explicit messages sent to a resident.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 5, 2011.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-07-025, filed 3/10/11, effective 4/10/11)

**WAC 388-111-0001 Definitions. "Abandonment"** means action or inaction by an individual or entity with a

duty of care for a vulnerable adult that leaves the vulnerable individual without the means or ability to obtain necessary food, clothing, shelter, or health care.

**"Abuse"** means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment of a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation of a vulnerable adult, which have the following meanings:

(1) **"Mental abuse"** means any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a resident from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating, yelling, or swearing.

(2) **"Physical abuse"** means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, prodding, or the use of chemical or physical restraints unless the restraint is consistent with certification requirements.

(3) **"Sexual abuse"** means any form of nonconsensual sexual contact, including, but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual contact may include interactions that do not involve touching, including but not limited to sending a resident sexually explicit messages, or cuing or encouraging a resident to perform sexual acts. Sexual abuse includes any sexual contact between a staff person and a resident, whether or not it is consensual.

(4) **"Exploitation"** means an act of forcing, compelling, or exerting undue influence over a resident causing the resident to act in a way that is inconsistent with relevant past behavior, or causing the resident to perform services for the benefit of another.

**"Administrative hearing"** is a formal hearing proceeding before a state administrative law judge that gives an individual an opportunity to appeal a finding of abandonment, abuse, neglect or financial exploitation of a resident.

**"Administrative law judge (ALJ)"** means an impartial decision maker who presides over an administrative hearing. ALJs are employed by the office of administrative hearings (OAH), which is a separate state agency. ALJs are not DSHS employees or DSHS representatives.

**"Department"** means the department of social and health services (DSHS).

**"Facility":**

(1) Except as defined in subsection (2) of this definition, the term "facility" means an intermediate care facility for persons with intellectual disabilities (ICF/ID).

(2) When used in the definition of "mandated reporter", the term "facility" means a residence licensed or required to be licensed under chapter 18.20 RCW, boarding homes; chapter 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36 RCW, soldiers' homes; or

chapter 71A.20 RCW, residential habilitation centers; or any other facility licensed by the department.

**"Financial exploitation"** means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any individual or entity for ((his or her)) any individual's or entity's profit or advantage other than the vulnerable adult's profit or advantage. Some examples of financial exploitation are given in RCW 74.34.020(6).

**"Individual"** means anyone used by the facility to provide services to residents, who is alleged to have abandoned, abused, neglected, misappropriated property of, or financially exploited a resident. "Individual" includes, but is not limited to, employees, contractors and volunteers. "Individual" also includes a person used by the certified nursing facility portion of a residential habilitation center operated under chapter 71A.20 RCW.

**"Intermediate care facility for persons with intellectual disabilities (ICF/ID)"** means an institution certified under chapter 42 C.F.R., Part 483, Subpart I, unless the facility is licensed as a nursing home under chapter 18.51 RCW or as a boarding home under chapter 18.20 RCW.

**"Mandated reporter"** is an employee of the department; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.

**"Neglect"** means that an individual or entity with a duty to care for residents has:

(1) By an act or omission, demonstrated a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the resident's health, welfare or safety; or

(2) Through conduct or inaction, or a pattern of conduct or inaction, failed to provide a resident with the goods and services that maintain physical or mental health of a vulnerable adult, or that failed to avoid or prevent physical harm, pain, mental anguish, or mental illness.

**"Resident"** means an individual residing in a facility or in the certified nursing facility portion of a residential habilitation center operated under chapter 71A.20 RCW.

**"Willful"** means the deliberate, or nonaccidental, action or inaction by an individual that he or she knew or reasonably should have known could cause a negative outcome, including harm, injury, pain or anguish.

## WSR 12-01-002

### PERMANENT RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed December 7, 2011, 12:12 p.m., effective January 7, 2012]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The division of child support (DCS) is adopting new and amended sections in chapter 388-14A WAC in order to implement E2SHB 1267 (chapter 283, Laws of 2011) effective date July 22, 2011.

NOTE: DCS adopted emergency rules in order to implement the bill as of its effective date. The first set of emergency rules was filed under WSR 11-16-007 (effective July 22, 2011) and will expire November 18, 2011; the second set of emergency rules was filed under WSR 11-23-075 (effective November 15, 2011) and will maintain the *status quo* until the permanent rules are final.

Citation of Existing Rules Affected by this Order: Amending WAC 388-14A-1020, 388-14A-3100, 388-14A-3102, and 388-14A-3115.

Statutory Authority for Adoption: E2SHB 1267 (chapter 283, Laws of 2011) effective date July 22, 2011, RCW 34.05.220, 43.20A.550, 74.04.055, 74.04.057, 74.08.090, 74.20A.055, 74.20A.056, 74.20A.310.

Adopted under notice filed as WSR 11-20-099 on October 5, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 4, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: December 5, 2011.

Katherine I. Vasquez  
Rules Coordinator

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 12-02 issue of the Register.

**WSR 12-01-003  
PERMANENT RULES  
DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed December 7, 2011, 12:15 p.m., effective January 7, 2012]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending sections to these rules as a result of legislative activity during session and to be consistent with newly passed state laws: SSB 5042 Vulnerable adults protection, ESHB 1277 Oversight of licensed or certified long-term care settings for vulnerable adults, ESHB 1548 Long-term care worker requirements superseded by Initiative 1163, and 2E2SHB 1738 Changing the designation of the medicaid state agency.

Citation of Existing Rules Affected by this Order: Amending WAC 388-78A-2130, 388-78A-2474, 388-78A-2750, 388-78A-2780, 388-78A-2800, and 388-78A-3230.

Statutory Authority for Adoption: Chapter 18.20 RCW. Adopted under notice filed as WSR 11-17-134 on August 24, 2011.

Changes Other than Editing from Proposed to Adopted Version: [No information supplied by agency.]

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 6, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 0.

Date Adopted: December 5, 2011.

Katherine I. Vasquez  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 04-16-065, filed 7/30/04, effective 9/1/04)

**WAC 388-78A-2130 Service agreement planning.**

The boarding home must:

(1) Develop an initial resident service plan, based upon discussions with the resident and the resident's representative if the resident has one, and the preadmission assessment of a qualified assessor, upon admitting a resident into a boarding home. The boarding home must ensure the initial resident service plan:

(a) Integrates the assessment information provided by the department's case manager for each resident whose care is partially or wholly funded by the department or the health care authority;

(b) Identifies the resident's immediate needs; and

(c) Provides direction to staff and caregivers relating to the resident's immediate needs, capabilities, and preferences.

(2) Complete the negotiated service agreement for each resident using the resident's preadmission assessment, initial resident service plan, and full assessment information, within thirty days of the resident moving in;

(3) Review and update each resident's negotiated service agreement consistent with WAC 388-78A-2120:

(a) Within a reasonable time consistent with the needs of the resident following any change in the resident's physical, mental, or emotional functioning; and

(b) Whenever the negotiated service agreement no longer adequately addresses the resident's current assessed needs and preferences.

(4) Review and update each resident's negotiated service agreement as necessary following an annual full assessment;

(5) Involve the following persons in the process of developing and updating a negotiated service agreement:

- (a) The resident;
  - (b) The resident's representative to the extent he or she is willing and capable, if the resident has one;
  - (c) Other individuals the resident wants included;
  - (d) The department's case manager, if the resident is a recipient of medicaid assistance, or any private case manager, if available; and
  - (e) Staff designated by the boarding home.
- (6) Ensure:
- (a) Individuals participating in developing the resident's negotiated service agreement:
    - (i) Discuss the resident's assessed needs, capabilities, and preferences; and
    - (ii) Negotiate and agree upon the care and services to be provided to support the resident; and
  - (b) Staff persons document in the resident's record the agreed upon plan for services.

AMENDATORY SECTION (Amending WSR 10-16-085, filed 7/30/10, effective 1/1/11)

**WAC 388-78A-2474 Training and home care aide certification requirements.** (1) The boarding home must ensure staff persons (~~hired before January 1, 2011~~) hired before January 7, 2012 meet training requirements in effect on the date hired, including requirements in chapter 388-112 WAC.

(2) The boarding home must ensure all boarding home administrators, or their designees, and caregivers hired on or after (~~January 1, 2011~~) January 7, 2012 meet the long-term care worker training requirements of chapter 388-112 WAC, including but not limited to:

- (a) Orientation and safety;
- (b) Basic;
- (c) Specialty for dementia, mental illness and/or developmental disabilities when serving residents with any of those primary special needs;
- (d) Cardiopulmonary resuscitation and first aid; and
- (e) Continuing education.

(3) The boarding home must ensure that all staff receive appropriate training and orientation for their specific duties and responsibilities.

(4) The boarding home must ensure all persons listed in subsection (2) of this section, obtain the home-care aide certification if required by chapter 246-980 WAC.

~~((4))~~ (5) Under RCW 18.88B.040 and chapter 246-980 WAC, certain persons including registered nurses, licensed practical nurses, certified nursing assistants, or persons who are in an approved certified nursing assistant program are exempt from long-term care worker training requirements. Continuing education requirements still apply as outlined in chapter 388-112 WAC.

~~((5))~~ (6) For the purpose of this section, the term "care-giver" has the same meaning as the term "long-term care worker" as defined in RCW 74.39A.009.

AMENDATORY SECTION (Amending WSR 10-16-085, filed 7/30/10, effective 1/1/11)

**WAC 388-78A-2750 Application process.** To apply for a boarding home license, a person must:

- (1) Submit to the department a complete license application on forms designated by the department at least ninety days prior to the proposed effective date of the license;
  - (2) Submit all relevant attachments specified in the application;
  - (3) Submit department background authorization forms as required in WAC 388-78A-2462 and 388-78A-2463;
  - (4) Sign the application;
  - (5) Submit the license fee as specified in WAC 388-78A-3230;
  - (6) Submit verification that construction plans have been approved by construction review services;
  - (7) Submit a revised application before the license is issued if any information has changed since the initial license application was submitted;
  - (8) Submit a revised application containing current information about the proposed licensee or any other persons named in the application, if a license application is pending for more than one year; and
  - (9) If the licensee's agent prepares an application on the licensee's behalf, the licensee must review, sign and attest to the accuracy of the information contained in the application.
- (10) A license must be issued only to the person who applied for the license.
- (11) A license may not exceed twelve months in duration and expires on a date set by the department.

AMENDATORY SECTION (Amending WSR 09-06-063, filed 3/2/09, effective 4/2/09)

**WAC 388-78A-2780 Change in licensee/change of ownership—Notice to department and residents.** (1) In order to change the licensee of a boarding home, the current licensee must notify the following in writing of the proposed change in licensee:

- (a) The department; and
  - (b) All residents, or resident representatives (if any).
- (2) The licensee must include the following information in the written notice:
- (a) Name of the present licensee and prospective licensee;
  - (b) Name and address of the boarding home for which the licensee is being changed;
  - (c) Date of proposed change; and
  - (d) If the boarding home contracts with the department, health care authority or other public agencies that may make payments for residential care on behalf of residents, the anticipated effect, such as discharge from the boarding home, the change of licensee will have on residents whose care and services are supported through these contracts.

AMENDATORY SECTION (Amending WSR 04-16-065, filed 7/30/04, effective 9/1/04)

**WAC 388-78A-2800 Changes in licensed bed capacity.** To change the licensed bed capacity in a boarding home, the boarding home must:

- (1) Submit a completed request for approval to the department at least one day before the intended change;
- (2) Submit the prorated fee (~~(required according to WAC 388-78A-3230)~~) for additional beds if applicable; and
- (3) Post an amended license obtained from the department, indicating the new bed capacity.

AMENDATORY SECTION (Amending WSR 10-21-036, filed 10/12/10, effective 10/29/10)

**WAC 388-78A-3230 Fees.** The boarding home must:

- (1) Submit an annual per bed license fee (~~((of one hundred six dollars per bed of the licensed resident bed capacity as determined by and in accordance with RCW 18.20.050)) based on the licensed bed capacity and as established in the state's biennial omnibus appropriation act and any amendment or addition made to that act;~~)
- (2) (~~Submit an additional one hundred fifty dollars when billed by the department for:~~)
  - (a) ~~A third on-site visit required by the boarding home's failure to adequately correct problems identified in a statement of deficiencies; and~~
  - (b) ~~A full out of sequence inspection resulting from information gathered during a complaint investigation.~~
- (~~3~~) Submit an additional late fee in the amount of ten dollars per day from the license renewal date until the date of mailing the fee, as evidenced by the postmark; and
- (~~4~~) (3) Submit to construction review services a fee for the review of the construction documents per the review fee schedule that is based on the project cost.

#### WSR 12-01-004

#### PERMANENT RULES DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed December 7, 2011, 12:17 p.m., effective January 7, 2012]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending these rules as a result of legislative activity during session and to be consistent with newly passed state laws: ESHB 1548 Implementation of long-term care worker requirements regarding background checks and training which was superseded by Initiative 1163, SSB 5042 Vulnerable adults protection, ESHB 1277 Oversight of licensed or certified long-term care settings for vulnerable adults and 2E2SHB 1738 Changing the designation of medicaid state agency.

The department added WAC 388-76-10037, 388-76-10561, 388-76-10911, and 388-76-10976.

Citation of Existing Rules Affected by this Order: Amending WAC 388-76-10000, 388-76-10015, 388-76-10025, 388-76-10035, 388-76-10064, 388-76-10070, 388-

76-10073, 388-76-10080, 388-76-10105, 388-76-10120, 388-76-10130, 388-76-10146, 388-76-10395, 388-76-10540, 388-76-10570, 388-76-10915, 388-76-10945, 388-76-10960, and 388-76-10975.

Statutory Authority for Adoption: Chapter 70.128 RCW.

Adopted under notice filed as WSR 11-18-096 on September 7, 2011.

Changes Other than Editing from Proposed to Adopted Version: See Reviser's note below.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 4, Amended 19, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 4, Amended 19, Repealed 0.

Date Adopted: December 5, 2011.

Katherine I. Vasquez

Rules Coordinator

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 12-02 issue of the Register.

#### WSR 12-01-021

#### PERMANENT RULES

#### WESTERN WASHINGTON UNIVERSITY

[Filed December 9, 2011, 2:09 p.m., effective January 9, 2012]

Effective Date of Rule: Thirty-one days after filing.

Purpose: As part of WWU's review of its student conduct code, the university proposes to repeal the current chapter 516-23 WAC and adopt chapter 516-21 WAC in its place. The updated rules clarify student responsibilities and proceedings for violations of the code. The updated rules also address the United States Department of Education's October 2010 Dear Colleague Letter on harassment and bullying and its April 2011 Dear Colleague Letter on sexual violence. The proposed rules state the rights of students accused of violating the code and of students who have filed a complaint or are the victim of an alleged violation of the code, including the rights specific to victims of incidents involving violence or sexual violence.

Citation of Existing Rules Affected by this Order: Repealing chapter 516-23 WAC, Student rights and responsibilities code.

Statutory Authority for Adoption: RCW 28B.35.120 (12).

Other Authority: 20 U.S.C. 1681-1688 (Title IX Education Amendments of 1972).

Adopted under notice filed as WSR 11-20-080 on October 4, 2011.

Changes Other than Editing from Proposed to Adopted Version: General housekeeping edits related to grammar and better defining of terms. These edits were determined to not be substantive by university legal counsel.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 3, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 35, Amended 0, Repealed 38.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 35, Amended 0, Repealed 38.

Number of Sections Adopted Using Negotiated Rule Making: New 35, Amended 0, Repealed 38; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 9, 2011.

Suzanne M. Baker  
Rules Coordinator

## Chapter 516-21 WAC

### STUDENT RIGHTS AND RESPONSIBILITIES CODE

#### NEW SECTION

**WAC 516-21-010 Introduction.** Western Washington University students enjoy the same basic rights, privileges, and freedoms granted to all members of society. At the same time, acceptance of admission to the university carries with it an obligation to fulfill certain responsibilities and expectations as a member of the Western Washington University community.

As a condition of enrollment at Western, students must assume responsibility for their own actions and maintain an environment conducive to the academic success, safety, and well-being of others. In addition, they are expected to be truthful, respect the rights of others, and abide by all university policies and procedures, as well as all applicable local, state, and federal laws and regulations. All students are responsible for understanding and complying with the responsibilities and expectations set forth in this code.

The student conduct process at Western is designed to be a learning process that promotes an understanding of students' responsibilities as members of the university community. The objectives of the student conduct system, as set forth in this code, are twofold: To ensure that students act in a manner consistent with high standards of scholarship and behavior, and to maintain the safety and well-being of all members of the university community.

#### NEW SECTION

**WAC 516-21-020 Definitions.** As used in this chapter, the following words and phrases mean:

- (1) **Appeals board.** The student conduct appeals board.
- (2) **Business day.** Any day, Monday through Friday (excluding holidays), during which university offices are open.
- (3) **Catalog.** The *Western Washington University General Catalog*.
- (4) **Code.** The student rights and responsibilities code.
- (5) **Conduct hold or judicial hold.** A block placed on a student's official university record at the request of the conduct officer or dean of students. A conduct or judicial hold prohibits a student from registering for classes, requesting an official transcript, or receiving a degree from the university until the hold has been removed.
- (6) **Conduct officer.** The student conduct officer or his/her authorized designee.
- (7) **Dean of students.** The dean of students or his/her designee.
- (8) **Guest.** Any person who is not a member of the university community, who is on university property or attending an official university function at the invitation and/or hosting of a student.
- (9) **Member of the university community.** Any person who is a student, university official, or who is otherwise employed or contracted by the university. A person's status in a particular situation shall be determined by the dean of students.
- (10) **Official university function.** Any activity, on or off campus, that is initiated, sponsored, or supervised by any entity of Western Washington University.
- (11) **Preponderance of evidence.** Defined as "more likely than not," the standard of responsibility that is used when determining whether a violation of the student rights and responsibilities code has occurred.
- (12) **Student.** Any person who:
  - (a) Has been formally admitted to the university;
  - (b) Is enrolled in one or more classes at the university, including nonmatriculated international students attending language institutes or foreign study programs;
  - (c) Is participating in a certificate, degree, distance learning, or professional enrichment program, through extended education and summer programs;
  - (d) Is participating in a university-sponsored study abroad program;
  - (e) Was enrolled in a prior quarter or summer session at the university and is eligible to continue enrollment in the quarter or summer session that immediately follows; or
  - (f) Withdrew from the university after an alleged violation of the code, for conduct that occurred while they were enrolled or participating in a program offered by the university.
- (13) **University.** Western Washington University and all associated programs, including those offered on-line and/or at off-campus program sites.
- (14) **University official.** Any person employed or contracted by the university, who is performing assigned teaching, administrative, or professional responsibilities. Univer-

sity officials may be full- or part-time, and may include student staff members.

(15) **University property.** All land, buildings, facilities, and other property that is owned, used, leased, or controlled by Western Washington University. University property also includes adjacent streets and sidewalks.

(16) **WAC.** An abbreviation for the Washington Administrative Code.

#### NEW SECTION

**WAC 516-21-030 Jurisdiction.** (1) The student rights and responsibilities code applies to all conduct that occurs on university property or in connection with any official university function.

(2) Western Washington University does not act as a policing agent for students when they are off campus. However, the university reserves the right to take action if a student's conduct is determined to adversely affect a substantial university interest. Student conduct that occurs off campus may be subject to the student rights and responsibilities code when it:

- (a) Adversely affects the safety or well-being of any member of the university community; or
- (b) Involves academic work or any records, documents, or identifications of the university.

In determining whether to exercise jurisdiction over such conduct, the student conduct officer shall consider the seriousness of the alleged offense, the risk of harm involved, and whether the alleged victim(s) are members of the university community. Any question of interpretation or application of jurisdiction shall be referred to the dean of students for final determination.

(3) Students are responsible for their conduct from the time they have confirmed their enrollment at Western through the awarding of their degree. This includes conduct that occurs before classes begin, after classes end, and during periods between actual terms of enrollment. Students who are found to be in violation of the code may be subject to sanctions under the code.

(4) A student with a pending conduct violation may not avoid the conduct process by withdrawing from the university. In these circumstances, a conduct hold will be placed on the student's official record, preventing them from registering for classes, requesting an official transcript, or receiving a degree from the university. This hold will remain in place until the student has met with the conduct officer to discuss the alleged conduct violation(s).

(5) Sanctions against student organizations are decided by procedures established by the university administrative unit governing that organization's recognition. Conduct proceedings against individual member(s) of a student organization can be initiated under this code, independent of any departmental action(s) taken against the student organization.

#### NEW SECTION

**WAC 516-21-040 Student responsibility for guests.**

(1) Guests and visitors on university property or at official university functions are expected to comply with all univer-

sity policies and procedures, as well as all applicable local, state, and federal laws and regulations.

(2) Students who invite guests into their campus residence hall or apartment, or to official university functions open only to Western students, are responsible for the behavior of their guests. As a result, a student may be held responsible for any alleged violation(s) of the code committed by their guests. See also WAC 516-24-001 Conduct of campus guests and visitors.

#### NEW SECTION

**WAC 516-21-050 Academic dishonesty.** The university's policy and procedures regarding academic dishonesty are addressed in the academic honesty policy and procedure. As noted in the policy, academic dishonesty at Western Washington University is a serious infraction dealt with severely. For a list of actions that constitute academic dishonesty, refer to the academic honesty policy and procedure in the catalog.

#### NEW SECTION

**WAC 516-21-060 Conduct that threatens health or safety.** Conduct that threatens the health or safety of any person, including oneself, is a violation of the code. Conduct that threatens health or safety includes, but is not limited to:

- (1) Intoxication or impairment through the use of alcohol or other substances to the point that a student is unable to exercise care for his/her own safety or well-being.
- (2) Any threat, stated or implied, to the health, safety or well-being of self or others.
- (3) Any contact or communication of a threatening nature that intimidates, harasses, or causes a person to fear for their safety or well-being.
- (4) Incidents involving the use or display of a weapon or destructive device likely to cause bodily injury and/or damage to property.

#### NEW SECTION

**WAC 516-21-070 Disruptive behavior.** Behavior that substantially disrupts, disturbs, or interferes with the ability of students to learn or university officials to perform their assigned duties is a violation of the code. Disruptive behavior includes, but is not limited to:

- (1) Demonstrations or protests that substantially disrupt, disturb, or interfere with:
  - (a) Classroom activities or other educational pursuits;
  - (b) Official university activities or functions including, but not limited to, ceremonies, meetings, office functions, performances, or athletic events;
  - (c) Pedestrian or vehicular traffic; or
  - (d) The preservation and protection of university property and/or the personal property of members of the university community.
- (2) Any other behavior that substantially disrupts, disturbs, or interferes with:
  - (a) Classroom activities or other educational pursuits;

(b) Official university activities or functions including, but not limited to, ceremonies, meetings, office functions, performances, or athletic events;

(c) Pedestrian or vehicular traffic; or

(d) The preservation and protection of university property and/or the personal property of members of the university community.

#### NEW SECTION

**WAC 516-21-080 Failure to comply.** Failure to comply with the instructions or directives of any university official or other public official acting in performance of their duties, or failure to identify oneself when asked to do so by a university official or other public official acting in performance of their duties, is a violation of the code.

#### NEW SECTION

**WAC 516-21-090 False information.** Providing or creating false information is a violation of the code. False information includes, but is not limited to:

(1) Forging, altering, mutilating, or destroying any university document or record, or entering false information into such documents or records;

(2) Possessing or presenting as authentic any falsified document, record, or identification;

(3) Intentionally making false accusations or charges against another member of the university community; and

(4) Knowingly providing false information or statements to any university official or other public official acting in performance of their duties.

#### NEW SECTION

**WAC 516-21-100 Fire safety and false alarms.** Tampering with, altering, or disabling fire safety equipment, including emergency call devices, fire alarms, fire exits, fire extinguishers, smoke/heat detectors, or sprinkler systems; intentionally activating a fire alarm; making a false report of a fire or other emergency; or refusing to leave a building when a fire alarm sounds or when directed to by a university official or by emergency personnel are violations of the code.

#### NEW SECTION

**WAC 516-21-110 Harassment.** Harassment, defined as any conduct that is sufficiently severe, pervasive, or persistent to have the purpose or effect of interfering with a member of the university community's ability to work, study, or participate in their regular activities, is a violation of the code. Examples of harassment include, but are not limited to:

(1) Engaging in unwanted contact or communication, including calls, voice messages, electronic mail, text messages, social media posts or messages, written letters, unwanted gifts, or face-to-face contact with a member of the university community;

(2) Repeatedly following a member of the university community; waiting outside their residence, school, or place of employment; or placing them under any form of surveillance; and

(3) Engaging in any form of behavior that is meant to threaten or intimidate a member of the university community based on their membership in a protected class, including race, color, creed, religion, national origin, sex, age, disability, marital status, genetic information, status as a veteran, and/or sexual orientation.

#### NEW SECTION

**WAC 516-21-120 Hazing.** Hazing, defined as any act that, as an explicit or implicit condition for initiation or admission into, affiliation with, or continued membership in a group or organization, endangers the health, safety, or well-being of any member of the university community, is a violation of the code. Examples of hazing include, but are not limited to:

(1) Requiring the consumption of any food, alcohol, drug, or other substance.

(2) Requiring forced participation in physical activities, including calisthenics, exercise, or other games or activities that entail physical exertion.

(3) Requiring exposure to weather elements or to other physically or emotionally uncomfortable situations, including sleep deprivation, confinement in small spaces, physical bondage, and/or taking a student to an outlying area and dropping them off.

(4) Requiring conduct that can be reasonably expected to embarrass another, including the performance of public stunts or activities such as scavenger hunts.

(5) Requiring anything that would be illegal under city, state, or federal law, or in violation of any university policies or procedures, including the code.

#### NEW SECTION

**WAC 516-21-130 Illegal possession and/or use of alcohol.** Illegally possessing, using, distributing, selling, or being under the influence of alcohol while on university property or at an official university function is a violation of the code. This includes, but is not limited to:

(1) Possession or consumption of alcohol by anyone under the age of twenty-one;

(2) Providing alcohol to anyone under the age of twenty-one;

(3) Driving on university property while under the influence of alcohol; and

(4) Public intoxication by persons of any age. See also policy concerning alcohol and other drugs in the catalog.

#### NEW SECTION

**WAC 516-21-140 Illegal possession and/or use of drugs.** Illegally possessing, using, manufacturing, cultivating, packaging, distributing, selling, or providing a controlled or illegal substance, or being under the influence of a controlled or illegal substance while on university property or at an official university function, is a violation of the code. This includes, but is not limited to:

(1) Possession of drug paraphernalia;

(2) Driving on university property while under the influence of a controlled or illegal substance; and

(3) Intentionally misusing or distributing prescription drugs. See also policy concerning alcohol and other drugs in the catalog.

#### NEW SECTION

**WAC 516-21-150 Interfering with the conduct process.** Interfering with the conduct process is a violation of the code. This includes, but is not limited to:

- (1) Giving a false report or claim;
- (2) Attempting to influence the impartiality of witnesses or appeals board member(s);
- (3) Participating in or encouraging retribution against complainants or witnesses;
- (4) Threatening, harassing, or intimidating complainants or witnesses;
- (5) Disrupting or interfering with the orderly conduct of a hearing or meeting; and
- (6) Failing to comply with any sanction(s) imposed as the result of a code violation.

#### NEW SECTION

**WAC 516-21-160 Misuse of computers, electronic data or communication systems.** Misuse of computers, electronic data, or communication systems is a violation of the code. This includes, but is not limited to:

- (1) Unauthorized entry into a file, web page, e-mail account, or on-line profile to use, download, read, transfer, or change the contents, or for any other purpose;
- (2) Unauthorized use of another person's university-issued identification and password;
- (3) The use of campus computing facilities, networks (including wireless networks), equipment, or services to interfere with the normal operation of the university computing system or the work of any member of the university community;
- (4) The use of campus computing facilities, networks (including wireless networks), equipment, or services to "cyber stalk" another person or to send obscene, abusive or harassing messages;
- (5) The use of campus computing facilities, networks (including wireless networks), equipment, or services to illegally copy, distribute, download, or upload information (including movies, music, or other digital content) from the internet or any electronic source;
- (6) The use of campus computing facilities, networks (including wireless networks), equipment, or services to illegally copy, reproduce, or distribute licensed software;
- (7) Attempting to modify system facilities or networks, including the introduction of electronic vandalism (e.g., "viruses," "worms," or other disruptive/destructive programs) into university computing resources or those connected to it by the network; and
- (8) The use of campus computing facilities, networks (including wireless networks), equipment or services for personal profit or for any use other than authorized university business.

Students are also responsible for reading and complying with all provisions set forth in the Western Washington University policy for responsible computing, the user agreement

for WWU network and computing resources, and the using copyrighted materials policy.

#### NEW SECTION

**WAC 516-21-170 Obstructing police and safety personnel.** Obstructing, interfering with, or delaying police or other fire, safety, or emergency personnel is a violation of the code.

#### NEW SECTION

**WAC 516-21-180 Sexual misconduct.** (1) Sexual misconduct, defined as any unwelcome behavior of a sexual nature that is committed without consent or by force, intimidation, or coercion, is a violation of the code. Sexual misconduct includes, but is not limited to:

- (a) Sexual harassment (e.g., engaging in unwelcome verbal, written, or physical behavior of a sexual nature that is directed at another person or group, based on that person or group's sex, gender, or perceived sex or gender);
- (b) Sexual intimidation (e.g., engaging in any behavior, either verbal or nonverbal, that has the effect of subjecting another person to humiliation, embarrassment, or discomfort because of their sex, gender, or perceived sex or gender);
- (c) Sexual coercion (e.g., engaging in the use of pressure, alcohol or drugs, or force to compel or persuade another person to engage in sexual activity);
- (d) Sexual exploitation (e.g., engaging in voyeurism or peeping, distributing intimate or sexual information about another person without that person's consent, knowingly transmitting an STD or HIV to another person, or engaging in any behavior that takes sexual advantage of another person without that person's consent);
- (e) Sexual assault (e.g., engaging in actual or attempted sexual touching, genital-oral contact, penetration, and/or intercourse without consent).

(2) Consent for all sexual activity must be given free of force, threat, intimidation, or coercion. At the time of the sexual activity, actual words or conduct demonstrating freely given agreement must occur; silence or passivity do not imply consent. Activity of a sexual nature is considered non-consensual when:

- (a) An individual is asleep, unconscious, or otherwise physically unable to communicate his or her willingness or unwillingness to engage in sexual activity;
- (b) An individual lacks the ability, at the time of sexual activity, to be able to understand the nature or consequences of the activity, whether due to illness; impairment; the influence of alcohol, drugs, or medication; or another cause; or
- (c) An individual is not of legal age to give consent.

(3) Sexual misconduct represents a range of behavior; it can occur between strangers or acquaintances, including individuals involved in an intimate or sexual relationship. Sexual misconduct can also be committed by individuals of any gender and can occur between people of the same or different sex. See also sexual misconduct policy and procedure in the catalog.

NEW SECTION

**WAC 516-21-190 Student violation of the law.** Students are expected to abide by all local, state, and federal laws while on campus or at official university functions. Failure to comply with these laws is a violation of the code.

While Western does not act as a policing agent for students when they are off campus, the university reserves the right to take action if a student's conduct is determined to adversely affect a substantial university interest. See also WAC 516-21-030 Jurisdiction.

Proceedings under the code may be carried out prior to, simultaneously, or following civil or criminal proceedings in the courts. Since the standard of proof under the code (preponderance of evidence) differs from that of criminal law, decisions made through the student conduct process are not subject to challenge on the grounds that criminal charges involving the same incident have been dismissed or reduced by a court of law.

NEW SECTION

**WAC 516-21-200 Theft or intentional damage of property.** Theft or intentional damage of property is a violation of the code. Theft includes, but is not limited to, attempted or actual theft of university property or services or the property or services of any member of the university community, visitors, or guests. It is also prohibited to possess stolen property or to intentionally damage, destroy, or vandalize the property of the university or others.

NEW SECTION

**WAC 516-21-210 Trespassing.** Trespassing is a violation of the code. Trespassing includes, but is not limited to:

(1) Unauthorized entry into, occupation, or use of any university-owned or controlled property, equipment, or facilities;

(2) Unauthorized entry into, occupation, or use of any restricted areas of the campus, including research areas and utility tunnels;

(3) Unauthorized possession, duplication, or use of keys, including cards or alphanumeric pass-codes, to any university-owned or controlled property, equipment, or facilities; and

(4) Remaining in or on university-owned or controlled property after permission to remain has been revoked by any university official, including university police.

NEW SECTION

**WAC 516-21-220 Weapons and destructive devices.** Possession, use, unauthorized storage, or manufacture of firearms, ammunition, explosives, or other weapons or destructive devices capable of causing bodily injury or damage to property, on university property or at official university functions, is a violation of the code. Weapons and destructive devices include, but are not limited to:

(1) Firearms of any kind, including BB, pellet, paintball, and airsoft guns;

(2) Martial arts weapons of any kind, including nunchucks, swords, or throwing stars;

(3) Fireworks of any kind, including firecrackers, cherry bombs, or homemade explosives;

(4) Projectile devices of any kind, including catapults or slingshots;

(5) Any knife with a blade longer than three inches (excluding kitchen utensils); and

(6) Any object that can be used as a weapon to cause bodily injury or damage to property.

See also WAC 516-52-020 Firearms and dangerous weapons.

NEW SECTION

**WAC 516-21-230 Sanctions.** Sanctions serve many purposes including, but not limited to, educating students about the seriousness of their actions; reinforcing the high standards of scholarship and behavior expected of Western students; promoting student development; and maintaining the safety and well-being of members of the university community. When a student admits responsibility or is found in violation of the code, the conduct officer or dean of students may impose one or more of the sanctions listed in this section. This list of sanctions is not meant to be exclusive. Other sanctions, designed or intended to enhance the educational value of conduct proceedings, may be applied in a given case.

(1) **Warning.** A formal written notice to the student that a violation of the code has occurred, and that further violations may result in additional sanctions under the code.

(2) **Conditional status.** A probationary status imposed for a specific period of time, during which the student must demonstrate conduct that conforms to university standards. Conditions restricting the student's privileges or eligibility for activities may be imposed. Violations of any conditions specified in the notice of conditional status or violations of any other university policies or regulations during the period of the sanction, may result in additional sanctions under the code.

(3) **Loss of privileges.** A student may be denied specific privileges (i.e., participation in specific activities, restriction from specific areas of campus, etc.) on a temporary or permanent basis. Violations of any conditions specified in the notice of loss of privileges or violations of any other university policies or regulations during the period of the sanction, may result in additional sanctions under the code.

(4) **Restriction from contacting others ("no contact" order).** A student may be restricted from direct or indirect physical, verbal, or electronic contact with another person and/or group. Indirect or direct contact made with another person or group while a "no contact" order is in place may result in additional sanctions under the code.

(5) **Educational activities.** A student may be required to engage in educational activities related to violation(s) of the code. Such activities may include, but are not limited to, required attendance at educational programs, community service, conducting research projects, writing assignments, and/or meeting with campus officials.

(6) **Assessment, counseling, or treatment programs.** A student may be required to participate in an assessment, counseling, and/or treatment program (at the student's expense), to address substance abuse, anger issues, or other issues or types of behaviors that pose a threat to their safety or well-being or the safety or well-being of others.

(7) **Restitution.** A student may be required to provide compensation for loss, damage, or injury resulting from a violation of the code. Restitution may take the form of monetary or material replacement or appropriate service to repair or otherwise compensate for the loss, damage, and/or injury caused.

(8) **Parental notification.** Parents may be notified of conduct findings when a student under the age of twenty-one is found responsible for violations involving alcohol and/or drugs. When possible, students whose parents are to be notified will be informed before such notification occurs and given an opportunity to initiate contact with their parents.

(9) **Campus residence hall or apartment relocation.** A student's on-campus living arrangements may be transferred to another residence hall or apartment.

(10) **Termination of university residences agreement.** A student may be removed from their campus residence hall or apartment and their housing agreement terminated.

(11) **Suspension from the university.** A student may be removed from the university for a designated period of time, after which the student will be eligible to return. While suspended, the student is trespassing from all university facilities and prohibited from participating in official university functions. Specific conditions for readmission to the university may be imposed (e.g., counseling, completion of substance abuse treatment, etc.).

(12) **Deferred suspension.** A student may receive a notice of deferred suspension from the university, with a provision that they are allowed to remain enrolled contingent on meeting specific conditions. Failure to meet any condition(s) specified in the notice of deferred suspension will result in immediate suspension from the university.

(13) **Expulsion from the university.** A student may be permanently separated from the university. A student who has been expelled is not eligible for readmission.

#### NEW SECTION

**WAC 516-21-240 Student conduct system.** (1) The vice-president for enrollment and student services is responsible for administration of the code. Supervision of the code has been delegated by the vice-president to the dean of students.

(2) The conduct officer shall be appointed and supervised by the dean of students or his/her authorized designee. The conduct officer has the authority to adjudicate and administer sanctions for violations of the code.

(3) A six-member appeals board shall be appointed at the beginning of each fall term to consider reviews of the conduct officer's findings and decision. The appeals board shall include:

(a) Two faculty members, appointed by the faculty senate;

(b) Three student members, appointed by the associated students board of directors; and

(c) One staff member from the division of enrollment and student services, nominated by the dean of students and confirmed by the vice-president for enrollment and student services.

(4) Alternates will be identified for each area represented on the appeals board. Student appointments are for one academic year. Faculty and staff appointments are for two-year staggered terms.

(5) All appointments to the committee shall be initiated during the first full month of the fall term. Should a request for a review of the conduct officer's findings and decision come forward during the summer term or during other break periods, the review will be heard by the dean of students or by an interim appeals board appointed by the dean of students.

(6) Both the appeals board and the dean of students have full authority to render a decision under the code. All review decisions are final.

#### NEW SECTION

**WAC 516-21-250 Student rights in the conduct process.** All alleged violations of the code will be resolved through the student conduct process, respecting fairness and due process for all involved parties.

(1) Students accused of violating the code have certain rights in the conduct process. These include the right to:

(a) Receive written notification of the section(s) of the code they are alleged to have violated, including a clear description of the basis for the charge(s), delivered via e-mail to the student's official @students.wvu.edu account;

(b) Meet with the conduct officer to discuss the section(s) of the code they are alleged to have violated and present a response to such allegations;

(c) Provide evidence on their own behalf, including the names or written statements of individuals who can offer information regarding the incident in question;

(d) Be accompanied through the conduct process by a person of their choice (this person may give advice to the student, but may not directly address the conduct officer, any member of the appeals board, or the dean of students);

(e) Refuse to answer any question asked of them and have no inference of guilt drawn from such refusal;

(f) Receive written notification of the conduct officer's findings and decision, delivered via e-mail to the student's official @students.wvu.edu account, within seven business days of the date of the meeting (or, if multiple meetings are necessary to determine responsibility or multiple individuals are involved and information presented by each is deemed necessary to determine responsibility, within seven business days of the date of the final meeting for the specific incident);

(g) Request a review of the conduct officer's findings and decision by the appeals board or dean of students, as described in WAC 516-21-280 Basis for review; and

(h) Waive any of the rights contained in this section.

(2) Individuals who have filed a complaint or are the victim of an alleged violation of the code have certain rights in the conduct process. These include the right to:

(a) Submit a written account of the alleged violation(s);

(b) Be advised of the date, time, and location of the hearing;

(c) Provide evidence on their own behalf, including the names or written statements of individuals who can offer information regarding the incident in question;

(d) Be accompanied through the conduct process by a person of their choice (this person may give advice to the student, but may not directly address the conduct officer, any member of the appeals board, or the dean of students);

(e) Be free of any form of retaliation and report any retaliation that occurs for further action;

(f) Have past unrelated behavior excluded from the investigation or hearing; and

(g) Submit an oral or written impact statement to the conduct officer, appeals board, or dean of students, for consideration during the sanctioning phase of the conduct process, if the charged student is found responsible.

(3) For incidents involving violence or sexual violence, including sexual harassment, misconduct, and/or assault, victims shall have the following additional rights:

(a) To be notified of the availability of counseling, assistance, and support resources, both on campus and in the surrounding community;

(b) To request and be granted a "no contact" order against the accused student(s);

(c) To receive written notification of the conduct officer's findings and decision delivered via e-mail to the student's official @students.wvu.edu account, within seven business days of the date of the meeting (or, if multiple meetings are necessary to determine responsibility or multiple individuals are involved and information presented by each is deemed necessary to determine responsibility, within seven business days of the date of the final meeting for the specific incident); and

(d) To request a review of the conduct officer's findings and decision by the appeals board or dean of students, as described in WAC 516-21-280 Basis for review.

#### NEW SECTION

**WAC 516-21-260 Procedures for immediate interim suspension.** In consultation with university officials, the dean of students may suspend a student from the university on an immediate interim basis, pending disciplinary or criminal proceedings or a medical evaluation.

(1) An interim suspension may only be imposed in the following circumstances:

(a) The student poses a threat to his/her own safety or well-being;

(b) The student poses a threat to the safety or well-being of other members of the university community;

(c) The student poses a threat to university property, is disrupting, or interfering with the normal operations of the university; and

(d) The student is alleged to have committed a serious violation of local, state, or federal law.

(2) During the interim suspension, a student may be denied access to university activities and privileges, including access to classes, university property, and/or campus residence halls and apartments.

(3) A student suspended from the university on an immediate interim basis shall be notified in writing of the terms of the interim suspension. The notice, which shall be delivered both via e-mail to the student's official @students.wvu.edu account and via certified mail to the student's local address on file, shall include the stated violation(s), the circumstances and terms of the interim suspension, and the time, date and location of a meeting to discuss the interim suspension with the dean of students.

(4) The interim suspension meeting shall occur no less than three business days and no more than seven business days from the date that the notification is sent. The student may elect to waive the three-day notice if an earlier date is mutually agreed upon. The purpose of the interim suspension meeting is for the student to have an opportunity to demonstrate to the dean of students why the terms specified in the interim suspension notice should not continue.

(5) Cases of interim suspension are given priority and will be expedited through the student conduct process. The interim suspension will remain in effect until a final decision has been made on the pending code violation(s) or until the dean of students determines that the reasons for imposing the interim suspension no longer exist or are not supported by available evidence.

#### NEW SECTION

**WAC 516-21-270 Proceedings for violations of the code.** (1) Any member of the university community may file a complaint against a student or a student organization, alleging a violation of the code. All complaints should be provided in writing to the conduct officer or dean of students and include a statement of the alleged misconduct.

(2) The conduct officer will conduct a preliminary investigation. If, in the conduct officer's judgment, there is insufficient basis to consider a charge, the individual(s) initiating the complaint will be informed. If there is sufficient basis to consider a charge, the conduct officer shall:

(a) Provide the accused student with a written notice of the charge(s), delivered via e-mail to the student's official @students.wvu.edu account. This notice shall include a clear description of the nature and date of the complaint and the specific code section(s) the student is alleged to have violated;

(b) Provide the accused student with a copy of the code as well as information on the availability of procedural advice regarding the code; and

(c) Provide the accused student with written notice to contact the dean of students' office immediately upon receipt of the charge letter to schedule a conduct meeting. This meeting should occur no less than three business days and no more than seven business days from the date that the notification is sent. The student may elect to waive the three-day notice if an earlier date is mutually agreed upon.

(3) During the meeting with the accused student, the conduct officer will determine, based on a preponderance of evidence, whether it is more likely than not that a violation of the code has occurred. If a student fails to meet with the conduct officer after receiving proper notification, a decision on the allegation(s) may be rendered in the student's absence.

(4) Within seven business days of the meeting, the conduct officer shall notify the student in writing of the findings and decision, including any imposed sanctions. This notification will be delivered via e-mail to the student's official @students.wvu.edu account and will include a statement of the student's option for a review of the conduct officer's findings and decision by the appeals board or the dean of students.

(5) If multiple meetings are required to determine responsibility, the findings and decision letter will be sent via e-mail to the student's official @students.wvu.edu account no later than seven business days after the final meeting for the specific incident.

(6) If multiple individuals are involved in the incident and the information presented by each student is deemed necessary to determine responsibility, individual findings and decision letters will be sent via e-mail to the student's official @students.wvu.edu account no later than seven business days after the final meeting for the specific incident.

(7) If both parties agree to mediate a complaint and the conduct officer agrees, mediation may be substituted for a conduct meeting. If mediation is unsuccessful, the original complaint will be considered and decided upon by the conduct officer. Mediation may not be substituted for a conduct meeting in cases involving violence or sexual violence, including sexual harassment, misconduct, or assault.

#### NEW SECTION

**WAC 516-21-280 Basis for review.** (1) A student found in violation of the code may request a review of the conduct officer's findings and decision by either the appeals board or the dean of students. A review may be requested for the following reasons only:

- (a) The original meeting was not conducted in conformity with prescribed procedures;
- (b) The conduct officer misinterpreted the code;
- (c) The sanctions imposed are disproportionate to the violation(s) committed; and
- (d) The decision reached did not properly consider the information presented.

(2) For incidents involving violence or sexual violence, including sexual harassment, misconduct or assault, victims may request a review of the conduct officer's findings and decision by either the appeals board or the dean of students. A review may be requested for the following reasons only:

- (a) The original meeting was not conducted in conformity with prescribed procedures;
- (b) The conduct officer misinterpreted the code;
- (c) The sanctions imposed are disproportionate to the violation(s) committed; and
- (d) The decision reached did not properly consider the information presented.

(3) The request for review must be submitted in writing to the dean of students within seven business days of receipt of the conduct officer's written notice of findings and decision (which shall be delivered via e-mail to the student's official @students.wvu.edu account). The request must state, as clearly and concisely as possible, the basis for the review and

specify whether the student wishes to have their review considered by the appeals board or the dean of students.

(4) Upon receipt of the written request for review, the dean of students will determine whether the request meets one or more of the criteria specified for reviews of the conduct officer's findings and decision. If it does, the review hearing will be scheduled. If it does not, the party requesting the review will be notified in writing and the request will be denied.

(5) For incidents involving violence or sexual violence, including sexual harassment, misconduct or assault, both the student found in violation of the code and the victim will be notified in writing regarding the outcome of the written request for review.

(6) No sanction will begin while a review is pending, except as provided in WAC 516-21-260, Procedures for immediate interim suspension. Temporary relocation of a student to alternative housing and/or restrictions between affected parties may be enforced during an appeal.

#### NEW SECTION

**WAC 516-21-290 Review procedures.** (1) Upon acceptance of a request for review, the dean of students shall notify the student (or, for incidents involving violence or sexual violence, both the student and the victim) in writing of the:

- (a) Section(s) of the code the student was found to have violated;
- (b) Findings and decision of the conduct officer;
- (c) Time, date, and location of the review hearing; and
- (d) Location of the code, should they wish to view or download a copy.

(2) The review hearing shall be held no less than three business days and no more than seven business days from the date of notification. The student may elect to waive the three-day notice if an earlier date is mutually agreed upon. If the student fails to appear at the hearing, the appeals board or the dean of students may proceed with the review, based upon consideration of all available information, or may dismiss the request for review.

(3) During the review hearing:

(a) The chair of the appeals board or dean of students may ask any person with relevant information to speak or provide a written statement regarding the alleged violation.

(b) The student found in violation of the code may ask any person with relevant information to speak or provide a written statement regarding the alleged violation.

(c) The chair of the appeals board or the dean of students may limit or exclude information that is considered to be irrelevant, immaterial, or repetitious.

(d) Five members shall constitute a quorum of the appeals board. Actions by the appeals board require agreement by a majority of members present at the time of the hearing.

(e) Any member of the appeals board that is unable to render an impartial decision in a particular case shall excuse themselves from the appeals board's deliberations in advance and may be replaced by an alternate.

(f) The appeals board or the dean of students may either confirm, reverse, or modify the conduct officer's findings and decision.

(4) New substantive information that was not presented at the time of the original conduct meeting will not be considered during the review. When new substantive information is present prior to or during the review hearing and such evidence could impact the original decision, the allegation(s) will be reheard by the conduct officer.

(5) The chair of the appeals board or the dean of students will render a decision regarding the review within seven business days of the hearing and notify the student (or, for incidents involving violence or sexual violence, both the student and the victim) in writing of their findings and decision. All review decisions are final.

#### NEW SECTION

**WAC 516-21-300 Deviations from established procedures.** Deviations from the timelines set forth in this code may be granted by the dean of students, upon request, for good cause.

#### NEW SECTION

**WAC 516-21-310 Confidentiality of conduct proceedings and records.** (1) The confidentiality of all conduct proceedings and records will be maintained in compliance with the student records policy, as well as all applicable state and federal laws. Conduct records prepared by the conduct officer, the appeals board, and/or the dean of students:

(a) Will be held in the dean of students office for six years, except in cases of suspension, interim suspension, or expulsion, which are permanent records; and

(b) Will not be shared with any member of the public, except upon the informed written consent of the student(s) involved or as stated in the student records policy.

(2) The conduct officer's findings may be shared with the victim, as required by law, in cases involving violence or sexual violence, including sexual harassment, misconduct or assault. The disciplinary findings may also be shared with university officials involved in the completion or supervision of the sanction and/or the student. See also chapter 516-26 WAC Student records.

#### NEW SECTION

**WAC 516-21-320 Relationship of the code to university residences.** (1) University residents are responsible for adjudicating most alleged violations of the code that are committed by students living in campus residence halls and apartments.

(2) The dean of students has the authority to designate which area will consider an alleged violation of the code, or whether the alleged violation will be coadjudicated by university residences and the conduct officer. General referral of conduct cases will be made by consensus between university residences and the conduct officer.

(3) Certain cases shall be referred by university residences to the conduct officer or coadjudicated by both areas. These include, but are not limited to, cases involving:

(a) Alleged acts or threats of physical violence or sexual misconduct;

(b) Alleged violations of the distribution or sale of drugs or other controlled substances;

(c) Alleged violations by nonresidential students while in campus residence halls or apartments or at university residences' sponsored programs, events, or activities;

(d) Alleged violations that occur near the end of the term or after a residential student's contract with university residences has ended;

(e) Alleged violations involving the misuse of computers, electronic data and/or communication systems, particularly when the victims of the alleged conduct are nonresidential students (e.g., sending unsolicited mass e-mails, copyright violations); and

(f) Alleged violations severe enough to result in eviction from campus residence halls or apartments and/or suspension or expulsion from the university.

#### NEW SECTION

**WAC 516-21-330 Interpretation of the code.** Any question of interpretation or application of the code shall be referred to the dean of students for final determination.

#### NEW SECTION

**WAC 516-21-340 Revision of the code.** (1) The code shall be reviewed every five years or more often, if needed, by the committee on student rights and responsibilities. The committee on student rights and responsibilities shall include:

(a) Five students, including at least one graduate student. Three students shall be appointed by the associated students board of directors and two shall be appointed by the residence hall association;

(b) One faculty member, appointed by the faculty senate;

(c) One staff member from the division of enrollment and student services, appointed by the dean of students;

(d) One staff member from the department of public safety, appointed by the director of public safety;

(e) One staff member from university residences, appointed by the director of university residences; and

(f) The conduct officer.

(2) Recommendations of the committee on student rights and responsibilities shall be made to the vice-president for enrollment and student services for submission to and consideration by the president's cabinet. Prior to adoption of the code, all proposed modifications shall be reviewed by the office of the assistant attorney general at Western Washington University for consistency with university policies and the law. Final authority for changes to the code rests with the Western Washington University board of trustees.

#### NEW SECTION

**WAC 516-21-350 Referenced policies and regulations in the code.** Policies or regulations referenced in the code are available, upon request, in the dean of students' office.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 516-23-200	Preamble.
WAC 516-23-210	Definitions.
WAC 516-23-220	Jurisdiction.
WAC 516-23-230	Principles and violations of the code.
WAC 516-23-240	Academic dishonesty.
WAC 516-23-250	Disruptive behavior.
WAC 516-23-260	Student responsibility for guests.
WAC 516-23-270	Sexual misconduct.
WAC 516-23-280	Violence.
WAC 516-23-290	Harassment and/or threats of violence.
WAC 516-23-300	Theft and intentional damage of property.
WAC 516-23-310	Misuse of computers, electronic data or communication systems.
WAC 516-23-320	Hazing.
WAC 516-23-330	Student violation of law.
WAC 516-23-340	Failure to comply with proper official requests.
WAC 516-23-350	Forgery and fraud.
WAC 516-23-360	Illegal possession and/or use of alcohol.
WAC 516-23-370	Illegal drugs and misuse of drugs.
WAC 516-23-380	Explosives and weapons prohibited from campus.
WAC 516-23-390	Obstructing police and safety personnel.
WAC 516-23-400	Interference with the judicial process.
WAC 516-23-410	Freedom of expression.
WAC 516-23-420	Demonstrations.
WAC 516-23-430	Proceedings for violations of the code.
WAC 516-23-440	Victim rights.
WAC 516-23-450	Rights of accused.
WAC 516-23-460	Sanctions.

WAC 516-23-470	Procedures for immediate interim suspension.
WAC 516-23-480	Basis for appeal.
WAC 516-23-490	Appeal procedures.
WAC 516-23-500	Deviations from established procedures.
WAC 516-23-510	Confidentiality of conduct proceedings and records.
WAC 516-23-520	Administrative withdrawal due to mental disorders.
WAC 516-23-530	University conduct system.
WAC 516-23-540	Relationship of the code to university residences.
WAC 516-23-550	Interpretation of the code.
WAC 516-23-560	Revision of the code and the committee on student rights and responsibilities.
WAC 516-23-570	Referenced policies and regulations in the code.

**WSR 12-01-026****PERMANENT RULES****DEPARTMENT OF REVENUE**

[Filed December 12, 2011, 11:06 a.m., effective January 12, 2012]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 458-20-12401 (Rule 12401) Special stadium sales and use tax, explains the special stadium sales and use tax. It explains the tax applies to retail sales of food and beverages by restaurants, taverns, and bars in counties with a population of one million or more.

The department amended Rule 12401 to recognize that the special stadium sales and use tax does not apply to sales of food and beverages by restaurants, taverns, and bars located in King County after September 30, 2011. The purpose of this tax was to pay off the debt service on bonds issued to support the construction of Safeco Field.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-12401 Special stadium sales and use tax.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Other Authority: RCW 82.14.360(1).

Adopted under notice filed as WSR 11-20-112 on October 5, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 12, 2011.

Alan R. Lynn  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-01-050, filed 12/9/09, effective 1/9/10)

**WAC 458-20-12401 Special stadium sales and use tax.** (1) **Introduction.** RCW 82.14.360 provides for a special stadium sales and use tax that applies to sales of food and beverages by restaurants, taverns, and bars in counties with a population of one million or more. ~~((Currently, the special stadium tax applies only in King County.))~~ The tax applies only to those food and beverage sales that are already subject to the retail sales tax. Grocery stores, mini-markets, and convenience stores were specifically excluded from the definition of a restaurant and are not required to collect the tax. However, a restaurant located within a grocery store, mini-market, or convenience store is subject to this tax if the restaurant is owned or operated by a different legal entity from the store or market. ~~((This section explains when the tax will apply.))~~ The special stadium tax applied only in King County and was effective through September 30, 2011.

(2) **Definitions.** The following definitions apply to this section.

(a) "Restaurant" means any establishment having special space and accommodation where food and beverages are regularly sold to the public for immediate, but not necessarily on-site, consumption, but excluding grocery stores, mini-markets, and convenience stores. Restaurant includes, but is not limited to, lunch counters, diners, coffee shops, espresso shops or bars, concession stands or counters, delicatessens, and cafeterias. It also includes space and accommodations where food and beverages are sold to the public for immediate consumption that are located within hotels, motels, lodges, boarding houses, bed-and-breakfast facilities, hospitals, office buildings, movie theaters, and schools, colleges, or universities, if a separate charge is made for such food or beverages. Mobile sales units that sell food or beverages for immediate consumption within a place, the entrance to which is subject to an admission charge, are "restaurants" for purposes of this tax. So too are public and private carriers, such as trains and vessels, that sell food or beverages for immediate consumption on trips that both originate and terminate within the county imposing the special stadium tax if a separate charge for the food and/or beverages is made. A restaurant is open to the public for purposes of this section if members of the public can be served as guests. "Restaurant" does not include businesses making sales through vending machines or through mobile sales units such as catering trucks or sidewalk vendors of food or beverage items.

(b) "Tavern" has the same meaning here as in RCW 66.04.010 and means any establishment with special space and accommodation for the sale of beer by the glass and for consumption on the premises.

(c) "Bar" means any establishment selling liquor by the glass or other open container and includes, but is not limited to, establishments that have been issued a class H license by the liquor control board.

(d) "Grocery stores, mini-markets, and convenience stores," have their ordinary and common meaning.

(3) **Tax application.** This special stadium sales and use tax ~~((currently applies))~~ applied only to food and beverages sold by restaurants, bars, and taverns in King County through September 30, 2011. The tax is in addition to any other sales or use tax that applies to these sales. This special tax only applies if the regular sales or use tax imposed by chapters 82.08 or 82.12 RCW applies.

(a) The tax applies to the total charge made by the restaurant, tavern, or bar, for food and beverages. If a mandatory gratuity is included in the charge that, too, is subject to the tax.

(b) Catering provided by a restaurant, tavern, or bar is also subject to the tax. However, when catering is done by a business that does not meet the definition of restaurant in subsection (2) of this section, has no facilities for preparing food, and all food is prepared at the customer's location, the charge is not subject to the tax.

(c) In the case of catering subject to the tax, if a separate charge is made for linens, glassware, tables, tents, or other items of tangible personal property that are not required for the catering, those separate charges are not subject to the tax. However, separately stated charges for items that are required as a part of the catering service, such as waitpersons or mandatory gratuities, are subject to the tax.

(4) **Examples.** The following examples should be used only as a general guide. The tax status of each situation must be determined after a review of all of the facts and circumstances. For these examples, assume the transactions ~~((occur))~~ occurred in King County prior to October 1, 2011.

(a) The Hot Bakery operates a coffee shop where customers may purchase baked goods and coffee for consumption on the premises. When utensils are provided with the bakery goods, the sale of bakery goods, along with the coffee is considered prepared food. The sale of prepared food is subject to the retail sales tax and special stadium tax. If the bakery products are bagged or boxed without utensils, the retail sales and special stadium taxes do not apply under the provisions of RCW 82.08.0293. See WAC 458-20-244 Food and food ingredients, for information about the sales of prepared foods.

(b) Charlie operates a "fast food" business. Customers may consume the food and beverages on the premises or may take the food "to go" for consumption elsewhere. All sales of food and beverages by this business are subject to the special stadium tax, including the food and beverages sold "to go."

(c) Jane operates carts that may be set up on a sidewalk or within parks from which customers may purchase hot dogs and beverages. The cart includes heating facilities for preparation of hot dogs at the cart site. No seating is provided by the business. The site location is not owned or leased by

Jane. These sales are not subject to the special stadium sales tax because the business does not have a designated space for the preparation of the food it sells. This business does not fit the definition of "restaurant." However, if Jane operates a mobile food service unit selling food or beverages for immediate consumption at fixed locations within the grounds of a stadium, arena, fairgrounds, or other place, admission to which is subject to an admission charge, then the special stadium tax applies.

(d) Bill operates a combination gas station and convenience store. The convenience store sells some groceries and also some prepared foods such as hot dogs and hamburgers. Customers may also purchase soft drinks or coffee by the cup. None of these sales are subject to the special stadium sales tax because of the specific language in the statute exempting convenience stores from the tax.

(e) Peter operates a business that sells prepared pizza. The business prepares and bakes the pizza at its premises. The business has no seating. Customers may order the pizzas by either entering Peter's place of business or by telephone. Customers may either take delivery at the seller's site or the business will deliver the pizza to the customer's residence or other site. These sales are subject to the special stadium sales tax because the business does have a designated site and facilities for the preparation of food for sale for immediate consumption, even though no seating is available. The regular retail sales tax applies to these sales since these sales are not exempt food products under RCW 82.08.0293(2).

(f) Jack has the exclusive concession rights to prepare and sell hot dogs within a sports facility. Customers place their orders and take delivery of the prepared food and beverages at Jack's site in the sports facility. Jack provides no seating that he controls. Customers generally take the food and beverage to their seats and consume the items while watching the sports event. Jack will also prepare hot dogs and soft drinks at his food bar and use his employees or agents to sell these products to customers in the stands while the sports event is in progress. All of the sales of food and beverages by Jack are subject to the special stadium sales tax. Jack's business operation meets the definition of "restaurant." Jack has set aside space that he controls for the purpose of preparing food and beverages for immediate consumption for sale to the public.

(g) Jinny operates a cafe within Abe's grocery store, for the sale of food or beverages for immediate consumption on the premises. Abe's grocery store is a separate entity from Jinny's cafe, and it leases the space for the cafe to Jinny. Sales of food and beverages by Abe's grocery store are exempt from the special stadium tax, but sales at the cafe by Jinny are subject to retail sales tax and the special stadium sales tax.

food ingredients qualify for retail sales tax and use tax exemptions provided by RCW 82.08.0293 and 82.12.0293.

The department amended Rule 244 to recognize Initiative 1107, passed by the voters in November 2010 and codified as chapter 2, Laws of 2011. Initiative 1107, in part, repealed the retail sales tax imposed on sales of bottled water and candy by chapter 23, Laws of 2010 1st sp. sess. Additionally, the subsection explaining the supplemental nutrition assistance program was updated to remove references to the Food Stamp Act of 1977, stamps, and coupons. The term "benefits" is now used in lieu of "stamps" or "coupons."

Citation of Existing Rules Affected by this Order:  
Amending WAC 458-20-244 Food and food ingredients.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Other Authority: RCW 82.08.0293 and 82.12.0293.

Adopted under notice filed as WSR 11-20-114 on October 5, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 12, 2011.

Alan R. Lynn  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 10-21-010, filed 10/7/10, effective 11/7/10)

**WAC 458-20-244 Food and food ingredients. (1) Introduction.**

(a) **What is the purpose of this section?** This section, WAC 458-20-244, provides guidelines for determining if food or food ingredients qualify for the retail sales tax and use tax exemptions under RCW 82.08.0293 and 82.12.0293 (collectively referred to in this section as the "exemptions").

There is no corresponding business and occupation (B&O) tax exemption. Even if a sale of food or food ingredients is exempt from retail sales tax or use tax under the exemptions, gross proceeds from sales of food or food ingredients remain subject to the retailing B&O tax.

(b) **What other sections might apply?** The following sections may contain additional relevant information:

- WAC 458-20-119, Sales of meals;
- WAC 458-20-124, Restaurants, cocktail bars, taverns and similar businesses;
- WAC 458-20-12401, Special stadium sales and use tax;

**WSR 12-01-027**

**PERMANENT RULES**

**DEPARTMENT OF REVENUE**

[Filed December 12, 2011, 11:10 a.m., effective January 12, 2012]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 458-20-244 (Rule 244) Food and food ingredients, provides guidelines for determining if food or

- WAC 458-20-166, Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.;
- WAC 458-20-167, Education institutions, school districts, student organizations, and private schools;
- WAC 458-20-168, Hospitals, medical care facilities, and adult family homes;
- WAC 458-20-169, Nonprofit organizations; and
- WAC 458-20-229, Refunds.

**(2) What qualifies for the exemptions?**

(a) **In general.** The exemptions apply to food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

(b) **Items not used solely for ingestion or chewing.** Items that are commonly ingested or chewed by humans for their taste or nutritional value but which may also be used for other purposes are generally treated as food or food ingredients. For example, pumpkins are presumed to be a food or food ingredient unless the pumpkin is sold painted or is otherwise clearly for decorative purposes rather than consumption. This is true even though the purchaser may use an undecorated pumpkin for carving and display rather than for eating.

(3) **What does not qualify for the exemptions?** The exemptions do not apply to the following items, which are not considered "food or food ingredients" or which are otherwise specifically excluded from the exemptions:

(a) **Items sold for medical or hygiene purposes.** Items commonly used for medical or hygiene purposes, such as cough drops, breath sprays, toothpaste, etc., are not ingested for taste or nutrition and are not considered a food or food ingredient. In contrast, breath mints are commonly ingested for taste and are considered a food or food ingredient.

(b) **Bulk sales of ice.** Ice sold in bags, containers, or units of greater than ten pounds and blocks of ice of any weight are not considered a food or food ingredient. Ice sold in cubed, shaved, or crushed form in packages or quantities of ten pounds or less is considered a food or food ingredient. Refer to WAC 458-20-120, Sales of ice, for additional guidance on the sale of ice.

(c) **Alcoholic beverages.** Alcoholic beverages are excluded from the definition of food and food ingredients. "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.

(d) **Tobacco.** Tobacco is excluded from the definition of food and food ingredients. "Tobacco" includes cigarettes, cigars, chewing or pipe tobacco, or any other items that contain tobacco.

(e) **Candy.** Effective June 1, 2010, (~~chapter 23, Laws of 2010, sp. sess., (2ESSB 6143) excludes~~) candy was excluded from the exemptions and retail sales tax was imposed on sales of candy. See chapter 23, Laws of 2010, sp. sess. Sales of candy again became exempt effective December 2, 2010. See chapter 2, Laws of 2011.

(i) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces.

(ii) "Candy" does not include any preparation containing flour and does not require refrigeration.

(iii) For a list of products and whether they meet the definition of candy, refer to the department's internet site at <http://dor.wa.gov/>. If the product in question is not listed on the internet site write the department, including a label or copy of label for the product, for a ruling at:

Taxpayer Services  
Department of Revenue  
P.O. Box 47478  
Olympia, WA 98504-7478

(f) **Bottled water.** (~~From June 1, 2010, through June 30, 2013, chapter 23, Laws of 2010, sp. sess., (2ESSB 6143) excludes~~) Effective June 1, 2010, bottled water was excluded from the exemptions and retail sales tax was due on sales of bottled water. See chapter 23, Laws of 2010, sp. sess. Sales of bottled water again became exempt effective December 2, 2010. See chapter 2, Laws of 2011.

(i) "Bottled water" means water that is placed in a sealed container or package for human consumption.

(ii) Bottled water is calorie free and does not contain sweeteners or other additives except that it may contain:

- (A) Antimicrobial agents;
- (B) Fluoride;
- (C) Carbonation;
- (D) Vitamins, minerals, and electrolytes;
- (E) Oxygen;
- (F) Preservatives; and
- (G) Only those flavors, extracts, or essences derived from a spice or fruit.

(iii) "Bottled water" includes water that is delivered to the buyer in a reusable container that is not sold with the water.

(iv) See subsection (8) of this section for limited exceptions to the tax on bottled water.

(g) **Soft drinks.** Soft drinks are excluded from the exemptions. "Soft drinks" means any nonalcoholic beverage that contains natural or artificial sweeteners, except beverages that contain:

- Milk or milk products;
- Soy, rice, or similar milk substitutes; or
- More than fifty percent by volume of vegetable or fruit juice.

For example, sweetened sports beverages are considered "soft drinks," but a sweetened soy beverage is a food or food ingredient.

Beverage mixes that are not sold in liquid form are not soft drinks even though they are intended to be made into a beverage by the customer. Examples include powdered fruit drinks, powdered tea or coffee drinks, and frozen concentrates. These items are a food or food ingredient and are not subject to retail sales tax.

(h) **Dietary supplements.** Dietary supplements are excluded from the exemptions. "Dietary supplement" means any product intended to supplement the diet, other than tobacco, which meets all of the following requirements:

- Contains a vitamin; mineral; herb or other botanical; amino acid; a substance for use by humans to increase total

dietary intake; or a concentrate, metabolite, constituent, extract; or combination of any of them;

- Is intended for ingestion in tablet, capsule, powder, soft gel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

- Is required to be labeled with a Food and Drug Administration "supplement facts" box. If a product is otherwise considered a food or food ingredient and labeled with both a "supplement facts" box and "nutrition facts" box, the product is treated as a food or food ingredient.

Nutrition products formulated to provide balanced nutrition as a sole source of a meal or of the diet are considered a food or food ingredient and not a dietary supplement. Refer to RCW 82.08.925 for information on the sales tax exemption applicable to dietary supplements dispensed under a prescription.

(i) **Prepared food.** Prepared food is excluded from the exemptions. Prepared food generally means heated foods, combined foods, or foods sold with utensils provided by the seller, as described in more detail in subsection (4) of this section. "Prepared food" does not include food sold by a seller whose proper primary North American industry classification system (NAICS) classification is manufacturing in sector 311, except subsector 3118 (bakeries), unless the food is sold with utensils provided by the seller (see subsection (4)(c) of this section).

(4) **What is "prepared food"?** Food or food ingredients are "prepared foods" if any one of the following (~~are~~) is true:

(a) **Heated foods.** Food or food ingredients are "prepared foods" if sold in a heated state or are heated by the seller, except bakery items. "Bakery items" include bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas. Food is sold in a heated state or is heated by the seller when the seller provides the food to the customer at a temperature that is higher than the air temperature of the seller's establishment. Food is not sold in a heated state or heated by the seller if the customer, rather than the seller, heats the food in a microwave provided by the seller.

(b) **Combined foods.** Food or food ingredients are "prepared foods" if the item sold consists of two or more foods or food ingredients mixed or combined by the seller for sale as a single item, unless the food or food ingredients are any of the following:

- Bakery items (defined in (a) of this subsection);
- Items that the seller only cuts, repackages, or pasteurizes;
- Items that contain eggs, fish, meat, or poultry, in a raw or undercooked state requiring cooking as recommended by the federal Food and Drug Administration in chapter 3, part 401.11 of *The Food Code*, published by the Food and Drug Administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness; or
- Items sold in an unheated state as a single item at a price that varies based on weight or volume.

(c) **Food sold with utensils provided by the seller.** Food or food ingredients are "prepared foods" if sold with

utensils provided by the seller. Utensils include plates, knives, forks, spoons, glasses, cups, napkins, and straws. A plate does not include a container or packaging used to transport the food.

(i) **Utensils are customarily provided by the seller.** A food or food ingredient is "sold with utensils provided by the seller" if the seller's customary practice for that item is to physically deliver or hand a utensil to the customer with the food or food ingredient as part of the sales transaction. If the food or food ingredient is prepackaged with a utensil, the seller is considered to have physically delivered a utensil to the customer unless the food and utensil are prepackaged together by a food manufacturer classified under sector 311 of the NAICS. Examples of utensils provided by such manufacturers include juice boxes that are packaged with drinking straws, and yogurt or ice cream cups that are packaged with wooden or plastic spoons.

(ii) **Utensils are necessary to receive the food.** Individual food or food ingredient items are "sold with utensils provided by the seller" if a plate, glass, cup, or bowl is necessary to receive the food or food ingredient and the seller makes those utensils available to its customers. For example, items obtained from a self-serve salad bar are sold with utensils provided by the seller, because the customer must use a bowl or plate provided by the seller in order to receive the items.

(iii) **More than seventy-five percent prepared food sales with utensils available.** All food and food ingredients sold at an establishment, including foods prepackaged with a utensil by a manufacturer classified under sector 311 of the NAICS, are "sold with utensils provided by the seller" if the seller makes utensils available to its customers and the seller's gross sales of prepared food under (a), (b), and (c)(ii) of this subsection equal more than seventy-five percent of the seller's gross sales of all food and food ingredients, including prepared food, soft drinks, and dietary supplements.

(A) **Exception for four or more servings.** Even if a seller has more than seventy-five percent prepared food sales, four servings or more of food or food ingredients packaged for sale as a single item and sold for a single price are not "sold with utensils provided by the seller" unless the seller's customary practice for the package is to physically hand or otherwise deliver a utensil to the customer as part of the sales transaction. Whenever available, the number of servings included in a package of food or food ingredients is to be determined based on the manufacturer's product label. If no label is available, the seller must reasonably determine the number of servings.

(B) **Determining total sales of prepared foods.** The seller must determine a single prepared food sales percentage annually for all the seller's establishments in the state based on the prior year of sales. The seller may elect to determine its prepared food sales percentage based either on the prior calendar year or on the prior fiscal year. A seller may not change its elected method for determining its prepared food percentage without the written consent of the department of revenue. The seller must determine its annual prepared food sales percentage as soon as possible after accounting records are available, but in no event later than ninety days after the beginning of the seller's calendar or fiscal year. A seller may make a good faith estimate of its first annual prepared food

sales percentage if the seller's records for the prior year are not sufficient to allow the seller to calculate the prepared food sales percentage. The seller must adjust its good faith estimate prospectively if its relative sales of prepared foods in the first ninety days of operation materially depart from the seller's estimate.

(d) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(i) **Example 1.** Fast Cafe sells hot and cold coffee and mixed coffee and mixed milk beverages, cold soft drinks, milk and juice in single-serving containers, sandwiches, whole fruits, cold pasta salad, cookies and other pastries. Fast Cafe prepares the pasta salad on-site. It orders the pastries from a local bakery, including specialty cakes which it sells both as whole cakes and by the slice. It purchases its sandwiches from a local caterer. The sandwiches are delivered by the caterer prewrapped in plastic with condiments and a plastic knife. Fast Cafe makes straws, napkins and cup lids available for all customers by placing them on a self-service stand. In its first full year of operation, Fast Cafe's annual gross sales of all food and food ingredients, including prepared food, soft drinks, and dietary supplements is \$100,000. Of this gross sales total, \$80,000 is from the sale of hot coffee and hot and cold mixed coffee and milk beverages, all sold in disposable paper or plastic cups with the Fast Cafe logo.

Because more than seventy-five percent of Fast Cafe's total sales of food and food ingredients, including prepared food, soft drinks, and dietary supplements are sales of food or food ingredients that are heated or combined by the seller or sold with a utensil (cups) necessary to receive the food, Fast Cafe has more than seventy-five percent prepared food sales. Because Fast Cafe makes utensils available for its customers, all food and food ingredients sold by Fast Cafe are considered "prepared food," including the cold milk beverages, cookies and pastries, pasta salad, sandwiches and whole fruits. The only exception is the sale of whole specialty cakes. Because a whole cake contains four or more servings, it is not subject to retail sales tax unless Fast Cafe customarily hands a utensil to the customer as part of the sale transaction.

(ii) **Example 2.** Assume the same facts as in Example 1, but that only \$60,000 of Fast Cafe's Year 1 gross sales were sales of hot coffee and hot and cold mixed coffee and milk beverages. The remainder of its sales were sales of sandwiches, whole fruits, cookies and other pastries. Under these facts, Fast Cafe does not have more than seventy-five percent prepared food sales. Thus, the items sold by Fast Cafe are taxed as follows:

- Hot coffee and milk beverages are heated by the seller and are also sold by Fast Cafe with a utensil (a paper cup) necessary to receive the food. The hot coffee and milk beverages are "prepared food" for either reason and are subject to retail sales tax.

- Cold mixed milk beverages are a combination of two or more foods or food ingredients and are also sold by Fast Cafe with a utensil (a paper or plastic cup) necessary to receive the food. The cold milk beverages are "prepared food" for either reason and are subject to retail sales tax.

- Cold soft drinks are not exempt and are subject to retail sales tax.

- Sandwiches prepared by the caterer are subject to retail sales tax. Even though the caterer, rather than the seller, combines the ingredients and includes a utensil, Fast Cafe is considered to have provided the utensil because the caterer is not a food manufacturer classified under sector 311 of the NAICS.

- Pasta salad is combined by the seller and is subject to retail sales tax. Note that if the pasta salad was sold by the pound, rather than by servings, it would not be subject to retail sales tax.

- Milk and juice in single serving containers, whole fruit, cookies, pastries, slices of cake, and whole cakes are not subject to retail sales tax unless the seller's customary practice is to hand a utensil to the customer as part of the sales transaction. None of these items are heated by the seller, combined by the seller, or require a plate, glass, cup, or bowl in order to receive the item. Even if Fast Cafe heats the pastries for its customers, the pastries are not subject to retail sales tax.

(iii) **Example 3.** A pizza restaurant sells whole hot pizzas, hot pizza by the slice, and unheated ready-to-bake pizzas. The whole hot pizzas and hot pizza sold by the slice, including delivered pizzas, are "prepared food" because these items are sold in a heated state. If the unheated ready-to-bake pizzas are prepared by the seller, they are "prepared food" because the seller has mixed or combined two or more food ingredients. This is true even though some ingredients in the unheated pizzas are raw or uncooked, because those ingredients do not require cooking to prevent foodborne illness. If the unheated ready-to-bake pizzas are prepared by a manufacturer other than the seller, they will be taxable as "prepared food" only if sold with utensils provided by the seller.

#### (5) How are combined sales of taxable and exempt items taxed?

(a) **Combined sales.** Where two or more distinct and identifiable items of tangible personal property, at least one of which is a food or food ingredient, are sold for one non-itemized price that does not vary based on the selection by the purchaser of items included in the transaction:

- The entire transaction is taxable if the seller's purchase price or sales price of the taxable items is greater than fifty percent of the combined purchase price or sales price; and

- The entire transaction is exempt from retail sales tax if the seller's purchase price or sales price of the taxable items is fifty percent or less of the combined purchase price or sales price.

The seller may make the determination based on either purchase price or sales price, but may not use a combination of the purchase price and sales price.

#### (b) Example.

A combination wine and cheese picnic basket contains four items packaged together: A bottle of wine, a wine opener, single-serving cheeses, and the picnic basket holding these items. The seller's purchase price for the wine, wine-opener, and picnic basket totals ten dollars. The seller's purchase price for the cheeses is two dollars. The seller must collect retail sales taxes on the entire package, because the seller's purchase price for the taxable items (ten dollars) is

greater than fifty percent of the combined purchase price (twelve dollars).

(c) **Incidental packaging.** "Distinct and identifiable items" does not include packaging which is immaterial or incidental to the sale of another item or items. For example, a decorative bag sold filled with candy is not the sale of "distinct and identifiable" items where the bag is merely ornamental packaging immaterial in the sale of the candy.

(d) **Free items.** "Distinct and identifiable items" does not include items provided free of charge. An item is only provided free of charge if the seller's sales price does not vary depending on whether the item is included in the sale.

(6) **What are the seller's accounting requirements?** All sales of food and food ingredients at an establishment will be treated as taxable unless the seller separately accounts for sales of exempt and nonexempt food and food ingredients. It is sufficient separation for accounting purposes if cash registers or the like are programmed to identify items that are not tax exempt and to calculate and assess the proper sales tax accordingly.

(7) **Are there any other retail sales tax exemptions that apply?**

(a) **Meals served.** The exemptions apply to food and food ingredients furnished, prepared, or served as meals:

(i) Under a state-administered nutrition program for the aged as provided for in the Older Americans Act (Public Law 95-478 Title III) and RCW 74.38.040;

(ii) That are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(iii) Effective August 1, 2009, RCW 82.08.0293 provides to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (a)(iii) if at least one of the spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" means a facility:

(A) That meets the definition of a qualified low-income housing project under Title 26 U.S.C. Sec. 42 of the federal Internal Revenue Code, as existing on August 1, 2009;

(B) That has been partially funded under Title 42 U.S.C. Sec. 1485 of the federal Internal Revenue Code; and

(C) For which the lessor or operator has at any time been entitled to claim a federal income tax credit under Title 26 U.S.C. Sec. 42 of the federal Internal Revenue Code.

(b) **Foods exempt under the Supplemental Nutrition Assistance Program (SNAP).** Under RCW 82.08.0297, eligible foods (~~under the Food Stamp Act of 1977~~) purchased with food ~~((coupons))~~ benefits under the SNAP or a successor program are exempt from the retail sales tax. This is a separate and broader exemption than the retail sales tax exemption for food and food ingredients under RCW 82.08.0293. For example, soft drinks (~~and~~), garden seeds, and plants which produce food for the household to eat are "eligible foods" but are not "food or food ingredients." If such items are purchased with food ~~((coupons))~~ benefits under SNAP or a successor program, they are exempt from the

retail sales tax under RCW 82.08.0297, even though the items do not qualify for the exemption under RCW 82.08.0293.

(i) ~~((Definition of food coupons.~~ The term "food coupons," as used in this subsection means any coupon, stamp, type of certificate, authorization card, cash or check issued in lieu of a coupon, or access device, including an electronic benefit transfer card or personal identification number issued pursuant to the provisions of the Food Stamp Act of 1977. See 7 CFR § 271.2, as amended or renumbered as of January 1, 2003.

(ii) **Use of food ~~((coupons))~~ benefits combined with other means of payment.** When both food ~~((coupons))~~ benefits and other means of payment are used in the same sales transaction, for purposes of collecting retail sales taxes, the other means of payment shall be applied first to items which are food and food ingredients exempt under RCW 82.08.-0293. The intent is to apply the ~~((coupons))~~ benefits and other means of payment in such a way as to provide the greatest possible exemption from retail sales tax.

~~((iii))~~ (ii) **Example.** A customer purchases the following at a grocery store: Meat for three dollars, cereal for three dollars, canned soft drinks for five dollars, and soap for two dollars for a total of thirteen dollars. The customer pays with seven dollars in ~~((coupons))~~ benefits and six dollars in cash. The cash is applied first to the soap because the soap is neither exempt under RCW 82.08.0293 nor an eligible food under ~~((the Food Stamp Act))~~ SNAP. The remaining cash (four dollars) is applied first to the meat and the cereal. The food ~~((stamps))~~ benefits are applied to the balance of the meat and cereal (two dollars) and to the soft drinks (five dollars). Retail sales tax is due only on the soap.

(8) **Exceptions to tax on bottled water.** ~~((Chapter 23, Laws of 2010, sp. sess., (2ESSB 6143) provides))~~ Effective June 1, 2010, two exemptions to the retail sales and use taxes on bottled water ((effective June 1, 2010)) were as described in (a) and (b) of this subsection. Effective December 2, 2010, the retail sales and use taxes on bottled water were repealed. The exemptions are no longer applicable effective December 2, 2010.

(a) **Prescription issued bottled water.** Bottled water prescribed to patients for use in the cure, mitigation, treatment, or prevention of disease or other medical condition and delivered to the buyer in a reusable container that is not sold with the water is exempt provided the buyer provides the seller with a completed buyer's retail sales tax exemption certificate or a streamlined sales tax exemption certificate. A seller must retain a copy of the certificate for their files. Tax will be collected on all other sales of prescribed bottled water. Any buyer that has paid at least twenty-five dollars in state and local sales taxes on purchases of bottled water subject to this exemption may apply for a refund of the collected taxes directly from the department. No refund may be made for tax paid more than four years after the end of the calendar year in which the tax was paid to a seller.

(b) **Potable water not readily available.** Bottled water for human use to persons who do not otherwise have a readily available source of potable water and delivered to the buyer in a reusable container that is not sold with the water is exempt provided the buyer provides the seller with a com-

pleted buyer's retail sales tax exemption certificate or a streamlined sales tax exemption certificate. A seller must retain a copy of the certificate for their files. Tax will be collected on all other sales of bottled water. Any buyer that has paid at least twenty-five dollars in state and local sales taxes on purchases of bottled water subject to this exemption may apply for a refund of the collected taxes directly from the department. No refund may be made for tax paid more than four years after the end of the calendar year in which the tax was paid to a seller.

(c) **Forms and additional information are available.** Forms and additional information can be obtained from the department's internet site at <http://dor.wa.gov/> or by contacting the department at:

Taxpayer Services  
 Department of Revenue  
 P.O. Box 47478  
 Olympia, WA 98504-7478  
 1-800-647-7706

(9) **Vending machine sales.** The exemptions do not apply to sales of food and food ingredients dispensed from

vending machines. There are special requirements for reporting sales tax collected on vending machine sales, discussed in (a) of this subsection. "Honor box" sales (sales of snacks or other items from open display trays) are not considered vending machine sales.

(a) **Calculating and reporting retail sales tax collected on vending machine sales.** Vending machine owners do not need to state the retail sales tax amount separately from the selling price. See RCW 82.08.050(5) and 82.08.0293. Instead, vending machine owners must determine the amount of retail sales tax collected on the sale of food or food ingredients by using one of the following methods:

(i) **Food or food ingredients dispensed in a heated state and soft drinks.** For food or food ingredients dispensed from vending machines in a heated state (e.g., hot coffee, soups, tea, and hot chocolate) and vending machine sales of soft drinks, a vending machine owner must calculate the amount of retail sales tax that has been collected ("tax in gross") based on the gross vending machine proceeds. The "tax in gross" is a deduction against the gross amount of both retailing B&O and retail sales. The formula is:

$$\text{gross machine proceeds} - \frac{(\text{gross machine proceeds})}{(1 + \text{sales tax rate})} = \text{tax in gross}$$

(ii) **All other food or food ingredients.** For all other food and food ingredients dispensed from vending machines, a vending machine owner must calculate the amount of retail sales tax that has been collected ("tax in gross") based on fifty-seven percent of the gross vending machine proceeds. The "tax in gross" is a deduction against the gross amount of both retailing B&O and retail sales. The formula is:

$$(\text{gross machine proceeds} \times .57) \times \text{sales tax rate} = \text{tax in gross}$$

The remaining 43% of the gross vending machine proceeds, less the "tax in gross" amount, is reported as an exempt food sales deduction against retail sales proceeds only calculated as follows:

$$(\text{gross machine proceeds} \times .43) - \text{tax in gross} = \text{exempt food deduction}$$

(b) **Example.** Jane owns a vending machine business with machines in Spokane and Seattle. In each location, she has a vending machine selling candy and water and a second vending machine selling hot cocoa and coffee drinks. Her annual sales for the vending machines and the combined retail sales tax rates for Seattle and Spokane are as follows:

	Coffee Machine (cocoa & coffee)	Candy Machine (candy & water)	Combined Retail Sales Tax Rate
Seattle	\$2,500	\$10,000	.088
Spokane	\$3,000	\$6,000	.086

To determine the amount of retail sales tax she collected on the sale of cocoa and coffee (food dispensed in a heated state), Jane calculates the "tax in gross" amount as follows:

$$\begin{aligned} &\text{gross machine proceeds} - \frac{(\text{gross machine proceeds})}{(1 + \text{sales tax rate})} = \text{tax in gross} \\ \$2,500 &- (\$2,500/1.088) = \$202.21 \quad (\text{Seattle coffee machine}) \\ \$3,000 &- (\$3,000/1.086) = \underline{\$237.57} \quad (\text{Spokane coffee machine}) \\ &\$439.78 \end{aligned}$$

Thus, for both retailing B&O and retail sales, Jane must report her total gross coffee machine proceeds of \$5,500 with a "tax in gross" deduction of \$439.78.

To determine the amount of retail sales tax she collected on the sale of candy and water, Jane calculates the "tax in gross" amount as follows:

$$\begin{aligned} &(\text{gross machine proceeds} \times .57) \times \text{sales tax rate} = \text{tax in gross} \\ \$10,000 \times .57 \times .088 &= \$501.60 \quad (\text{Seattle candy machine}) \end{aligned}$$

$$\begin{aligned}
 \$6,000 \times .57 \times .086 &= \underline{\$294.12} \quad (\text{Spokane candy machine}) \\
 &\$795.72
 \end{aligned}$$

Thus, for both retailing B&O and retail sales, Jane must report her total gross candy machine proceeds of \$16,000 with a "tax in gross" deduction of \$795.72.

Jane must also report an exempt food sales deduction representing the remaining 43% of the gross candy machine proceeds.

$$\begin{aligned}
 (43\% \times \text{gross machine proceeds}) - \text{tax in gross} &= \text{exempt food deduction} \\
 (.43 \times \$16,000) - \$795.72 &= \$6,084.28
 \end{aligned}$$

Jane reports the exempt food sales deduction only against the gross amount of her retail sales. The deduction does not apply to retailing B&O.

**WSR 12-01-031**

**PERMANENT RULES**

**PUBLIC DISCLOSURE COMMISSION**

[Filed December 13, 2011, 8:52 a.m., effective January 13, 2012]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amending the form for report of legislative activity by public agencies to include new services attachment and travel attachment pages and correct statutory references to reflect the recodification of chapter 42.17 RCW to chapter 42.17A RCW. New pages will bring uniformity to public agency disclosure of travel expenditures related to lobbying and payments made to contract lobbyists. Uniform disclosure will enhance public access.

Citation of Existing Rules Affected by this Order: Amending WAC 390-20-120.

Statutory Authority for Adoption: RCW 42.17.370(1).

Adopted under notice filed as WSR 11-20-056 on September 30, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 8, 2011.

Lori Anderson  
Communications and  
Training Officer

~~(1/09)~~ 1/12. Copies of this form are available at the Commission Office, Room 206, Evergreen Plaza Building, Olympia, Washington 98504-0908. Any attachments shall be on 8-1/2" x 11" white paper.

AMENDATORY SECTION (Amending WSR 09-01-068, filed 12/12/08, effective 1/12/09)

**WAC 390-20-120 Forms for report of legislative activity by public agencies.** The official form for the report of legislative activity by public agencies as required by RCW ~~((42.17.190))~~ 42.17A.635 is designated "L-5," revised

~~((STRICKEN GRAPHIC~~**THESE INSTRUCTIONS APPLY ONLY TO GOVERNMENT AGENCIES REPORTING PURSUANT TO RCW 42.17.190.****WHO SHOULD REPORT?**

Each state agency, county, city, town, municipal corporation, quasi-municipal corporation or special purpose district which expends public funds for "lobbying". Please study the definitions of what is and is not included in lobbying to determine if your agency is required to report.

"Lobbying" means attempting to influence the passage or defeat of any legislation by the state legislature or the adoption or rejection of any rule, standard, rate or other legislative enactment by any state agency under chapters 28.19 and 34.04 RCW. "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter which may be the subject of action by either house, or any committee of the legislature and all bills and resolutions which having passed both houses, are pending approval by the Governor.

**LOBBYING DOES NOT INCLUDE**

1. Requests for appropriations by a state agency to OFM pursuant to RCW 43.88 or requests by OFM to the legislature for appropriations other than its own agency budget. Note that an agency representative who, in person, contacts a legislator or committee on appropriations matters is lobbying.
2. Recommendations or reports to the legislature in response to a legislative request expressly requesting or directing a specific study, recommendation or report on a particular subject.
3. Official reports including recommendations submitted annually or biennially by a state agency as required by law.
4. Requests, recommendations or other communications between or within state agencies or between or within local agencies.
5. Telephone conversations or preparation of written correspondence.
6. Preparation or adoption of policy positions within an agency or group of agencies. Note that once a position is adopted, further action to advocate it may constitute lobbying.
7. Attempts to influence federal or local legislation.

**LOBBYING NOT REPORTABLE**

1. In person lobbying totaling no more than four days or parts of days during any three month period in aggregate for all officials and employees of the agency. In person lobbying includes testifying at legislative committee hearings and state agency hearings on rules and regulations but does not include attendance merely to monitor or observe testimony and debate.
2. In person lobbying by any elected official on behalf of his agency or in connection with his powers, duties or compensation.

**EXPENDITURES OVER \$15 OF NON-PUBLIC FUNDS**

Any person (including an elected official) who expends more than \$15 of personal or non-public funds for or on behalf of one or more legislators, state elected officials or state public officers or employees in connection with in person lobbying must be listed on the L-5 report. Attach a page showing the spender's name, and date, the source of funds and amount spent, and for whom the money was spent. Examples of these expenditures include entertainment, dinners and campaign contributions.

**REPORTS REQUIRED**

The L-5 report is submitted to cover each calendar quarter in which lobbying occurs. No report is required if no reportable lobbying has taken place during the quarter.

**DUE DATES:** April 30 (1st quarter)      July 31 (2nd quarter)  
October 31 (3rd quarter)      January 31 (4th quarter)

ONE CONSOLIDATED REPORT SHOULD BE SUBMITTED TO INCLUDE LOBBYING ACTIVITIES OF ALL DIVISIONS OR OFFICES OF AN AGENCY.

**Send Reports To:** **Public Disclosure Commission**  
711 Capitol Way, Rm 206  
PO Box 40908  
Olympia, WA 98504-0908

SPECIAL NOTE: In lieu of reporting as provided in RCW 42.17.190 any agency or lobbyist for an agency may elect to register and report as provided in RCW 42.17.150, .160, .170 and .180. An agency so choosing must notify PDC of that fact and obtain necessary reporting forms and instructions.

~~STRICKEN GRAPHIC))~~

**PUBLIC DISCLOSURE COMMISSION**  
  
 711 CAPITOL WAY RM 206  
 PO BOX 40908  
 OLYMPIA WA 98504-0908  
 (360) 753-1111  
 TOLL FREE 1-877-601-2828

PDC FORM <b style="font-size: 2em;">L-5</b> (Rev 1/12)	<b>LOBBYING BY STATE AND LOCAL                  GOVERNMENT AGENCIES</b>
--	---

*Instructions Are Printed On Reverse*

Agency or Governmental Entity Name and Address  _____  _____  _____	Date prepared  _____  _____	Report for calendar quarter ending  _____ _____ Month    Year
---	---	--

**PERSONS WHO LOBBIED THIS QUARTER**

Name	Job title	Annual salary \$	% of time spent lobbying during quarter
------	-----------	---------------------	--

General description of lobbying activities or objectives. (Include bill or WAC numbers, if any)

Check if person spent more than \$15 of non-public funds in lobbying. See instructions on reverse.

Name	Job title	Annual salary \$	% of time spent lobbying during quarter
------	-----------	---------------------	--

General description of lobbying activities or objectives. (Include bill or WAC numbers, if any)

Check if person spent more than \$15 of non-public funds in lobbying. See instructions on reverse.

Name	Job title	Annual salary \$	% of time spent lobbying during quarter
------	-----------	---------------------	--

General description of lobbying activities or objectives. (Include bill or WAC numbers, if any)

Check if person spent more than \$15 of non-public funds in lobbying. See instructions on reverse.

**EXPENDITURES FOR LOBBYING THIS QUARTER**  
 Report only the separately identifiable and measurable expenditures incurred for lobbying purposes

Salaries Of Persons Who Lobbied (Include only portion of quarterly salary attributable to lobbying)	\$
Travel (Include food, lodging, per diem payments and cost of transportation used)	\$
Brochures And Other Publications Whose Principal Purpose Is To Influence Legislation	\$
Consultants Or Other Contractual Services	\$
<b>Total This Quarter</b>	\$
<b>Total To Date This Year</b>	\$

<b>CERTIFICATION:</b> I certify that to the best of my knowledge the above is a true, complete and correct statement in accordance with RCW 42.17A.635.	Name of employee completing report  _____  _____  _____
Signature of agency head  _____	Work telephone Number  _____  Work E-mail  _____

**Attach additional sheets if more room is required**

**THESE INSTRUCTIONS APPLY ONLY TO GOVERNMENT AGENCIES REPORTING PURSUANT TO RCW 42.17A.635.****WHO SHOULD REPORT?**

Each state agency, county, city, town, municipal corporation, quasi-municipal corporation or special purpose district which expends public funds for "lobbying". Please study the definitions of what is and is not included in lobbying to determine if your agency is required to report.

"Lobbying" means attempting to influence the passage or defeat of any legislation by the state legislature or the adoption or rejection of any rule, standard, rate or other legislative enactment by any state agency under the state administrative procedure act, chapter 34.05 RCW. "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter which may be the subject of action by either house, or any committee of the legislature and all bills and resolutions which having passed both houses, are pending approval by the Governor.

**LOBBYING DOES NOT INCLUDE**

1. Requests for appropriations by a state agency to OFM pursuant to RCW 43.88 or requests by OFM to the legislature for appropriations other than its own agency budget. Note that an agency representative who, in person, contacts a legislator or committee on appropriations matters is lobbying.
2. Recommendations or reports to the legislature in response to a legislative request expressly requesting or directing a specific study, recommendation or report on a particular subject.
3. Official reports including recommendations submitted annually or biennially by a state agency as required by law.
4. Requests, recommendations or other communications between or within state agencies or between or within local agencies.
5. Telephone conversations or preparation of written correspondence.
6. Preparation or adoption of policy positions within an agency or group of agencies. Note that once a position is adopted, further action to advocate it may constitute lobbying.
7. Attempts to influence federal or local legislation.

**LOBBYING NOT REPORTABLE**

1. In person lobbying totaling no more than four days or parts of days during any three month period in aggregate for all officials and employees of the agency. In person lobbying includes testifying at legislative committee hearings and state agency hearings on rules and regulations but does not include attendance merely to monitor or observe testimony and debate.
2. In person lobbying by any elected official on behalf of his agency or in connection with his powers, duties or compensation.

**EXPENDITURES OVER \$15 OF NON-PUBLIC FUNDS**

Any person (including an elected official) who expends more than \$15 of personal or non-public funds for or on behalf of one or more legislators, state elected officials or state public officers or employees in connection with in person lobbying must be listed on the L-5 report. Attach a page showing the spender's name, and date, the source of funds and amount spent, and for whom the money was spent. Examples of these expenditures include entertainment, dinners and campaign contributions.

**REPORTS REQUIRED**

The L-5 report is submitted to cover each calendar quarter in which lobbying occurs. No report is required if no reportable lobbying has taken place during the quarter.

**DUE DATES:**      April 30 (1st quarter)      July 31 (2nd quarter)  
    October 31 (3rd quarter)      January 31 (4th quarter)

ONE CONSOLIDATED REPORT SHOULD BE SUBMITTED TO INCLUDE LOBBYING ACTIVITIES OF ALL DIVISIONS OR OFFICES OF AN AGENCY.

**Send Reports To:**      **Public Disclosure Commission**  
    711 Capitol Way, Rm 206  
    PO Box 40908  
    Olympia, WA 98504-0908

SPECIAL NOTE: In lieu of reporting as provided in RCW 42.17A.635 any agency or lobbyist for an agency may elect to register and report as provided in RCW 42.17A.600, .610, .615 and .630. An agency so choosing must notify PDC of that fact and obtain necessary reporting forms and instructions.

<b>NON-PUBLIC FUNDS ATTACHMENT</b>			<b>L-5</b>
Agency or Governmental Entity Name		Report for calendar quarter ending	
		Month	Year
<b>Expenditures over \$15 of non-public funds</b>			
<b>Name of Lobbyist:</b>			
<b>Date</b>	<b>Source of funds</b>	<b>Person on Whom Funds Spent</b>	<b>Amount</b>
<b>Purpose:</b>			
<b>Date</b>	<b>Source of funds</b>	<b>Person on Whom Funds Spent</b>	<b>Amount</b>
<b>Purpose:</b>			
<b>Date</b>	<b>Source of funds</b>	<b>Person on Whom Funds Spent</b>	<b>Amount</b>
<b>Purpose:</b>			
<b>Date</b>	<b>Source of funds</b>	<b>Person on Whom Funds Spent</b>	<b>Amount</b>
<b>Purpose:</b>			
<b>Date</b>	<b>Source of funds</b>	<b>Person on Whom Funds Spent</b>	<b>Amount</b>
<b>Purpose:</b>			
<b>Date</b>	<b>Source of funds</b>	<b>Person on Whom Funds Spent</b>	<b>Amount</b>
<b>Purpose:</b>			
<b>Date</b>	<b>Source of funds</b>	<b>Person on Whom Funds Spent</b>	<b>Amount</b>
<b>Purpose:</b>			
<b>Date</b>	<b>Source of funds</b>	<b>Person on Whom Funds Spent</b>	<b>Amount</b>
<b>Purpose:</b>			

<b>SERVICES ATTACHMENT</b>		<b>L-5</b>
Agency or Governmental Entity Name		Report for calendar quarter ending Month Year
<b>Date</b>	<b>Name</b>	<b>Amount</b>
<b>Purpose</b>		
<b>Date</b>	<b>Name</b>	<b>Amount</b>
<b>Purpose</b>		
<b>Date</b>	<b>Name</b>	<b>Amount</b>
<b>Purpose</b>		
<b>Date</b>	<b>Name</b>	<b>Amount</b>
<b>Purpose</b>		
<b>Date</b>	<b>Name</b>	<b>Amount</b>
<b>Purpose</b>		
<b>Date</b>	<b>Name</b>	<b>Amount</b>
<b>Purpose</b>		
<b>Date</b>	<b>Name</b>	<b>Amount</b>
<b>Purpose</b>		
<b>Date</b>	<b>Name</b>	<b>Amount</b>
<b>Purpose</b>		
<b>Date</b>	<b>Name</b>	<b>Amount</b>
<b>Purpose</b>		
<b>Date</b>	<b>Name</b>	<b>Amount</b>
<b>Purpose</b>		

<b>TRAVEL ATTACHMENT</b>				<b>L-5</b>
Agency or Governmental Entity Name			Report for calendar quarter ending	
			Month	Year
<b>Date</b>	<b>Name</b>	<b>Vendor Name</b>	<b>Amount</b>	
<b>Purpose</b>				
<b>Date</b>	<b>Name</b>	<b>Vendor Name</b>	<b>Amount</b>	
<b>Purpose</b>				
<b>Date</b>	<b>Name</b>	<b>Vendor Name</b>	<b>Amount</b>	
<b>Purpose</b>				
<b>Date</b>	<b>Name</b>	<b>Vendor Name</b>	<b>Amount</b>	
<b>Purpose</b>				
<b>Date</b>	<b>Name</b>	<b>Vendor Name</b>	<b>Amount</b>	
<b>Purpose</b>				
<b>Date</b>	<b>Name</b>	<b>Vendor Name</b>	<b>Amount</b>	
<b>Purpose</b>				
<b>Date</b>	<b>Name</b>	<b>Vendor Name</b>	<b>Amount</b>	
<b>Purpose</b>				
<b>Date</b>	<b>Name</b>	<b>Vendor Name</b>	<b>Amount</b>	
<b>Purpose</b>				
<b>Date</b>	<b>Name</b>	<b>Vendor Name</b>	<b>Amount</b>	
<b>Purpose</b>				
<b>Date</b>	<b>Name</b>	<b>Vendor Name</b>	<b>Amount</b>	
<b>Purpose</b>				

**WSR 12-01-032**  
**PERMANENT RULES**  
**PUBLIC DISCLOSURE COMMISSION**

[Filed December 13, 2011, 8:53 a.m., effective January 13, 2012]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To amend existing dollar amounts for inflation in accordance with RCW 42.17.690, adjust contribution limits for candidates seeking any judicial office in accordance with RCW 42.17.645, and correct statutory references to reflect the recodification of chapter 42.17 RCW to chapter 42.17A RCW in January 2012.

Citation of Existing Rules Affected by this Order: Amending WAC 390-05-400.

Statutory Authority for Adoption: RCW 42.17.370(1) and 42.17.690.

Adopted under notice filed as WSR 11-20-055 on September 30, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 8, 2011.

Lori Anderson  
 Communications and  
 Training Officer

AMENDATORY SECTION (Amending WSR 08-04-022, filed 1/28/08, effective 2/28/08)

**WAC 390-05-400 Changes in dollar amounts.** Pursuant to the requirement in RCW ((42.17.690)) 42.17A.125 that the commission biennially revise the dollar amounts found in Initiative 134 and RCW ((42.17.645)) 42.17A.410 to reflect changes in economic conditions, the following revisions are made:

Code Section	Subject Matter	Amount Enacted or Last Revised	((2008)) <u>2012</u> Revision
((-020)) <u>.005</u>	Definition of "Independent Expenditure"	\$((700)) <u>800</u>	\$((800)) <u>900</u>
((-125)) <u>.445(3)</u>	Reimbursement of candidate for loan to own campaign	\$((4,300)) <u>4,700</u>	\$((4,700)) <u>5,000</u>
((-180(1))) <u>.630(1)</u>	Report—		
	Applicability of provisions to Persons who made contributions	\$((14,500)) <u>16,000</u>	\$((16,000)) <u>18,000</u>
	Persons who made independent expenditures	\$((700)) <u>800</u>	\$((800)) <u>900</u>
((-640(2))) <u>.405(2)</u>	Contribution Limits—		
	Candidates for state leg. office	\$((700)) <u>800</u>	\$((800)) <u>900</u>
	Candidates for county office	\$((700)) <u>800</u>	\$((800)) <u>900</u>
	Candidates for other state office	\$((1,400)) <u>1,600</u>	\$((1,600)) <u>1,800</u>
	Candidates for special purpose districts	\$((1,400)) <u>1,600</u>	\$((1,600)) <u>1,800</u>
((-640(3))) <u>.405(3)</u>	Contribution Limits—		
	State official up for recall or pol comm. supporting recall—		
	State Legislative Office	\$((700)) <u>800</u>	\$((800)) <u>900</u>
	Other State Office	\$((1,400)) <u>1,600</u>	\$((1,600)) <u>1,800</u>
((-640(4))) <u>.405(4)</u>	Contribution Limits—		
	Contributions made by political parties and caucus committees		

Code Section	Subject Matter	Amount Enacted or Last Revised	<del>((2008))</del> <u>2012</u> Revision
	State parties and caucus committees	<del>((.70))</del> <u>.80</u> per voter	<del>((.80))</del> <u>.90</u> per registered voter
	County and leg. district parties	<del>((.35))</del> <u>.40</u> per voter	<del>((.40))</del> <u>.45</u> per registered voter
	Limit for all county and leg. district parties to a candidate	<del>((.35))</del> <u>.40</u> per voter	<del>((.40))</del> <u>.45</u> per registered voter
<del>((.640(5)))</del> <u>.405(5)</u>	Contribution Limits—		
	Contributions made by pol. parties and caucus committees to state official up for recall or committee supporting recall		
	State parties and caucuses	<del>((.70))</del> <u>.80</u> per voter	<del>((.80))</del> <u>.90</u> per registered voter
	County and leg. district parties	<del>((.35))</del> <u>.40</u> per voter	<del>((.40))</del> <u>.45</u> per registered voter
	Limit for all county and leg. district parties to state official up for recall or pol. comm. supporting recall	<del>((.35))</del> <u>.40</u> per voter	<del>((.40))</del> <u>.45</u> per registered voter
<del>((.640(7)))</del> <u>.405(7)</u>	Limits on contributions to political parties and caucus committees		
	To caucus committee	<del>\$(.700))</del> <u>800</u>	<del>\$(.800))</del> <u>900</u>
	To political party	<del>\$(3,500))</del> <u>4,000</u>	<del>\$(4,000))</del> <u>4,500</u>
<del>((.645(1)))</del> <u>.410(1)</u>	Candidates for judicial office	<del>\$(1,400))</del> <u>1,600</u>	<del>\$(1,600))</del> <u>1,800</u>
<del>((.740))</del> <u>.475</u>	Contribution must be made by written instrument	<del>\$(.70))</del> <u>80</u>	<del>\$(.80))</del> <u>90</u>

**WSR 12-01-040**

**PERMANENT RULES**

**DEPARTMENT OF REVENUE**

[Filed December 13, 2011, 2:16 p.m., effective January 1, 2012]

Effective Date of Rule: January 1, 2012.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The department is adopting these rules with an effective date of January 1 because these rules provide rates used for refunds and property valuations during 2012.

Purpose:

- WAC 458-18-220 Refunds—Rate of interest, provides the rate of interest that applies to tax refunds made pursuant to RCW 84.69.010 through 84.69.090 in accordance with RCW 84.69.100, and also to judgments entered in favor of the plaintiff pursuant to RCW 84.68.030. This rule has been amended to provide the rate of interest to be used when refunding property taxes paid in 2012.

- WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component, provides the interest rate and the property tax component used to value farm and agricultural lands classified under chapter 84.34 RCW (open space program). This rule has been amended to provide the interest rate and property tax component to be used when valuing classified farm and agricultural land during the 2012 assessment year.
- WAC 458-30-590 Rate of inflation—Publication—Interest rate—Calculation, provides the rate of inflation used to calculate interest on deferred special benefit assessments when farm and agricultural or timber land is removed or withdrawn from classification under chapter 84.34 RCW (open space program). This rule has been amended to provide the rate of inflation used in calculating interest for deferred special benefit assessments of land removed or withdrawn during 2012.

Citation of Existing Rules Affected by this Order: Amending WAC 458-18-220 Refunds—Rate of interest, 458-30-262 Agricultural land valuation—Interest rate—

Property tax component, and 458-30-590 Rate of inflation—  
Publication—Interest rate—Calculation.

Statutory Authority for Adoption: RCW 84.34.360, 84.34.065, 84.34.141, and 84.69.100.

Adopted under notice filed as WSR 11-20-070 on October 3, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 13, 2011.

Alan R. Lynn  
Rules Coordinator

Year tax paid	Auction Year	Rate
1997	1996	5.22%
1998	1997	5.14%
1999	1998	5.06%
2000	1999	4.96%
2001	2000	5.98%
2002	2001	3.50%
2003	2002	1.73%
2004	2003	0.95%
2005	2004	1.73%
2006	2005	3.33%
2007	2006	5.09%
2008	2007	4.81%
2009	2008	2.14%
2010	2009	0.29%
2011	2010	0.21%
<u>2012</u>	<u>2011</u>	<u>0.08%</u>

AMENDATORY SECTION (Amending WSR 11-02-015, filed 12/29/10, effective 1/1/11)

AMENDATORY SECTION (Amending WSR 11-02-017, filed 12/29/10, effective 1/1/11)

**WAC 458-18-220 Refunds—Rate of interest.** The following rates of interest shall apply on refunds of taxes made pursuant to RCW 84.69.010 through 84.69.090 in accordance with RCW 84.69.100. The following rates shall also apply to judgments entered in favor of the plaintiff pursuant to RCW 84.68.030. The interest rate is derived from the equivalent coupon issue yield of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted after June 30th of the calendar year preceding the date the taxes were paid. The rate thus determined shall be applied to the amount of the judgment or the amount of the refund, until paid:

Year tax paid	Auction Year	Rate
1984	1983	9.29%
1985	1984	11.27%
1986	1985	7.36%
1987	1986	6.11%
1988	1987	5.95%
1989	1988	7.04%
1990	1989	8.05%
1991	1990	8.01%
1992	1991	5.98%
1993	1992	3.42%
1994	1993	3.19%
1995	1994	4.92%
1996	1995	5.71%

**WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component.** For assessment year (~~(2011)~~) 2012, the interest rate and the property tax component that are to be used to value classified farm and agricultural lands are as follows:

- (1) The interest rate is (~~(7.00)~~) 6.16 percent; and
- (2) The property tax component for each county is:

COUNTY	PERCENT	COUNTY	PERCENT
Adams	<del>((1.20))</del> <u>1.25</u>	Lewis	<del>((0.96))</del> <u>0.99</u>
Asotin	<del>((1.22))</del> <u>1.24</u>	Lincoln	<del>((1.18))</del> <u>1.20</u>
Benton	<del>((1.16))</del> <u>1.17</u>	Mason	0.88
Chelan	<del>((0.92))</del> <u>0.95</u>	Okanogan	0.96
Clallam	<del>((0.88))</del> <u>0.95</u>	Pacific	<del>((1.07))</del> <u>1.11</u>
Clark	<del>((1.16))</del> <u>1.32</u>	Pend Oreille	<del>((0.83))</del> <u>0.82</u>
Columbia	<del>((1.11))</del> <u>1.21</u>	Pierce	<del>((1.14))</del> <u>1.29</u>
Cowlitz	<del>((1.07))</del> <u>1.13</u>	San Juan	<del>((0.49))</del> <u>0.53</u>
Douglas	<del>((0.96))</del> <u>1.07</u>	Skagit	<del>((0.98))</del> <u>1.05</u>
Ferry	<del>((0.91))</del> <u>0.92</u>	Skamania	<del>((0.82))</del> <u>0.88</u>

COUNTY	PERCENT	COUNTY	PERCENT
Franklin	<del>((1.27))</del> <u>1.28</u>	Snohomish	<del>((0.99))</del> <u>1.12</u>
Garfield	<del>((1.09))</del> <u>1.16</u>	Spokane	<del>((1.19))</del> <u>1.29</u>
Grant	<del>((1.19))</del> <u>1.21</u>	Stevens	<del>((0.94))</del> <u>0.98</u>
Grays Harbor	<del>((1.06))</del> <u>1.07</u>	Thurston	<del>((1.05))</del> <u>1.16</u>
Island	<del>((0.73))</del> <u>0.79</u>	Wahkiakum	<del>((0.78))</del> <u>0.84</u>
Jefferson	<del>((0.79))</del> <u>0.86</u>	Walla Walla	<del>((1.27))</del> <u>1.26</u>
King	<del>((1.01))</del> <u>1.08</u>	Whatcom	<del>((0.94))</del> <u>1.03</u>
Kitsap	<del>((1.01))</del> <u>1.07</u>	Whitman	<del>((1.29))</del> <u>1.30</u>
Kittitas	<del>((0.74))</del> <u>0.78</u>	Yakima	1.16
Klickitat	<del>((0.85))</del> <u>0.90</u>		

AMENDATORY SECTION (Amending WSR 11-02-016, filed 12/29/10, effective 1/1/11)

**WAC 458-30-590 Rate of inflation—Publication—Interest rate—Calculation.** (1) **Introduction.** This section sets forth the rates of inflation discussed in WAC 458-30-550. It also explains the department of revenue's obligation to annually publish a rate of inflation and the manner in which this rate is determined.

(2) **General duty of department—Basis for inflation rate.** Each year the department determines and publishes a rule establishing an annual rate of inflation. This rate of inflation is used in computing the interest that is assessed when farm and agricultural or timber land, which are exempt from special benefit assessments, is withdrawn or removed from current use classification.

(a) The rate of inflation is based upon the implicit price deflator for personal consumption expenditures calculated by the United States Department of Commerce. This rate is used to calculate the rate of interest collected on exempt special benefit assessments.

(b) The rate is published by December 31st of each year and applies to all withdrawals or removals from farm and agricultural or timber land classification that occur the following year.

(3) **Assessment of rate of interest.** An owner of classified farm and agricultural or timber land is liable for interest on the exempt special benefit assessment. Interest accrues from the date the local improvement district is created until the land is withdrawn or removed from classification. Interest accrues and is assessed in accordance with WAC 458-30-550.

(a) Interest is assessed only for the time (years and months) the land remains classified under RCW 84.34.020 (2) or (3).

(b) If the classified land is exempt from the special benefit assessment for more than one year, the annual inflation rates are used to calculate an average rate of interest. This average is determined by adding the inflation rate for each year the classified land was exempt from the special benefit assessment after the local improvement district was created. The sum of the inflation rates is then divided by the number of years involved to determine the applicable rate of interest.

(c) Example. A local improvement district for a domestic water supply system was created in January 1990 and the owner used the statutory exemption provided in RCW 84.34.320. On July 1, 1997, the land was removed from the farm and agricultural classification. An average interest rate was calculated using the inflation rates for 1990 through 1997. The owner was then notified of the amount of previously exempt special benefit assessment, plus the average interest rate.

(4) **Rates of inflation.** The rates of inflation used to calculate the interest as required by WAC 458-30-550 are as follows:

YEAR	PERCENT	YEAR	PERCENT
1976	5.6	1977	6.5
1978	7.6	1979	11.3
1980	13.5	1981	10.3
1982	6.2	1983	3.2
1984	4.3	1985	3.5
1986	1.9	1987	3.7
1988	4.1	1989	4.8
1990	5.4	1991	4.2
1992	3.3	1993	2.7
1994	2.2	1995	2.3
1996	2.2	1997	2.1
1998	0.85	1999	1.42
2000	2.61	2001	1.89
2002	1.16	2003	1.84
2004	2.39	2005	2.54
2006	3.42	2007	2.08
2008	4.527	2009	-0.85 (negative)
2010	1.539	<u>2011</u>	<u>2.755</u>

**WSR 12-01-047**

**PERMANENT RULES**

**PUBLIC DISCLOSURE COMMISSION**

[Filed December 14, 2011, 11:24 a.m., effective January 14, 2012]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Implement chapter 145, Laws of 2011, effective January 1, 2012. Amendments incorporate new definition of "sponsor of a political committee" and related name requirements into WAC 390-16-011. New WAC 390-16-011A instructs when to update a sponsor's status. Amendments incorporate new political committee eligibility requirement for contributing to another political committee

(WAC 390-16-011, 390-16-050, and 390-17-315); lower expenditure threshold for defining "electioneering communication" (WAC 390-16-060 and 390-18-060); lower campaigns' mandatory electronic filing threshold (WAC 390-19-030); strike language that requires the public disclosure commission to forego an enforcement hearing in cases referred to the attorney general or other enforcement agency (WAC 390-37-103); and adjusts the disclosure threshold for out-of-state contributions disclosed by an out-of-state political committee (WAC 390-16-050). Amendments also correct statutory references from chapter 42.17 RCW to chapter 42.17A RCW.

Citation of Existing Rules Affected by this Order: Amending WAC 390-16-011, 390-16-060, 390-17-315, 390-18-060, 390-19-030, 390-37-103, and 390-16-050.

Statutory Authority for Adoption: RCW 42.17.130 and 42.17.093.

Adopted under notice filed as WSR 11-20-057 on September 30, 2011, and WSR 11-22-050 on October 28, 2011.

Changes Other than Editing from Proposed to Adopted Version: A technical cross reference was included in the C-1pc instructions (WAC 390-16-011) to cite WAC 390-16-011A.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 8, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 8, 2011.

Lori Anderson  
Communications and  
Training Officer

AMENDATORY SECTION (Amending WSR 10-20-011, filed 9/24/10, effective 10/25/10)

**WAC 390-16-011 Forms—Registration statement for political committees.** The official form for providing the statement of organization by political committees for designating a campaign treasurer and depository and for reporting information required to qualify for mini campaign finance reporting is designated "C-1pc," revised ((11/10)) 1/12. Copies of this form are available at the Commission Office, 711 Capitol Way, Room 206, P.O. Box 40908, Olympia, Washington 98504-0908. Any attachments shall be on 8-1/2" x 11" white paper.



~~((STRICKEN GRAPHIC~~

Please consult PDC instruction manuals when completing this report. Reporting requirements are contained in and governed by RCW 42.17 and WAC 390.



**Who Must File** – Persons, committees, organizations or groups that receive contributions or make expenditures in support of or opposition to: candidates in jurisdictions of 5,000 or more registered voters as of the last general election; statewide ballot issues; or local ballot issues in jurisdictions with 1,000 or more registered voters as of the last general election.

**When To File** – Within 2 weeks of organizing a committee or first expecting to receive contributions or make expenditures, whichever occurs first. **(Committees that organize within three weeks of an election must file within three business days of forming or of expecting to receive contributions or make expenditures.)**

File an amended C-1pc form within 10 calendar days of any material change to the registration information furnished previously. For single election-year only committees, a material change includes providing or modifying the list of candidates the committee is supporting or opposing.

Continuing political committees using Mini Reporting must also file a C-1pc annually in January. Reports are considered filed as of the postmark date or date hand-delivered to PDC.

**Where To File** – Send the **original to PDC** at the address on the reverse side. Keep a copy as part of the committee's records.

**“Officer” of a Political Committee** – Officer of a political committee includes the following persons:

- any person designated as an officer on the C-1pc registration statement, and
- any person who alone or in conjunction with other persons makes, directs, or authorizes contribution, expenditure, strategic or policy decisions on behalf of the committee. [WAC 390-05-245]

**Persons who perform “Ministerial Functions” for two or more campaigns**

A person may perform ministerial functions for a candidate and a political committee without jeopardizing that political committee's eligibility to make independent expenditures or electioneering communications regarding that candidate as long as:

- the person performs solely ministerial functions for both the candidate and the political committee;
- the person is identified on both the candidate's and political committee's registration statements as a person performing ministerial functions for the campaign; and
- the person does not share information from or about one of the campaigns with the other campaign, or does not use information from or about one of the campaigns to assist the other campaign. [See RCW 42.17.020 (15)(b)(ix) and WAC 390-05-243 for more detailed information.]

“Ministerial functions” means activities carried out as part of the duties of an administrative office without exercise of personal judgment or discretion. RCW 42.17.020(34). Also see WAC 390-05-243 for a non-exclusive list of ministerial functions and a definition of administrative office. Typically, persons performing ministerial functions may, under the supervision of a candidate or committee officer, file PDC reports, make deposits, pay bills and maintain campaign finance records. However, if a person performs functions for both a candidate and a political committee and those functions for one or both campaigns entail duties beyond those deemed ministerial, any expenditure by the committee benefiting the candidate may be a contribution, rather than an independent expenditure or electioneering communication. [RCW 42.17.020(34) and WACs 390-05-243 and 390-05-210]

**For Instruction Manuals and Reporting Forms click on the “Filer Resources” tab at [www.pdc.wa.gov](http://www.pdc.wa.gov)**

~~STRICKEN GRAPHIC))~~

 <p><b>PUBLIC DISCLOSURE COMMISSION</b>                  711 CAPITOL WAY RM 206                  PO BOX 40908                  OLYMPIA WA 98504-0908                  (360) 753-1111                  Toll Free 1-877-601-2828</p>	<h2>Political Committee Registration</h2>	<h1>C1PC</h1> <p>(1/12)</p>	
Committee Name (Include sponsor in committee name. See next page for definition of "sponsor." Show entire official name. Do not use abbreviations or acronyms in this box.)		Acronym: _____	
		Telephone: (    ) _____	
Mailing Address		Fax: (    ) _____	
City	County	Zip + 4	E-mail: _____
NEW OR AMENDED REGISTRATION? <input type="checkbox"/> NEW. Complete entire form. <input type="checkbox"/> AMENDS previous report. Complete entire form.		COMMITTEE STATUS <input type="checkbox"/> Continuing (On-going; not established in anticipation of any particular campaign election.) <input type="checkbox"/> _____ election year only. Date of general or special election: _____ (Year)	
1. What is the purpose or description of the committee? <input type="checkbox"/> <b>Bona Fide Political Party Committee</b> - official state or county central committee or legislative district committee. If you are not supporting the entire party ticket, attach a list of the names of the candidates you support.			
<input type="checkbox"/> <b>Ballot Committee</b> - Initiative, Bond, Levy, Recall, etc. Name or description of ballot measure: _____		Ballot Number _____	FOR <input type="checkbox"/> AGAINST <input type="checkbox"/>
<input type="checkbox"/> <b>Other Political Committee</b> - PAC, caucus committee, political club, etc. If committee is related or affiliated with a business, association, union or similar entity, specify name: _____			
<b>For single election-year only committees (not continuing committees):</b> Is the committee supporting or opposing (a) one or more candidates? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, attach a list of each candidate's name, office sought and political party affiliation. (b) the entire ticket of a political party? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, identify the party: _____			
2. Related or affiliated committees. List name, address and relationship. <span style="float:right;"><input type="checkbox"/> Continued on attached sheet.</span>			
3. How much do you plan to spend during this entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. (If your committee status is continuing, estimate spending on a calendar year basis.) <b>If no box is checked you are obligated to use Full Reporting. See instruction manuals for information about reports required and changing reporting options.</b> <input type="checkbox"/> <b>MINI REPORTING</b> Mini Reporting is selected. No more than \$5,000 will be raised or spent <u>and</u> no more than \$500 in the aggregate will be accepted from any one contributor.			
		<input type="checkbox"/> <b>FULL REPORTING</b> Full Reporting is selected. The frequent, detailed campaign reports mandated by law will be filed as required.	
4. Campaign Manager's or Media Contact's Name and Address		Telephone Number: (    ) _____	
5. Treasurer's Name and Address. Does treasurer perform <u>only</u> ministerial functions? Yes ___ No ___. See WAC 390-05-243 and next page for details. List deputy treasurers on attached sheet. <span style="float:right;"><input type="checkbox"/> Continued on attached sheet.</span>		Daytime Telephone Number: (    ) _____	
6. Persons who perform only ministerial functions on behalf of this committee <u>and</u> on behalf of candidates or other political committees. List name, title, and address of these persons. See WAC 390-05-243 and next page for details. <span style="float:right;"><input type="checkbox"/> Continued on attached sheet.</span>			
7. Committee Officers and other persons who authorize expenditures or make decisions for committee. List name, title, and address. See next page for definition of "officer." <span style="float:right;"><input type="checkbox"/> Continued on attached sheet.</span>			
8. Campaign Bank or Depository		Branch	City
9. Campaign books must be open to the public by appointment between 8 a.m. and 8 p.m. during the eight days before the election, except Saturdays, Sundays, and legal holidays. In the space below, provide contact information for scheduling an appointment and the address where the inspection will take place. It is not acceptable to provide a post office box or an out-of-area address. <b>Street Address, Room Number, City where campaign books will be available for inspection</b>  In order to make an appointment, contact the campaign at (telephone, fax, e-mail): (    ) _____			
10. <b>Eligibility to Give to Political Committees and State Office Candidates:</b> A committee must receive \$10 or more each from ten Washington State registered voters before contributing to a Washington State political committee. Additionally, during the six months prior to making a contribution to a state office candidate your committee must have received contributions of \$10 or more each from at least ten Washington State registered voters.  <input type="checkbox"/> A check here indicates your awareness of and pledge to comply with these provisions. Absence of a check mark means your committee does not qualify to give to Washington State political committees and/or state office candidates.		11. <b>Signature and Certification.</b> I certify that this statement is true, complete and correct to the best of my knowledge.  <div style="display: flex; justify-content: space-between;"> <span><b>Committee Treasurer's Signature</b></span> <span><b>Date</b></span> </div>	

**SEE INSTRUCTIONS ON NEXT PAGE**

Please consult PDC instruction manuals when completing this report. Reporting requirements are contained in and governed by RCW 42.17A and WAC 390.

<b>C1pc</b> <small>(1/12)</small>	<b>POLITICAL COMMITTEE REGISTRATION</b>
--------------------------------------	---

**Who Must File** – Persons, committees, organizations or groups that receive contributions or make expenditures in support of or opposition to: candidates in jurisdictions of 5,000 or more registered voters as of the last general election; statewide ballot issues; or local ballot issues in jurisdictions with 1,000 or more registered voters as of the last general election.

**When To File** – Within 2 weeks of organizing a committee or first expecting to receive contributions or make expenditures, whichever occurs first. **(Committees that organize within three weeks of an election must file within three business days of forming or of expecting to receive contributions or make expenditures.)**

Amend the C-1pc form within 10 calendar days of any material change to the registration information furnished previously. See “Sponsor” section below for further instructions.\* For single election-year only committees, a material change includes providing or modifying the list of candidates the committee is supporting or opposing.

Continuing political committees using Mini Reporting are required to file a C-1pc annually each January. Reports are considered filed as of the postmark date or date hand-delivered to PDC.

**File** the initial C-1pc and any necessary amendments with the PDC. Keep copies with of the committee’s records.

**Committee Name** – Do not use the exact name of another active political committee – no two active committees may have the same name. Do not abbreviate or use acronyms in the committee name.

**“Sponsor” of a Political Committee** – Sponsor of a political committee includes any person, except a committee authorized by a candidate or by a public official against whom recall charges have been filed to whom any of the following applies:

- the committee receives 80% or more of its contributions either from the person or from the person’s members, officers, employees, or shareholders;
- the person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

“Person” is defined in RCW 42.17A.005(36).

\* A political committee shall include a known sponsor in its name when filing the initial C-1pc. In accordance with WAC 390-16-011A(6), the political committee must amend its registration 60 days before an election in which it participates if the political committee has a different sponsor at that time. See WAC 390-16-011A(6)(a) and (b) for information on calculating the 80% threshold for this amendment. Interim amendments are not required to show changes to a sponsor’s status.

**“Officer” of a Political Committee** – Officer of a political committee includes the following persons:

- any person designated as an officer on the C-1pc registration statement, and
- any person who alone or in conjunction with other persons makes, directs, or authorizes contribution, expenditure, strategic or policy decisions on behalf of the committee. [WAC 390-05-245]

**Persons who perform “Ministerial Functions” for two or more campaigns** – A person may perform ministerial functions for a candidate and a political committee without jeopardizing that political committee’s eligibility to make independent expenditures or electioneering communications regarding that candidate as long as:

- the person performs solely ministerial functions for both the candidate and the political committee;
- the person is identified on both the candidate’s and political committee’s registration statements as a person performing ministerial functions for the campaign; and
- the person does not share information from or about one of the campaigns with the other campaign, or does not use information from or about one of the campaigns to assist the other campaign. [See RCW 42.17A.005 (13)(b)(ix) and WAC 390-05-243 for more detailed information.]

“Ministerial functions” means activities carried out as part of the duties of an administrative office without exercise of personal judgment or discretion. RCW 42.17A.005(33). Also see WAC 390-05-243 for a non-exclusive list of ministerial functions and a definition of administrative office. Typically, persons performing ministerial functions may, under the supervision of a candidate or committee officer, file PDC reports, make deposits, pay bills and maintain campaign finance records. However, if a person performs functions for both a candidate and a political committee and those functions for one or both campaigns entail duties beyond those deemed ministerial, any expenditure by the committee benefiting the candidate may be a contribution, rather than an independent expenditure or electioneering communication. [RCW 42.17A.005(33) and WACs 390-05-243 and 390-05-210]

**Instruction Manuals and Reporting Forms are found under the “Filer Resources” tab at [www.pdc.wa.gov](http://www.pdc.wa.gov).**

NEW SECTION

98504-0908. Any paper attachments shall be on 8 1/2" x 11" white paper.

**WAC 390-16-011A Sponsor of a political committee.**

(1) This rule applies to political committees that are not authorized committees. This rule does not apply to political committees that filed final C-4 reports as of December 31, 2011.

(2) "Sponsor" of a political committee is defined under RCW 42.17A.005 (42)(b).

(3) A sponsored political committee that registers on or after January 1, 2012, shall include on its C-1pc the name of at least one sponsor in the committee's name.

(4) A political committee registered before January 1, 2012, shall amend its registration by January 31, 2012. A sponsored political committee shall include on its amended C-1pc the name of at least one sponsor in the committee's name.

(5) To determine if a political committee received eighty percent or more of its contributions from a person or from the person's members, officers, employees, or shareholders under RCW 42.17A.005 (42)(b)(i):

(a) A political committee not organized to support or oppose a particular candidate or ballot proposition shall consider all contributions received January 1, 2011, through the date of filing the amended C-1pc.

(b) A political committee organized to support or oppose a particular candidate or ballot proposition shall consider all contributions received from the time the committee was organized or filed its initial C-1pc, whichever is earlier.

(6) A sponsored political committee must amend its C-1pc sixty days before an election in which it participates if the committee's name on its most recently filed C-1pc does not include at least one current sponsor. To determine if the committee received eighty percent or more of its contributions from a person or from the person's members, officers, employees, or shareholders under RCW 42.17A.005 (42)(b) (i) at the time of the amendment:

(a) A political committee not organized to support or oppose a particular candidate or ballot proposition will consider all contributions received in the previous twelve months through the date of filing the amended C-1pc.

(b) A committee organized to support or oppose a particular candidate or ballot proposition will consider all contributions received from the time the committee was organized or filed its initial C-1pc, whichever is earlier.

AMENDATORY SECTION (Amending WSR 09-19-004 and 09-19-103, filed 9/2/09 and 9/21/09, effective 10/3/09 and 11/4/09)

**WAC 390-16-050 Forms for contributions and expenditures of out-of-state political committees.** The official form for the report required by RCW ((42.17.093)) 42.17A.250 of contributions and expenditures of an out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW ((42.17.040)) 42.17A.250 through ((42.17.090)) 42.17A.240 is designated "C-5," revised ((11/09)) 1/12. Copies of this form are available at the Commission Office, Room 206, Evergreen Plaza Building, Olympia, Washington

((STRICKEN GRAPHIC



Form <b>C5</b> (11/09)	This space for office use P M A R K  R E C E I V E D
------------------------------	--

**Out-of-State Political Committee Campaign Finance Report**

<b>1. Name and full address of committee making the contribution</b> Name Street address City / State / Zip	<b>2. Check appropriate box</b> <input type="checkbox"/> This is the first report submitted during 20__ <input type="checkbox"/> This shows new expenditures, contributions or information changed from reports submitted previously this calendar year.
--	--

**3. Provide the purpose of the committee and the identity of any business, union, association or person with which the committee is affiliated (e.g., a State Committee of the Oregon Republican Party, Idaho committee of United Workers Union or federal PAC of XYZ Trade Assn.)**

**4. Officers or responsible leaders of committee:**  
Name and full address Title

**5. States where this political committee is registered and has been actively reporting campaign finance information for the preceding two years:**  
Name of state(s) & administrative agency(s) Agency(s) website address

**6. Candidate contributions: List each Washington candidate for state, local or judicial office to whom you have made a contribution of more than \$50.00.**

Candidate name	Office sought	Political party	Date	Amount

**7. Ballot measure committee contributions: List each Washington committee supporting or opposing a ballot measure to whom you have made a contribution of more than \$50.00.**

Committee name & full address	Ballot number	For or Against?	Date	Amount

**8. Other contributions and expenditures: List each other contribution or expenditure of more than \$50.00 made to or on behalf of any Washington state, local or judicial candidate, ballot measure or political committee.**

Recipient name & full address	Purpose	Date	Amount

Check here  if continued on an attached sheet

**9. Total contributions and expenditures (Add parts 6, 7, 8) .....**

\_\_\_\_\_  
(STRICKEN GRAPHIC))

((STRICKEN GRAPHIC \_\_\_\_\_

**10. Aggregate contributions and expenditures made during this calendar year in Washington State.**  
 Include amounts shown on this report and C5 reports previously submitted this calendar year. \_\_\_\_\_

Does this aggregate total represent 20% or more of the committee's nationwide campaign activity to date for this calendar year? Y  N

**11. Contributions received from Washington residents.** List all contributions of more than \$25.00 in the aggregate to this out-of-state committee during the current calendar year from Washington residents or corporations with their headquarters or a primary place of business in Washington.

Name and full address	Date	Amount	Aggregate Total

Check here  if continued on an attached sheet

**12. Contributions received from persons residing outside of Washington.** List the name, address, and employer of each person or corporation residing outside the state of Washington who has made contributions of more than \$2,600 in the aggregate to this out-of-state committee during the current calendar year.

Name and full address	Employer name, city and state	Date	Amount	Aggregate Total

Check here  if continued on an attached sheet

**13. Eligibility to Give to State Office Candidates:** During the six months prior to making a contribution to a legislative or statewide executive candidate your committee must have received contributions of \$10 or more from at least ten persons registered to vote in Washington State.

A check here indicates your awareness of and pledge to comply with this provision. Absence of a check mark means your committee does not qualify to give to legislative and statewide executive office candidates.

**14. Certification:** I certify the information contained in this report is true, complete and correct to the best of my knowledge.

Signature of Committee Official _____	Name – Typed or Printed _____
Title _____	Daytime Telephone No. (    ) _____
	E-Mail Address _____

\_\_\_\_\_ STRICKEN GRAPHIC))

~~((STRICKEN GRAPHIC~~**Instructions – (Statutory reference: RCW 42.17.093)**

**Who Must Report on C5 Form:** An out-of-state political committee, including political committees filing with the Federal Election Commission, organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17.040 through 42.17.090 which has made contributions or expenditures to or on behalf of a state, local or judicial candidate or political committee in Washington state. See WAC 390-16-049 reprinted below. A political committee making contributions or expenditures to or on behalf of a state, local or judicial candidate or political committee in Washington state that fails to satisfy all of the conditions of WAC 390-16-049(3) shall not use the C5 form but instead shall register and report as a political committee pursuant to RCW 42.17.040 through 42.17.090 and as otherwise required by RCW 42.17.

**When to Report:** A C5 report is due no later than the 10<sup>th</sup> day of the month following any month in which a contribution or other expenditure of more than \$50 is made to or on behalf of a Washington state candidate or political committee. After filing an initial C5 report, subsequent reports during the same calendar year shall be filed updating or amending the information previously reported. These follow-up reports are also due no later than the 10<sup>th</sup> day of the month following any month in which an additional contribution or other expenditure of more than \$50 is made. The C5 report is considered filed as of the postmark date.

**Send Report to:** Public Disclosure Commission, 711 Capitol Way, Room 206, PO Box 40908, Olympia, Washington 98504-0908

**Questions?** Contact PDC at [www.pdc.wa.gov](http://www.pdc.wa.gov), toll free at 1-877-601-2828 or 1-360-753-1111

**WAC 390-16-049 Out-of-state political committees – Implementation of RCW 42.17.093**

(1) RCW 42.17.093 governs campaign reporting in Washington State by committees located outside of Washington. The statute directs that an out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state (and that is not otherwise required to report as an in-state committee) reports the information listed in RCW 42.17.093 on a C5 form (WAC 390-16-050). The committee begins reporting on a C5 form when it makes an expenditure supporting or opposing a Washington state candidate or political committee.

(2) To file as an out-of-state political committee, all the criteria in (a) and (b) below must be satisfied:

(a) **Out-of-State.** First, the committee must be located out-of-state. It must be maintaining its office or headquarters in another U.S. state or the District of Columbia, and has no office, street address or corporate registered agent in Washington State. If there is no office or headquarters in another state or the District of Columbia, and no corporate registered agent in Washington State, the political committee is deemed out-of-state if its treasurer resides in another U.S. state or the District of Columbia.

(b) **Organizational Purpose and Campaign Activities.** Second, the committee must also be currently organized primarily for engaging in campaign activities in another state. The political committee may be described in other states as a political committee, political action committee (PAC), group (Alaska) or similar terms to describe a committee. Therefore, to qualify as a current out-of-state committee, the committee must also:

(i) Be currently registered and actively filing campaign disclosure reports in one or more other states and has been so filing for the preceding two years; and,

(ii) Have organizational documents showing it was originally formed and is currently organized for the purpose of making expenditures in another state or soliciting contributions for use in another state's election campaigns; and,

(iii) Have spent less than 20 percent of its aggregate expenditures for all political campaign activity nationwide at any point in any calendar year to support and/or oppose Washington candidates for state, local and judicial office, Washington ballot measures and/or Washington political committees.

(3) A committee that does not satisfy the criteria in subsection (2) shall file as an in-state committee under RCW 42.17, including RCW 42.17.040 – RCW 42.17.090.

(4) Out-of-state political committees reporting under RCW 42.17.093 are also subject to reporting pursuant to RCW 42.17.103 (political advertising independent expenditures) and 42.17.565 through 42.17.575 (electioneering communications).

~~STRICKEN GRAPHIC))~~



Form <b>C5</b> (1/12)	This space for office use  P M A R K  R E C E I V E D
-----------------------------	--

### Out-of-State Political Committee Campaign Finance Report

<b>1. Name and full address of committee making the contribution</b> Name Street address City / State / Zip	<b>2. Check appropriate box</b> <input type="checkbox"/> This is the first report submitted during 20__ <input type="checkbox"/> This shows new expenditures, contributions or information changed from reports submitted previously this calendar year.
--	--

3. Provide the purpose of the committee and the identity of any business, union, association or person with which the committee is affiliated (e.g., a State Committee of the Oregon Republican Party, Idaho committee of United Workers Union or federal PAC of XYZ Trade Assn.)

<b>4. Officers or responsible leaders of committee:</b>	
Name and full address	Title

5. States where this political committee is registered and has been actively reporting campaign finance information for the preceding two years:

Name of state(s) & administrative agency(s)	Agency(s) website address
---	---------------------------

6. Candidate contributions: List each Washington candidate for state, local or judicial office to whom you have made a contribution of more than \$50.00.

Candidate name	Office sought	Political party	Date	Amount

7. Ballot measure committee contributions: List each Washington committee supporting or opposing a ballot measure to whom you have made a contribution of more than \$50.00.

Committee name & full address	Ballot number	For or Against?	Date	Amount

8. Other contributions and expenditures: List each other contribution or expenditure of more than \$50.00 made to or on behalf of any Washington state, local or judicial candidate, ballot measure or political committee.

Recipient name & full address	Purpose	Date	Amount

Check here  if continued on an attached sheet

9. Total contributions and expenditures (Add parts 6, 7, 8) .....

**10. Aggregate contributions and expenditures made during this calendar year in Washington State.** Include amounts shown on this report and C5 reports previously submitted this calendar year. . . . . \_\_\_\_\_

Does this aggregate total represent 20% or more of the committee's nationwide campaign activity to date for this calendar year? Y  N

**11. Contributions received from Washington residents.** List all contributions of more than \$25.00 in the aggregate to this out-of-state committee during the current calendar year from Washington residents or corporations with their headquarters or a primary place of business in Washington.

Name and full address	Date	Amount	Aggregate Total

Check here  if continued on an attached sheet

**12. Contributions received from persons residing outside of Washington.** List the name, address, and employer of each person or corporation residing outside the state of Washington who has made contributions of more than \$2,700 in the aggregate to this out-of-state committee during the current calendar year.

Name and full address	Employer name, city and state	Date	Amount	Aggregate Total

Check here  if continued on an attached sheet

**13. Eligibility to Give to Political Committees and State Office Candidates:** A committee must receive \$10 or more each from ten Washington State registered voters before contributing to a Washington State political committee. Additionally, during the six months prior to making a contribution to a state office candidate your committee must have received contributions of \$10 or more each from at least ten Washington State registered voters.

A check here indicates your awareness of and pledge to comply with these provisions. Absence of a check mark means your committee does not qualify to give to Washington State political committees and/or state office candidates.

**14. Certification:** I certify the information contained in this report is true, complete and correct to the best of my knowledge.

Signature of Committee Official _____	Name – Typed or Printed _____
Title _____	Daytime Telephone No. (    ) _____
	E-Mail Address _____

**Instructions – (Statutory reference: RCW 42.17A.250)**

**Who Must Report on C5 Form:** An out-of-state political committee, including political committees filing with the Federal Election Commission, organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17A.205 through 42.17A.240 which has made contributions or expenditures to or on behalf of a state, local or judicial candidate or political committee in Washington state. See WAC 390-16-049 reprinted below. A political committee making contributions or expenditures to or on behalf of a state, local or judicial candidate or political committee in Washington state that fails to satisfy all of the conditions of WAC 390-16-049(3) shall not use the C5 form but instead shall register and report as a political committee pursuant to RCW 42.17A.205 through 42.17A.240 and as otherwise required by RCW 42.17A.

**When to Report:** A C5 report is due no later than the 10<sup>th</sup> day of the month following any month in which a contribution or other expenditure of more than \$50 is made to or on behalf of a Washington state candidate or political committee. After filing an initial C5 report, subsequent reports during the same calendar year shall be filed updating or amending the information previously reported. These follow-up reports are also due no later than the 10<sup>th</sup> day of the month following any month in which an additional contribution or other expenditure of more than \$50 is made. The C5 report is considered filed as of the postmark date.

**Send Report to: Public Disclosure Commission, 711 Capitol Way, Room 206, PO Box 40908, Olympia, Washington 98504-0908**

**Questions? Contact PDC at [www.pdc.wa.gov](http://www.pdc.wa.gov), toll free at 1-877-601-2828 or 1-360-753-1111**

**WAC 390-16-049 Out-of-state political committees – Implementation of RCW 42.17A.250**

(1) RCW 42.17A.250 governs campaign reporting in Washington State by committees located outside of Washington. The statute directs that an out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state (and that is not otherwise required to report as an in-state committee) reports the information listed in RCW 42.17A.250 on a C5 form (WAC 390-16-050). The committee begins reporting on a C5 form when it makes an expenditure supporting or opposing a Washington state candidate or political committee.

(2) To file as an out-of-state political committee, all the criteria in (a) and (b) below must be satisfied:

(a) **Out-of-State.** First, the committee must be located out-of-state. It must be maintaining its office or headquarters in another U.S. state or the District of Columbia, and has no office, street address or corporate registered agent in Washington State. If there is no office or headquarters in another state or the District of Columbia, and no corporate registered agent in Washington State, the political committee is deemed out-of-state if its treasurer resides in another U.S. state or the District of Columbia.

(b) **Organizational Purpose and Campaign Activities.** Second, the committee must also be currently organized primarily for engaging in campaign activities in another state. The political committee may be described in other states as a political committee, political action committee (PAC), group (Alaska) or similar terms to describe a committee. Therefore, to qualify as a current out-of-state committee, the committee must also:

(i) Be currently registered and actively filing campaign disclosure reports in one or more other states and has been so filing for the preceding two years; and,

(ii) Have organizational documents showing it was originally formed and is currently organized for the purpose of making expenditures in another state or soliciting contributions for use in another state's election campaigns; and,

(iii) Have spent less than 20 percent of its aggregate expenditures for all political campaign activity nationwide at any point in any calendar year to support and/or oppose Washington candidates for state, local and judicial office, Washington ballot measures and/or Washington political committees.

(3) A committee that does not satisfy the criteria subsection (2) shall file as an in-state committee under RCW 42.17A, including RCW 42.17A.205 – RCW 42.17A.240.

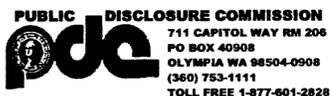
(4) Out-of-state political committees reporting under RCW 42.17A.250 are also subject to reporting pursuant to RCW 42.17A.260 (political advertising independent expenditures) and 42.17A.305 through 42.17A.315 (electioneering communications).

AMENDATORY SECTION (Amending WSR 06-11-132, filed 5/23/06, effective 6/23/06)

**WAC 390-16-060 Forms for report of independent expenditures and electioneering communications.** (1) The official form for reports of independent expenditures and electioneering communications as required by RCW ((42.17.100)) 42.17A.255, ((42.17.103)) 42.17A.260 and ((42.17.565)) 42.17A.305 is designated "C-6," revised ((5/06)) 1/12. Copies of this form are available at the Commission Office, Room 206, Evergreen Plaza Building, Olympia, Washington 98504 and on-line at www.pdc.wa.gov. Any paper attachments shall be on 8 1/2" x 11" white paper.

(2) The C-6 report may be filed electronically consistent with WAC 390-19-040 by using an electronic filing alternative provided or approved by the commission. C-6 reports of electioneering communications shall be filed electronically as provided in RCW ((42.17.565)) 42.17A.305.

((STRICKEN GRAPHIC \_\_\_\_\_))



Form <b>C6</b> 5/06
---------------------------

**Reporting Form for:** (check one) **Instructions on Page 3**

**INDEPENDENT EXPENDITURES** (Occurring at any time) — **\$100 or more**

**INDEPENDENT EXPENDITURE ADS** (Appearing within 21 days of an election) — **\$1,000 or more**

**ELECTIONEERING COMMUNICATIONS, Except Contributions** (Appearing within 60 days of an election) — **\$5,000 or more**

<b>1. Name and complete postal mailing address of sponsor:</b>	E-mail
	Telephone

**2. Itemize expenditures of more than \$100 associated with the independent expenditure or electioneering communication.**

Date Made	Date First Presented/ Mailed	Name and Address of Vendor or Recipient	Description of Expenditure (e.g., direct mail or newspaper, TV or radio ad)	Amount or Value (*See Below)
Expenditures \$100 or less not itemized above				\$

<b>Amount or Value</b>	<b>Total this report</b>
*If no reasonable estimate can be made of value, describe activity, services, property or right furnished precisely and attach copy of item produced or distributed.	\$
	Total independent expenditures and electioneering communications made during this election campaign. Include amounts shown in this report and previously submitted C-6 reports. \$

**3. List of candidate(s) or ballot proposition(s) identified in the advertising.**

Candidate/Proposition	Office/District/ Proposition No.	Party	Check Support or Oppose	Show portion of current expense attributable to each candidate or proposition	Show total C-6 expenses related to each candidate/ proposition during election campaign
			<input type="checkbox"/> <input type="checkbox"/>	\$	\$
			<input type="checkbox"/> <input type="checkbox"/>	\$	\$
			<input type="checkbox"/> <input type="checkbox"/>	\$	\$
			<input type="checkbox"/> <input type="checkbox"/>	\$	\$
			<input type="checkbox"/> <input type="checkbox"/>	\$	\$
Continued on attached sheet <input type="checkbox"/>				\$	\$

\_\_\_\_\_  
(STRICKEN GRAPHIC))

((STRICKEN GRAPHIC))

Filer Name:

4. If reporting an Electioneering Communication, it is necessary to disclose information concerning the source of funding for the communication. Select the description that applies:

- a)  An individual using only personal funds.
- b)  An individual using personal funds and/or funds received from others.
- c)  A business, union, group, association, organization, or other person using only general treasury funds.
- d)  A business, union, group, association, organization, or other person using general treasury funds and/or funds received from others.
- e)  A political committee filing C-3 and C-4 reports. (RCW 42.17.040 - .090)
- f)  A political committee filing C-5 reports. (RCW 42.17.093)
- g)  Other

If (b), (d), (f), or (g) applies, complete section 5 below. If (e) applies, also complete section 5 if the committee received funds that were requested or designated for the communication.

5. Sources giving in excess of \$250 for the electioneering communication:

Date Received	Source's Name, Address, City, State, Zip	For individuals, Employer's Name, City and State	Amount
			\$
		Occupation	
			\$
		Occupation	
			\$
		Occupation	
			\$
		Occupation	
			\$
		Occupation	
			\$
		Sub-Total	\$
		Amount from attached pages	\$
		TOTAL FUNDS RECEIVED	\$

Continued on attached sheet

<b>Sponsor of Independent Expenditure or Electioneering Communication</b>		
I certify (or declare) under penalty of perjury under the laws of the State of Washington that this expenditure was not made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or an agent of a candidate nor does it otherwise constitute a contribution under RCW 42.17.020. I further certify that the above information is true, complete, and correct to the best of my knowledge.	Signature _____	Printed Name _____
	Street address _____	
	City/State/Zip _____	
	Date Signed _____	Place Signed (city and county) _____
	<small>*RCW9A.72.040 provides that "(1) A person is guilty of false swearing if he makes a false statement, which he knows to be false, under an oath required or authorized by law. (2) False swearing is a misdemeanor."</small>	

((STRICKEN GRAPHIC))



Form <b>C6</b> 1/12
---------------------------

Reporting Form for: (check one)

Instructions on Page 3

- INDEPENDENT EXPENDITURES** (Occurring at any time) — **\$100 or more**
- INDEPENDENT EXPENDITURE ADS** (Appearing within 21 days of an election) — **\$1,000 or more**
- ELECTIONEERING COMMUNICATIONS, Except Contributions** (Appearing within 60 days of an election) — **\$1,000 or more**

<b>1. Name and complete postal mailing address of sponsor:</b>	E-mail  Telephone
--	-------------------------

**2. Itemize expenditures of more than \$100 associated with the independent expenditure or electioneering communication.**

Date Made	Date First Presented/ Mailed	Name and Address of Vendor or Recipient	Description of Expenditure (e.g., direct mail or newspaper, TV or radio ad)	Amount or Value (*See Below)
Expenditures \$100 or less not itemized above				\$
<b>Total this report</b>				\$
<b>Amount or Value</b> <small>*If no reasonable estimate can be made of value, describe activity, services, property or right furnished precisely and attach copy of item produced or distributed.</small>				\$
<small>Total independent expenditures and electioneering communications made during this election campaign. Include amounts shown in this report and previously submitted C-6 reports.</small>				\$

<b>3. List of candidate(s) or ballot proposition(s) identified in the advertising.</b>				Check Support or Oppose	Show portion of current expense attributable to each candidate or proposition	Show total C-6 expenses related to each candidate/proposition during election campaign
Candidate/Proposition	Office/District/Proposition No.	Party				
			<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
			<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
			<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
			<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
			<input type="checkbox"/>	<input type="checkbox"/>	\$	\$
Continued on attached sheet <input type="checkbox"/>					\$	\$

**Filer Name:**

**4. If reporting an Electioneering Communication, it is necessary to disclose information concerning the source of funding for the communication. Select the description that applies:**

- a) \_\_\_ An individual using only personal funds.
- b) \_\_\_ An individual using personal funds and/or funds received from others.
- c) \_\_\_ A business, union, group, association, organization, or other person using only general treasury funds.
- d) \_\_\_ A business, union, group, association, organization, or other person using general treasury funds and/or funds received from others.
- e) \_\_\_ A political committee filing C-3 and C-4 reports. (RCW 42.17A.205 - .240)
- f) \_\_\_ A political committee filing C-5 reports. (RCW 42.17A.250)
- g) \_\_\_ Other

If (b), (d), (f), or (g) applies, complete section 5 below. If (e) applies, also complete section 5 if the committee received funds that were requested or designated for the communication.

**5. Sources giving in excess of \$250 for the electioneering communication:**

Date Received	Source's Name, Address, City, State, Zip	For individuals, Employer's Name, City and State	Amount
			\$
		Occupation	
			\$
		Occupation	
			\$
		Occupation	
			\$
		Occupation	
			\$
		Occupation	
		<b>Sub-Total</b>	\$
	Continued on attached sheet <input type="checkbox"/>	<b>Amount from attached pages</b>	\$
		<b>TOTAL FUNDS RECEIVED</b>	\$

<b>Sponsor of Independent Expenditure or Electioneering Communication</b>		
I certify (or declare) under penalty of perjury under the laws of the State of Washington that this expenditure was not made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or an agent of a candidate nor does it otherwise constitute a contribution under RCW 42.17A.005. I further certify that the above information is true, complete, and correct to the best of my knowledge.	Signature	Printed Name
	Street address	
	City/State/Zip	
	Date Signed	Place Signed (city and county)
	*RCW9A.72.040 provides that "(1) A person is guilty of false swearing if he makes a false statement, which he knows to be false, under an oath required or authorized by law. (2) False swearing is a misdemeanor."	

AMENDATORY SECTION (Amending WSR 07-07-005, filed 3/8/07, effective 4/8/07)

**WAC 390-17-315 Political committees—Qualifications to contribute.** ~~((In order to make contributions as permitted by RCW 42.17.640, a political committee shall,)) (1) Within ((180)) one hundred eighty days ((prior to)) of making ((the)) a contribution((:)) to a state office candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official, a political committee shall have received contributions of \$10 or more each from at least ten individuals registered to vote in Washington state ((at the time they contributed to the political committee)).~~

~~(2) A political committee shall have received contributions of \$10 or more each from at least ten individuals registered to vote in Washington state before contributing to a Washington state political committee.~~

~~(3) A political committee shall maintain a list of the names and addresses of these registered voters from whom contributions are received, the amount of each contribution, and the date each contribution is received. Upon written request of the commission or other person seeking this information, the political committee shall provide the list within ((14)) fourteen days ((a list of these ten individuals, identified by name, address, amount of contribution and date contribution was received)).~~

AMENDATORY SECTION (Amending WSR 06-11-132, filed 5/23/06, effective 6/23/06)

**WAC 390-18-060 Electioneering communication reporting threshold and sponsors.** (1) A "sponsor of an electioneering communication" is defined in RCW ~~((42.17.020)) 42.17A.005(43).~~

(2) For the purposes of RCW ~~((42.17.020-(20))) 42.17A.005 (19)(c)~~, an electioneering communication is reportable by the sponsor to the commission when the communication, alone or in combination:

(a) Identifies the same candidate in one or more communications satisfying RCW ~~((42.17.020-(20))) 42.17A.005 (19)(a)~~ and (b) or commission rules;

(b) Is made by the same sponsor of one or more of the communications;

(c) When it, either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market or aggregate value of ~~\$(5,000)) 1,000~~ or more; and

(d) Is not a communication exempted from reporting under RCW ~~((42.17.020(21))) 42.17A.005(20)~~ or commission rule.

(3) When the electioneering communication or communications - including radio or television transmissions, mailings, billboards, newspapers and/or periodicals - reach the ~~\$(5,000)) 1,000~~ threshold, the sponsor shall electronically report to the commission as required by RCW ~~((42.17.565)) 42.17A.305~~ within twenty-four hours of, or on the first working day after, the date the electioneering communication is first broadcast, transmitted, erected, distributed, or otherwise published.

(4) Once the ~~\$(5,000)) 1,000~~ threshold is reached, all subsequent electioneering communications by the sponsor identifying the same candidate are reportable as provided in RCW ~~((42.17.565)) 42.17A.305~~ and this rule.

(5) When more than one sponsor pays for the electioneering communication, the entire fair market value of the communication is attributable to all sponsors. All sponsors of the same communication are responsible for reporting once the ~~\$(5,000)) 1,000~~ threshold is met. A failure to report by one joint sponsor is not attributable to all joint sponsors of a specific communication or communications if the remaining sponsors have reported properly.

(6) Consistent with WAC 390-16-060 and the requirements of PDC Form C-6, a prorated portion of independent expenditure and electioneering communications expenditures shall be attributed to each candidate or ballot proposition identified in the advertisement or communication. That proration shall be based on a reasonable, good faith estimate of the value of the portion of the advertisement or communication relating to each candidate or proposition identified.

~~((7)) Examples.~~ The following is a nonexclusive list of examples of reportable activities for electioneering communications:

~~(a) Single sponsor, single ad.~~ Sponsor A pays for an electioneering communication identifying Candidate 1 and the communication has a fair market value of \$5,000 or more. The electioneering communication is reportable by Sponsor A.

~~(b) Single sponsor, multiple ads.~~ Sponsor A pays for three electioneering communications identifying Candidate 1, and the communications have an aggregate fair market value of \$5,000 (\$1,000 for the first, \$2,000 for the second, and \$2,000 for the third). All three communications are reportable within twenty-four hours of the third communication being first broadcast, transmitted, erected, distributed or otherwise published. All subsequent electioneering communications by Sponsor A identifying Candidate 1 are reportable.

~~(c) Multiple sponsors, multiple ads.~~ Sponsors A and B jointly agree to pay for three electioneering communications identifying Candidate 1, and the communications have a total fair market value of \$5,000 (\$1,000 for the first, \$2,000 for the second, and \$2,000 for the third). All three communications become reportable when the third communication is sponsored. All subsequent electioneering communications by Sponsors A and/or B identifying Candidate 1 are reportable.

~~(d) Multiple sponsors, multiple ads.~~ Sponsors A and B have separately paid for an electioneering communication identifying Candidate 1, and each communication has a fair market value of \$4,000. Those communications are not reportable because they have not yet reached the \$5,000 threshold. However, Sponsors A and B then jointly agree to pay for another electioneering communication identifying Candidate 1, and the communication has a fair market value of \$1,000. Now the \$5,000 reporting threshold has been reached and within twenty-four hours of the jointly sponsored communication being published, that communication and prior separately sponsored communications identifying Candidate 1 are reportable by Sponsors A and B. All subse-

quent electioneering communications by Sponsors A and/or B identifying Candidate 1 are reportable.

(e) **Multiple sponsors, multiple ads.** Sponsors A, B and C jointly plan and agree to pay for a series of electioneering communications identifying Candidate 1. They decide that Sponsor A will pay for the first ad, Sponsor B will pay for the second ad, and Sponsor C will pay for the third ad. Each ad has a fair market value of \$4,999. Because A, B and C are acting in concert as one sponsoring entity for the electioneering communications, upon the publishing of the second ad the \$5,000 threshold is met and A, B and C have an obligation to report the electioneering communications within 24 hours. Likewise, A, B and C have an obligation to report the third electioneering communication within twenty-four hours of its publication. All subsequent electioneering communications by Sponsors A, B and/or C identifying Candidate 1 are reportable.

(f) **Prorating an ad.** If 80% of one or more electioneering communications with a fair market value of \$7,000 relates to a message or messages about Candidate 1, and the remaining 20% relates equally to two ballot propositions, the communication is reportable by the sponsor or sponsors because the \$5,000 threshold has been met. All subsequent electioneering communications identifying Candidate 1 are reportable.)

AMENDATORY SECTION (Amending WSR 10-20-011, filed 9/24/10, effective 10/25/10)

**WAC 390-19-030 Electronic filing—Reporting threshold.** (1) The "electronic reporting threshold" that requires electronic filing of all contribution and expenditure reports is met when a candidate or political committee has expended \$((+0,000)) 5,000 or more in the preceding calendar year or expects to expend \$((+0,000)) 5,000 or more in the current calendar year.

(2) It is presumed that a filer "expects to expend" \$((+0,000)) 5,000 or more when any one of the following first occurs:

(a) A filer spends at least \$((+0,000)) 5,000;

(b) A filer is a candidate for the same office last sought, the filer's election is in the current calendar year, and his or her campaign expenditures in the previous election for the same office were \$((+0,000)) 5,000 or more;

(c) A filer's expenditures meet or exceed \$((2,500)) 1,250 on or before March 31 of the current calendar year;

(d) A filer's expenditures meet or exceed \$((5,000)) 2,500 on or before June 30 of the current calendar year;

(e) A filer's expenditures meet or exceed \$((7,500)) 3,750 on or before September 30 of the current calendar year;

or

(f) A filer otherwise projects that \$((+0,000)) 5,000 or more will be spent during the current calendar year.

(3) The following expenditures or transactions are excluded from the electronic reporting threshold calculation:

(a) Expenditures made to pay outstanding debts carried forward from a previous election;

(b) Surplus funds disposed of in accordance with RCW ((42.17.095)) 42.17A.430; and

(c) The value of in-kind contributions pledged or received within eight days of a special or general election.

(4) Candidate committees or political committees supporting or opposing ballot propositions that meet, exceed or expect to meet or exceed the electronic reporting threshold shall report electronically for the duration of the campaign.

AMENDATORY SECTION (Amending WSR 03-22-065, filed 11/4/03, effective 12/5/03)

**WAC 390-37-103 Commission options following receipt of a staff report on alleged violations.** Upon receipt of a staff report concerning alleged violations of those sections of chapter 42.17A RCW that the commission enforces, the commission may:

(1) Schedule the matter for a hearing (adjudicative proceeding); or

(2) Issue an order; or

(3) ((In lieu of holding an enforcement hearing (adjudicative proceeding), or issuing an order,)) Refer the matter or apparent violations to the attorney general or other enforcement agency pursuant to RCW ((42.17.360(5))) 42.17A.105(5) and ((42.17.395)) 42.17A.750.

**WSR 12-01-050  
PERMANENT RULES  
NOXIOUS WEED  
CONTROL BOARD**

[Filed December 15, 2011, 8:20 a.m., effective January 15, 2012]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The Washington state noxious weed list provides the basis for noxious weed control efforts for county and district weed control boards as well as other entities. This proposal amends chapter 16-750 WAC by:

- Adding oriental clematis, *Clematis orientalis*, as a Class A noxious weed.
- Adding tree-of-heaven, *Ailanthus altissima*, as a Class C noxious weed.
- Adding Japanese eelgrass, *Zostera japonica*, as a Class C noxious weed (on commercially managed shellfish beds only).
- Clarifying the designation of Hoary alyssum, *Berteroa incana*, in Okanogan County.
- Undesignating Hairy willow-herb, *Epilobium hirsutum*, in Walla Walla County.
- Correcting the scientific name of Bohemian knotweed to *Polygonum x bohemicum*.
- Adding a new section on noxious weed listing guidelines (WAC 16-750-022).
- Changing the date for the election of board officers, and changing the committee appointment term dates.

Citation of Existing Rules Affected by this Order: Amending WAC 16-750-005, 16-750-011, 16-750-015, 16-750-130, and 16-750-140.

Statutory Authority for Adoption: Chapter 17.10 RCW.  
Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 11-19-101 on September 20, 2011.

Changes Other than Editing from Proposed to Adopted Version: There were no differences between the rule language, as proposed, and the rule language, as adopted, other than a minor grammatical change in the new listing section, WAC 16-750-022.

A final cost-benefit analysis is available by contacting Alison Halpern, P.O. Box 42560, phone (360) 902-2053, fax (360) 902-2094, e-mail ahalpern@agr.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 15, 2011.

Virgil Butch Klaveano  
Chairman

**AMENDATORY SECTION** (Amending WSR 09-01-071, filed 12/15/08, effective 1/16/09)

**WAC 16-750-005 State noxious weed list—Class A noxious weeds.**

<b>Common Name</b>	<b>Scientific Name</b>
bean-caper, Syrian	<i>Zygophyllum fabago</i>
blueweed, Texas	<i>Helianthus ciliaris</i>
brome, false	<i>Brachypodium sylvaticum</i>
broom, Spanish	<i>Spartium junceum</i>
buffalobur	<i>Solanum rostratum</i>
bulrush, ricefield	<i>Schoenoplectus mucronatus</i>

**Common Name**  
clary, meadow  
clematis, oriental  
cordgrass, common  
cordgrass, dense flower  
cordgrass, salt meadow  
cordgrass, smooth  
crupina, common  
flax, spurge  
four o'clock, wild  
geranium, shiny  
goatsrue  
hawkweed, European  
hawkweed, yellow devil  
hogweed, giant  
hydrilla  
johnsongrass  
knapweed, bighead  
knapweed, Vochin  
kudzu  
milfoil, variable-leaf  
mustard, garlic  
nightshade, silverleaf  
primrose-willow, floating  
rush, flowering  
sage, clary  
sage, Mediterranean  
spurge, eggleaf  
starthistle, purple  
sweetgrass, reed  
thistle, Italian  
thistle, milk  
thistle, slenderflower  
velvetleaf  
woad, dyers

**Scientific Name**  
*Salvia pratensis*  
*Clematis orientalis*  
*Spartina anglica*  
*Spartina densiflora*  
*Spartina patens*  
*Spartina alterniflora*  
*Crupina vulgaris*  
*Thymelaea passerina*  
*Mirabilis nyctaginea*  
*Geranium lucidum*  
*Galega officinalis*  
*Hieracium sabaudum*  
*Hieracium floribundum*  
*Heracleum mantegazzianum*  
*Hydrilla verticillata*  
*Sorghum halepense*  
*Centaurea macrocephala*  
*Centaurea nigrescens*  
*Pueraria montana var. lobata*  
*Myriophyllum heterophyllum*  
*Alliaria petiolata*  
*Solanum elaeagnifolium*  
*Ludwigia peploides*  
*Butomus umbellatus*  
*Salvia sclarea*  
*Salvia aethiopsis*  
*Euphorbia oblongata*  
*Centaurea calcitrapa*  
*Glyceria maxima*  
*Carduus pycnocephalus*  
*Silybum marianum*  
*Carduus tenuiflorus*  
*Abutilon theophrasti*  
*Isatis tinctoria*

**AMENDATORY SECTION** (Amending WSR 10-24-037, filed 11/22/10, effective 12/23/10)

**WAC 16-750-011 State noxious weed list—Class B noxious weeds.**

<b>Name</b>	<b>Will be a "Class B designate" in all lands lying within:</b>
(1) alyssum, hoary <i>Berteroa incana</i>	(a) regions 1, 2, 5, 6, 8, 9, 10
	(b) <u>Chelan and Douglas counties</u> of region 3 ( <del>except Okanogan County</del> )
	(c) Okanogan County(;) of region 3, except Ranges 29 through 31 East of Townships 37 through 40 North
	(d) Ferry County of region 4 south of Hwy 20
	(e) Adams and Whitman counties of region 7.

		<b>Will be a "Class B designate" in all lands lying within:</b>	
(2)	<b>Name</b>		
	archangel, yellow <i>Lamiastrum galeobdolon</i>	(a)	Clallam County of region 1
		(b)	San Juan County of region 2
		(c)	Cowlitz and Skamania counties of region 8.
(3)	arrowhead, grass-leaved <i>Sagittaria graminea</i>	(a)	regions 1, 3, 4, 6, 7, 8, 9, 10
		(b)	region 2 except Lake Roesiger, Lake Serene, Lake Loma and Echo Lake in Snohomish County
		(c)	region 5 except Mason Lake in Mason County.
(4)	blackgrass <i>Alopecurus myosuroides</i>	(a)	regions 1, 2, 3, 5, 6, 8, 9, 10
		(b)	Ferry, Stevens, Pend Oreille counties of region 4
		(c)	Adams County of region 7.
(5)	blueweed <i>Echium vulgare</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9, 10
		(b)	region 7 except for an area starting at the Stevens County line on SR 291 south to the SR 291 bridge over the Little Spokane River, thence upstream along the Little Spokane River to the first Rutter Parkway Bridge; thence south along the Rutter Parkway to the intersection of Rutter Parkway and Indian Trail Road; thence southerly along Indian Trail Road to a point three miles south (on section line between sections 22 and 27, T-26N, R-42E); thence due west to a point intersecting the line between Ranges 41 and 42; thence north along this line to a point 1/4 mile south of Charles Road; thence northwesterly parallel to Charles Road to a point 1/4 miles south of the intersection of Charles Road and West Shore Road; thence northerly along West Shore Road to the Spokane River (Long Lake); thence southeasterly along the Spokane River to the point of beginning.
(6)	broom, Scotch <i>Cytisus scoparius</i>	(( <del>a</del> ))	regions 3, 4, 6, 7, 9, 10.
(7)	bryony, white <i>Bryonia alba</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9
		(b)	region 7 except Whitman County
		(c)	Franklin and Asotin counties of region 10.
(8)	bugloss, common <i>Anchusa officinalis</i>	(a)	regions 1, 2, 3, 5, 6, 8, 9, 10
		(b)	region 4 except Stevens and Spokane counties
		(c)	Lincoln, Adams, and Whitman counties of region 7.
(9)	bugloss, annual <i>Anchusa arvensis</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9
		(b)	Lincoln and Adams counties
		(c)	Whitman County except ranges 43 through 46 East of Townships 16 through 20 North
		(d)	Asotin County of region 10.
(10)	butterfly bush <i>Buddleja davidii</i>	(a)	Pend Oreille County of region 4
		(b)	Grays Harbor County, and that portion of Thurston County lying below the ordinary high-water mark of the Nisqually River in region 5
		(c)	Kittitas County of region 6
		(d)	Lincoln County of region 7.

Name	Will be a "Class B designate" in all lands lying within:
(11) camelthorn <i>Alhagi maurorum</i>	(a) regions 1, 2, 3, 4, 5, 7, 8, 9 (b) region 6 except those portions of Sections 23, 24, 25, and 29 through 36, T16N, R27E, W.M. lying outside Intercounty Weed District No. 52 and except Sections 1 through 12, T15N, R27E, W.M. in Grant County and except the area west of Highway 17 and north of Highway 26 in Adams County (c) Franklin, Columbia, Garfield, and Asotin counties of region 10 (d) an area beginning at the Washington—Oregon border at the southwest portion of section 5, R32E, T6N, then north to the northwest corner of section 3, R32E, T7N, then east to the northeast corner of section 3, R36E, T7N, then south to southeast portion of section 15, R36E, T6N, at the Washington—Oregon border, then west along the Washington—Oregon border to the point of beginning.
(12) carrot, wild <i>Daucus carota</i>	(a) regions 3, 7 (except where intentionally cultivated) (b) Spokane and Ferry counties of region 4 (except where intentionally cultivated) (c) region 6, except Yakima County (except where intentionally cultivated) (d) region 9, except Yakima County (except where intentionally cultivated) (e) region 10, except Walla Walla County (except where intentionally cultivated).
(13) catsear, common <i>Hypochaeris radicata</i>	(a) regions 3, 4, 6, 7, 10 (b) region 9 except Klickitat County.
(14) chervil, wild <i>Anthriscus sylvestris</i>	(a) regions 1, 3, 4, 5, 6, 7, 9, 10 (b) region 2 except Guemes Island in Skagit County (c) region 8 except Clark County.
(15) cinquefoil, sulfur <i>Potentilla recta</i>	(a) regions 1, 3, 8, 10 (b) region 2 except Skagit County (c) region 4 except Stevens, Ferry, and Pend Oreille counties (d) region 5 except Thurston County (e) region 6 except Yakima County (f) region 7 except Spokane County (g) region 8 except Lewis County (h) region 9 except Klickitat County.
(16) daisy, oxeye <i>Leucanthemum vulgare</i>	(a) regions 7, 10 (b) region 9 except those areas lying within Klickitat and Yakima counties west of Range 13 East (c) region 6 except those areas lying within Yakima and Kittitas counties west of Range 13 E.
(17) elodea, Brazilian <i>Egeria densa</i>	(a) regions 3, 4, 6, 7, 9, 10 (b) Lewis County of region 8 (c) Clallam County of region 1 (d) King County of region 5, except lakes Washington, Sammamish, Union and Fenwick.

		<b>Will be a "Class B designate" in all lands lying within:</b>	
(18)	<b>Name</b>		
	fanwort <i>Cabomba caroliniana</i>	(a)	regions 1, 2, 3, 4, 5, 6, 7, 9, 10
		(b)	region 8 except T8N, R3W of Cowlitz County.
	fennel, common <i>Foeniculum vulgare</i> (except var. <i>azoricum</i> )	(a)	regions 3, 4, 6, 7, 8, 9, 10
		(b)	region 1 except the incorporated areas of Port Townsend
		(c)	region 2 except the incorporated areas of Anacortes and Mount Vernon
		(d)	region 5 except King and Kitsap counties.
	fieldcress, Austrian <i>Rorippa austriaca</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9
		(b)	regions 7 and 10 except within the Palouse River Canyon from Big Palouse Falls to the Snake River.
	floating heart, yellow <i>Nymphioides peltata</i>	(a)	regions 1, 2, 3, 5, 6, 7, 8, 9, 10
		(b)	region 4 except the Spokane River between Long Lake Dam and Nine Mile Dam.
	gorse <i>Ulex europaeus</i>	(a)	regions 1, 3, 4, 6, 7, 9, 10
		(b)	Skagit, Island, and Whatcom counties of region 2
		(c)	Thurston, Kitsap, Pierce, and King counties of region 5
		(d)	Wahkiakum, Clark, Skamania, Cowlitz, and Lewis counties of region 8.
	hawkweed, mouseear <i>Hieracium pilosella</i>	(a)	regions 1, 2, 3, 4, 6, 7, 8, 9, 10
		(b)	region 5 except Thurston County
		(c)	Thurston County lying within T17N, R1W, S31; T16N, R2W, S30 W1/2; T16N, R3W, S25, SE1/4; T16N, R3W, S36, N1/2; T16N, R2W, S31, NW1/4.
	hawkweed, orange <i>Hieracium aurantiacum</i>	(a)	regions 1, 3, 6, 9, 10
		(b)	Skagit County of region 2
		(c)	Ferry County of region 4
		(d)	Pierce, Thurston and King counties of region 5
		(e)	Lincoln and Adams counties of region 7
		(f)	Lewis County of region 8.
	hawkweed, polar <i>Hieracium atratum</i>	(a)	regions 1, 2, 3, 4, 6, 7, 8, 9, 10
		(b)	region 5 outside the boundaries of Mt. Rainier National Park.
	hawkweed, queen-devil <i>Hieracium glomeratum</i>	(a)	regions 1, 2, 3, 5, 6, 7, 8, 9, 10
		(b)	Ferry County of region 4.
	hawkweed, smooth <i>Hieracium laevigatum</i>	(a)	regions 1, 3, 4, 5, 6, 7, 8, 9, 10
		(b)	San Juan, Island, and Skagit counties of region 2.
	hawkweed, yellow <i>Hieracium caespitosum</i>	(a)	regions 1, 2, 3, 5, 6, 7, 8, 10
		(b)	region 4 except Stevens and Pend Oreille counties
		(c)	region 9 except sections 32, 33 and 34 of T6N, R12E, and sections 4, 5, 6, and 7 of T5N, R12E, and section 12 of T5N, R11E, of Klickitat County.
	helmet, policeman's <i>Impatiens glandulifera</i>	(a)	regions 1, 3, 4, 6, 7, 8, 9, 10
		(b)	region 2 except Whatcom County
		(c)	region 5 except Thurston County.
	herb-Robert <i>Geranium robertianum</i>	((+))	regions 3, 4, 6, 7, 9, 10
	houndstongue <i>Cynoglossum officinale</i>	(a)	Kittitas County of region 6

Name	Will be a "Class B designate" in all lands lying within:
(32)	indigobush <i>Amorpha fruticosa</i>
	<ul style="list-style-type: none"> <li>(b) region 5</li> <li>(c) Douglas and Chelan counties of regions 3 and 6.</li> <li>(a) regions 1, 2, 3, 4, 5, 6</li> <li>(b) regions 7 and 10 except within 200 feet of the Snake River from Central Ferry downstream</li> <li>(c) regions 8, 9, and 10 except within 200 feet of the Columbia River.</li> </ul>
(33)	knapweed, black <i>Centaurea nigra</i>
	<ul style="list-style-type: none"> <li>(a) regions 1, 2, 3, 4, 7, 9, 10</li> <li>(b) region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties</li> <li>(c) region 6 except Kittitas County</li> <li>(d) region 8 except Clark County.</li> </ul>
(34)	knapweed, brown <i>Centaurea jacea</i>
	<ul style="list-style-type: none"> <li>(a) regions 1, 2, 3, 4, 7, 9, 10</li> <li>(b) region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties</li> <li>(c) region 6 except Kittitas County</li> <li>(d) region 8 except Clark County.</li> </ul>
(35)	knapweed, diffuse <i>Centaurea diffusa</i>
	<ul style="list-style-type: none"> <li>(a) regions 1, 2, 5, 8</li> <li>(b) Grant County lying in Townships 13 through 16 North, Ranges 25 through 27 East; Townships 17 and 18 N., Ranges 25 through 30 East; Townships 19 and 20 North, Ranges 29 and 30 East; T21N, R23E, Sections 1 through 30; T21N, R26E., Sections 5, 6, 7, 8, 17, and 18; East 1/2 Township 21N, Range 27E.; T21N, Ranges 28 through 30 E; those portions of Townships 22 through 28N, Ranges 28 through 30 E.; those portions of Township 22 through 28N., Ranges 23 through 30E. lying in Grant County; all W.M.</li> <li>(c) Adams County except those areas within T15N, R36E, Section 36; T15N, R37E, Sections 22, 26, 27, 28, 31, 32, 33 and 34; T15N, R37E, western half of Sections 23, 24 and 25; T15N, R38E, Sections 2, 10, 11, 14, 15, 19 and 20; T16N, R38E, Sections 34 and 35; T17N, R37E, Sections 5 and 6</li> <li>(d) Franklin County of regions 9 and 10.</li> </ul>
(36)	knapweed, meadow <i>Centaurea jacea x nigra</i>
	<ul style="list-style-type: none"> <li>(a) regions 1, 2, 3, 4, 7, 9, 10</li> <li>(b) region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties</li> <li>(c) region 6 except Kittitas County</li> <li>(d) region 8 except Clark County.</li> </ul>
(37)	knapweed, Russian <i>Acroptilon repens</i>
	<ul style="list-style-type: none"> <li>(a) regions 1, 2, 5, 7, 8</li> <li>(b) region 4 except that area lying within the boundaries of the Colville Indian Reservation within Ferry County</li> </ul>

Name		Will be a "Class B designate" in all lands lying within:
		(c) Adams County of region 6 except for the area west of Highway 17 and North of Highway 26
		(d) Intercounty Weed District No. 52
		(e) region 10 except Franklin County.
(38)	knapweed, spotted <i>Centaurea stoebe</i>	(a) regions 1, 2, 3, 5, 6, 9
		(b) Ferry County of region 4
		(c) Adams and Whitman counties of region 7
		(d) region 8, except that portion of Lewis County below the ordinary high watermark of the Tilton River from Hwy. 508 to Lake Mayfield
		(e) region 10 except Garfield County.
(39)	knotweed, Bohemian <i>Polygonum x bohemicum</i>	(a) Kittitas County of region 6
		(b) Chelan and Douglas counties of regions 3 and 6
		(c) Pend Oreille County of region 4
		(d) Asotin County of region 10.
(40)	knotweed, giant <i>Polygonum sachalinense</i>	(a) Kittitas County of region 6
		(b) Pend Oreille County of region 4
		(c) Asotin County of region 10.
(41)	knotweed, Himalayan <i>Polygonum polystachyum</i>	(a) Kittitas County of region 6
		(b) Pend Oreille County of region 4
		(c) Lewis County of region 8
		(d) Asotin County of region 10.
(42)	knotweed, Japanese <i>Polygonum cuspidatum</i>	(a) Kittitas County of region 6
		(b) Chelan and Douglas counties of regions 3 and 6
		(c) Pend Oreille County of region 4
		(d) Asotin County of region 10.
(43)	kochia <i>Kochia scoparia</i>	(a) Regions 1, 2, 5, 8
		(b) Pend Oreille County of region 4
		(c) Kittitas County of region 6.
(44)	laurel, spurge <i>Daphne laureola</i>	(a) regions 3, 4, 6, 7, 8, 9, 10
		(b) San Juan, Snohomish and Skagit counties of region 2
		(c) Grays Harbor and Mason counties of region 5.
(45)	lawnweed <i>Soliva sessilis</i>	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10
		(b) region 5 except King and Thurston counties.
(46)	lepyrodielis <i>Lepyrodielis holosteoides</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10
		(b) region 7 except an area within Whitman County east of the Pullman—Wawawai Road from Wawawai to Pullman and south of State Highway 270 from Pullman to Moscow, Idaho.
(47)	loosestrife, garden <i>Lysimachia vulgaris</i>	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10
		(b) region 5 except King County
		(c) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line.
(48)	loosestrife, purple <i>Lythrum salicaria</i>	(a) regions 1, 4, 7, 8
		(b) region 2 except Snohomish County

Name	Will be a "Class B designate" in all lands lying within:
(49)	loosestrife, wand <i>Lythrum virgatum</i>
(50)	nutsedge, yellow <i>Cyperus esculentus</i>
	<ul style="list-style-type: none"> <li>(c) region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside</li> <li>(d) Grays Harbor, Mason, Kitsap, and Thurston counties of region 5</li> <li>(e) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line</li> <li>(f) Pierce County, except those areas lying within T2D, 21, 22N, R1W and R1E, all sections</li> <li>(g) region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed</li> <li>(h) region 9 except Benton County</li> <li>(i) region 10 except Walla Walla County</li> <li>(j) Intercounty Weed Districts No. 51 and No. 52.</li> <li>(a) regions 1, 4, 7, 8</li> <li>(b) region 2 except Snohomish County</li> <li>(c) region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside</li> <li>(d) region 5 except King County</li> <li>(e) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line</li> <li>(f) region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed</li> <li>(g) region 9 except Benton County</li> <li>(h) region 10 except Walla Walla County</li> <li>(i) Intercounty Weed Districts No. 51 and No. 52.</li> <li>(a) regions 1, 2, 3, 4, 5, 7, 8</li> <li>(b) region 6 except those areas lying between State Highway 26 and State Highway 28, and westerly of Dodson Road in Grant County, and except S 1/2, Sec. 2, T20N, R25E., W.M.</li> <li>(c) region 9 except:</li> </ul>

Name	Will be a "Class B designate" in all lands lying within:
	(i) except those areas lying within the following boundary description within Yakima County: Beginning at the intersection of Highway 12 and Parker Heights Road and continuing easterly to Konnowac Pass Road follow said road north to the intersection of Konnowac Pass Road and Nightingale Road. The northern boundary shall be the Roza Canal, continuing from the established point at Nightingale Road. The boundaries will follow the Roza Canal easterly to the County Line Road. The east boundaries will be the Yakima/Benton County Line from a point beginning at the County Line and Highway 22 (near Byron) continuing westerly along Highway 22 (to near the city of Mabton) to the intersection of Highway 22 and the Reservation Boundary (Division Road) and continuing north to the Yakima River. Then it will follow the river northwest to the Wapato-Donald Road continuing north along said road to Highway 12 then Highway 12 to Parker Heights Road.
	(ii) an area lying southerly of State Route 14 and within T2N, Ranges 13 and 14 E of Klickitat County
(51) oxtongue, hawkweed <i>Picris hieracioides</i>	(d) region 10 except Walla Walla County.
	(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10
(52) parrotfeather <i>Myriophyllum aquaticum</i>	(b) region 8 except Skamania County.
	(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10
(53) pepperweed, perennial <i>Lepidium latifolium</i>	(b) region 8 except Clark, Cowlitz, and Wahkiakum counties.
	(a) regions 1, 2, 3, 4, 5, 7, 8, 10
	(b) Intercounty Weed Districts No. 51 and 52
	(c) Kittitas County of region 6
	(d) Adams County of region 6 except for the area west of Highway 17 and north of Highway 26.
(54) poison-hemlock <i>Conium maculatum</i>	(a) Clallam County and that area lying within Port Townsend city limits in Jefferson County of region 1
	(b) Snohomish and San Juan counties of region 2
	(c) Pend Oreille County of region 4
	(d) Kitsap and Thurston counties of region 5
	(e) Kittitas County of region 6
	(f) Lincoln County of region 7
	(g) Clark County of region 8.
(55) primrose, water <i>Ludwigia hexapetala</i>	(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10
	(b) region 8 except T8N, R3W, S14 of Cowlitz County.
(56) puncturevine <i>Tribulus terrestris</i>	(a) Skagit County of region 2
	(b) Kittitas County of region 6
	(c) Adams County
	(d) Clallam County of region 1.

Name	Will be a "Class B designate" in all lands lying within:
(57) ragwort, tansy <i>Senecio jacobaea</i>	(a) regions 3, 4, 6, 7, 9, 10 (b) region 5, that portion of Pierce County lying south or east of a boundary beginning at the White River and State Highway 410, then west along State Highway 410 to intersection with State Highway 162 (Orting) to intersection with Orville Road, then south along Orville Road to intersection with Kapowsin Highway (304th Street East), then west following Kapowsin Highway to intersection with State Route 7, then south along State Route 7 to intersection with State Route 702, then west along State Route 702 to intersection with State Route 507, then southwest along State Route 507 to intersection with the Nisqually River.
(58) reed, common, nonnative genotypes <i>Phragmites australis</i>	(a) region 1 (b) Island, San Juan and Snohomish counties of region 2 (c) Okanogan County of region 3 (d) Pend Oreille and Stevens counties of region 4 (e) region 5 except Grays Harbor and Pierce counties (f) Kittitas County of region 6 (g) Yakima County of regions 6 and 9 (h) Lincoln County of region 7 (i) Clark and Lewis counties of region 8 (j) Klickitat County of region 9 (k) Asotin County of region 10.
(59) Saltcedar <i>Tamarix ramosissima</i>	(a) regions 1, 2, 3, 4, 5, 7, 8, unless intentionally established prior to 2004 (b) region 6 except Grant County, unless intentionally established prior to 2004 (c) region 9 except Benton and Franklin counties, unless intentionally established prior to 2004 (d) region 10 except Franklin County, unless intentionally established prior to 2004.
(60) sandbur, longspine <i>Cenchrus longispinus</i>	(a) regions 1, 2, 3, 4, 5, 7, 8 (b) Adams County of region 6 except for that area lying within Intercounty Weed District No. 52 (c) Intercounty Weed District No. 51 (d) Kittitas County of region 6 (e) Asotin County of region 10.
(61) skeletonweed, rush <i>Chondrilla juncea</i>	(a) regions 1, 2, 3, 5, 8 (b) Franklin County except T13N, R36E; and T14N, R36E (c) Adams County except those areas lying east of a line running north from Franklin County along the western boundary of Range 36 East to State Highway 26 then north on Sage Road until it intersects Lee Road, then due north until intersection with Providence Road, then east to State Highway 261, then north along State Highway 261 to its intersection with Interstate 90, henceforth on a due north line to intersection with Bauman Road, then north along Bauman Road to its terminus, then due north to the Lincoln County line.

Name	Will be a "Class B designate" in all lands lying within:
	(d) region 6 except that portion lying within Grant County that is southerly of State Highway 28, northerly of Interstate Highway 90 and easterly of Grant County Road I Northwest
	(e) Stevens County north of Township 33 North of region 4
	(f) Ferry and Pend Oreille counties of region 4
	(g) region 9 except the Dallesport area in Klickitat County lying within Township 2N, Ranges 13 and 14
	(h) Asotin County of region 10
	(i) Garfield County south of Highway 12
	(j) Columbia County from the Walla Walla County line on Highway 12, all areas south of Turner Road; at Turner Road to the Garfield county line, all areas south and east of Turner Road
	(k) Whitman County lying in Ranges 43 through 46 East of Townships 15 through 20 North; T14N, Ranges 44 through 46 East; and T13N, Ranges 45 and 46 East.
(62) sowthistle, perennial <i>Sonchus arvensis</i> ssp. <i>arvensis</i>	(a) regions 1, 2, 3, 4, 7, 8, 9, 10
	(b) Adams County of region 6
	(c) region 5 except for sections 28, 29, 30, 31, 32, and 33 in T19N, R1E of Thurston and Pierce counties.
(63) spurge, leafy <i>Euphorbia esula</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10
	(b) region 7 except as follows:
	(i) T27N, R37E, Sections 34, 35, 36; T27N, R38E, Sections 31, 32, 33; T26N, R37E, Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 26; T26N, R38E, Sections 5, 6, 7, 8 of Lincoln County
	(ii) T24N, R43E, Section 12, Qtr. Section 3, Parcel No. 9068 of Spokane County.
(64) spurge, myrtle <i>Euphorbia myrsinites</i> L	(a) Pend Oreille County of region 4
	(b) Along the Asotin, Grande Ronde, and Snake rivers and in all other areas that are not an actively cultivated garden in Asotin County of region 10.
(65) starthistle, yellow <i>Centaurea solstitialis</i>	(a) regions 1, 2, 3, 5, 6, 8
	(b) region 4 except those areas within Stevens County bounded by a line beginning at the intersection of State Highway 20 and State Highway 25, then north to intersection with Pinkston Creek Road, then east along Pinkston Creek Road to intersection with Highland Loop Road, then south along Highland Loop Road to intersection with State Highway 20, then west along State Highway 20 to intersection with State Highway 25
	(c) region 7 except those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border
	(d) Franklin County
	(e) region 9 except Klickitat County

Name	Will be a "Class B designate" in all lands lying within:
(66) Swainsonpea <i>Sphaerophysa sal-sula</i>	(f) lands west of Shumaker Grade and south of Mill Road in Asotin County. (a) regions 1, 2, 3, 4, 5, 7, 8 (b) Columbia, Garfield, Asotin, and Franklin counties (c) an area beginning at the Washington—Oregon border at the southwest portion of Section 15, R32E, T6N, then north to the northwest corner of Section 3, R32E, T7N, then east to the northeast corner of Section 3, R36E, T7N, then south to the southeast portion of Section 15, R36E, T6N, at the Washington—Oregon border, then west along the Washington—Oregon border to the point of beginning
(67) thistle, musk <i>Carduus nutans</i>	(d) Weed District No. 3 of Grant County (e) Adams County of region 6.
(68) thistle, plumeless <i>Carduus acanthoides</i>	(a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10 (b) Spokane and Pend Oreille counties.
(69) thistle, Scotch <i>Onopordum acanthium</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9 (b) region 7 except for those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border
(70) toadflax, Dalmatian <i>Linaria dalmatica ssp. dalmatica</i>	(c) Franklin County. (a) regions 1, 2, 5, 8, 10 (b) Douglas County of region 3 lying south of T25N and west of R25E (c) Okanogan County lying within T 33, 34, 35N, R19, 20, 21, 22E, except the southwest, southeast, and northeast quarters of the northeast quarter of section 27, T35N, R21E; and the northeast quarter of the southeast quarter of section 27, T35N, R21E (d) Kittitas, Chelan, Douglas, and Adams counties of region 6 (e) Intercounty Weed District No. 51 (f) Weed District No. 3 of Grant County (g) Lincoln and Adams counties (h) The western two miles of Spokane County of region 7 (i) region 9 except as follows: (i) those areas lying within Yakima County (ii) those areas lying west of the Klickitat River and within Klickitat County.
(71) watermilfoil, Eurasian <i>Myriophyllum spicatum</i>	(a) regions 1, 9, 10 (b) Okanogan and Chelan counties of region 3 (c) in all water bodies of public access, except the Pend Oreille River, in Pend Oreille County of region 4 (d) Chelan and Adams counties of region 6 (e) region 7 except Spokane County

Name	Will be a "Class B designate" in all lands lying within:
(72) willow-herb, hairy <i>Epilobium hirsutum</i>	(f) region 8 except within 200 feet of the Columbia River. (a) regions 1, 3, 4 (b) region 2 except Whatcom and Island counties (c) region 5 except Thurston County (d) region 6 except Grant County (e) region 7 except Whitman County (f) region 8 except Skamania County (g) Yakima County of region 9 (h) region 10 except Franklin ((County)) <u>and Walla Walla counties.</u>

**AMENDATORY SECTION** (Amending WSR 10-24-037, filed 11/22/10, effective 12/23/10)

**WAC 16-750-015 State noxious weed list—Class C noxious weeds.**

Common Name	Scientific Name
babysbreath	<i>Gypsophila paniculata</i>
beard, old man's	<i>Clematis vitalba</i>
bindweed, field	<i>Convolvulus arvensis</i>
blackberry, evergreen	<i>Rubus laciniatus</i>
blackberry, Himalayan	<i>Rubus armeniacus</i>
canarygrass, reed	<i>Phalaris arundinacea</i>
cockle, white	<i>Silene latifolia ssp. alba</i>
cocklebur, spiny	<i>Xanthium spinosum</i>
cress, hoary	<i>Cardaria draba</i>
dodder, smoothseed alfalfa	<i>Cuscuta approximata</i>
<u>eelgrass, Japanese (on commercially managed shellfish beds only)</u>	<i>Zostera japonica</i>
goatgrass, jointed	<i>Aegilops cylindrica</i>
groundsel, common	<i>Senecio vulgaris</i>
hawkweed, common	<i>Hieracium lachenalii</i>
hawkweed, other nonnative species	<i>Hieracium sp.</i> , except species designated in the note in the left-hand column

**Note:**  
This listing includes all species of *Hieracium*, except the following:

- Species designated as Class A noxious weeds in WAC 16-750-005;
- Species designated as Class B noxious weeds in WAC 16-750-011;
- Native species designated below:
  - Canada hawkweed (*H. canadense*)
  - houndstongue hawkweed (*H. cynoglossoides*)
  - long-beaked hawkweed (*H. longiberbe*)
  - narrow-leaved hawkweed (*H. umbellatum*)
  - slender hawkweed (*H. gracile*)

Common Name	Scientific Name
– western hawkweed ( <i>H. albertinum</i> )	
– white-flowered hawkweed ( <i>H. albiflorum</i> )	
– woolley-weed ( <i>H. scouleri</i> )	
henbane, black	<i>Hyoscyamus niger</i>
iris, yellow flag	<i>Iris pseudacorus</i>
ivy, English, 4 cultivars only:	<i>Hedera hibernica</i> 'Hibernica' <i>Hedera helix</i> 'Baltica' <i>Hedera helix</i> 'Pittsburgh' <i>Hedera helix</i> 'Star'
mayweed, scentless	<i>Matricaria perforata</i>
pondweed, curly-leaf	<i>Potamogeton crispus</i>
rye, cereal	<i>Secale cereale</i>
spikeweed	<i>Hemizonia pungens</i>
St. Johnswort, common	<i>Hypericum perforatum</i>
tansy, common	<i>Tanacetum vulgare</i>
thistle, bull	<i>Cirsium vulgare</i>
thistle, Canada	<i>Cirsium arvense</i>
toadflax, yellow	<i>Linaria vulgaris</i>
<u>tree-of-heaven</u>	<i>Ailanthus altissima</i>
water lily, fragrant	<i>Nymphaea odorata</i>
whitetop, hairy	<i>Cardaria pubescens</i>
wormwood, absinth	<i>Artemisia absinthium</i>

**NEW SECTION**

**WAC 16-750-022 Noxious weed list—Listing process.** The noxious weed list is adopted annually by the Washington state noxious weed control board. The listing process is open to the public, and there are several opportunities for participation. The process of considering changes to the list begins with the board's noxious weed committee. The weed listing process consists of the following steps each year:

- (1) The board accepts proposals to make additions, deletions, or changes to the weed list between January and the end of April.
- (2) Starting in May, the committee reviews and evaluates the proposals and may conduct additional research including literature reviews, surveys of counties, discussions with other states, and field investigations during its deliberations, which continue into September.

(3) The board considers the committee's recommendations in September and votes on which proposed changes to include in a public hearing, typically held in November.

(4) The board solicits public comment at the public hearing and makes its final decisions on proposed changes to the weed list after considering the testimony received.

(5) The new revised noxious weed list becomes effective in January.

(6) Proposals to add new species to the weed list that were not adopted by the board will not be reconsidered for future listing unless additional information is provided, including additional data from scientific sources regarding any invasive and noxious qualities of the species, as well as existing positive economic benefits.

**AMENDATORY SECTION** (Amending WSR 99-24-029, filed 11/23/99, effective 1/3/00)

**WAC 16-750-130 State noxious weed control board—Organization.** The organization of the board is as follows:

(1) The officers of the board are the chairperson, vice-chairperson, and secretary. The title of the chief administrative officer is the executive secretary.

(2) Duties of officers.

(a) The chairperson presides at all meetings of the board, has the power to appoint committees, acts as ex officio member of all committees except the executive committee, serves as chairperson of the executive committee, serves as official signer of agreements between the board and public or private agencies, and performs such other duties as pertain to the office.

(b) The vice-chairperson performs the duties of the chairperson in his or her absence, acts as an ex officio member of all committees, and any other duties delegated by the chairperson. The vice-chairperson will assume the duties of and serve out the term of the chairperson upon permanent departure of the chairperson.

(c) The secretary is the official keeper of the minutes and, approves them, and presents them to the board for adoption. In the absence of the chairperson and vice-chairperson, the secretary performs the duties of the chairperson.

(d) The duties of the executive secretary, in addition to administrative duties assigned elsewhere in this chapter, are to keep a record of the proceedings of the board, notify all board members, county noxious weed control boards, and weed districts of meetings, act as an ex officio nonvoting member of all committees, negotiate agreements with public and private agencies on behalf of the board, and perform other responsibilities as delegated by the chairperson.

(3) Term of office. Term of office for officers of the board is twelve months (~~effective July 27 of the year elected~~) following elections held at the first board meeting in January and ending ((July 26)) at the January meeting of the following year.

(4) Election of officers. Elections will be held at the first meeting of the (~~first~~) year in (~~July~~) January. Officers are elected by a majority vote of the voting members present.

(5) Vacancies of officers other than chairperson, shall be filled by election of the voting board members present.

**AMENDATORY SECTION** (Amending WSR 99-24-029, filed 11/23/99, effective 1/3/00)

**WAC 16-750-140 State noxious weed control board—Committees.** Standing committees shall fairly reflect the composition of the board and unless advertised and open to the public, not more than four voting members may attend a committee meeting.

(1) Executive committee. An executive committee is authorized to deal with housekeeping and personnel matters, subject to board approval at the next scheduled board meeting. The chairperson appoints the executive committee with approval of the board.

(2) Standing committees. The standing committees of the board are: Budget, executive, noxious weed, and education. The board chairperson appoints the chairperson and other members of each committee.

(3) Ad-hoc committees may be appointed from time to time.

(4) Committee voting procedures.

(a) All members of a particular committee have the right to vote. Other members in attendance may enter into discussion, but shall have no vote.

(b) Proxy voting is not permitted.

(c) All questions decided by the committee will be by majority of the committee members present.

(5) Advisory committees. Advisory committees are established by the board as deemed necessary to the functioning of the board. Advisory committees are limited in their scope to the purposes determined by the board.

(6) Notice. Notice of committee meetings shall be given to the executive secretary.

(7) Committee reports.

(a) Committee reports and recommendations are submitted to the board in writing except when committees meet in conjunction with the board.

(b) Minority reports may be submitted by members of a committee, if signed by those members.

(8) Committee compensation. Board members attending meetings of committees will, upon request, be reimbursed on the same basis as for attendance at regularly called board meetings.

(9) All committee appointments will be reviewed in (~~July~~) January of even-numbered years.

## WSR 12-01-065

### PERMANENT RULES

#### BELLEVUE COLLEGE

[Filed December 16, 2011, 1:12 p.m., effective January 16, 2012]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule will remove the hours of enforcement for parking regulations and refer users to the college policy and procedures as posted on the college's public web site for procedural information. It also removes the exemption for visitors from permit requirements, creates a new section for disability parking and includes language to allow the college to use outside resources to collect unpaid parking citations.

Citation of Existing Rules Affected by this Order:  
Amending chapter 132H-116 WAC.

Statutory Authority for Adoption: RCW 28B-50.140 [28B.50.140].

Adopted under notice filed as WSR 11-16-055 on July 28, 2011.

A final cost-benefit analysis is available by contacting Deric Gruen, Bellevue College, 3000 Landerholm Circle S.E., Bellevue, WA 98007, phone (425) 564-2720, fax (425) 564-2261, e-mail [deric.gruen@bellevuecollege.edu](mailto:deric.gruen@bellevuecollege.edu).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 26, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 30, 2011.

Lisa Corcoran  
Executive Assistant  
to the President

**AMENDATORY SECTION** (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-310 Objectives of parking and traffic rules and regulations.** The objectives of these regulations are:

- (1) To protect and control pedestrian and vehicular traffic on property owned, operated, or maintained by the college district.
- (2) To ~~((assure))~~ ensure access at all times for emergency equipment.
- (3) To minimize traffic disturbances.
- (4) To facilitate the operation of the college by ~~((assuring))~~ providing adequate access to vehicles.
- (5) To allocate limited parking space for the most efficient use.
- (6) To protect state property.

**AMENDATORY SECTION** (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-315 Definitions.** For the purpose of this chapter, the following terms and definitions shall apply:

- (1) Board: The board of trustees of Community College District VIII, state of Washington.
- (2) Campus: Any ~~((or))~~ and all real property owned, operated, controlled, or maintained by Community College District VIII, state of Washington.

(3) Car pool: ~~((Any group of three or more))~~ Faculty, staff, or students who commute to the college in the same vehicle under Bellevue College Policy and Procedure 6200.

(4) College: Bellevue ~~((Community))~~ College, ~~((or))~~ established within Community College District VIII, state of Washington, includes any ((additional community college hereafter established within Community College District VIII, state of Washington, and collectively;)) and all branch or other locations established by Bellevue College, and includes those responsible for its control and operations.

(5) Faculty members: Any employee of Community College District VIII who is employed ~~((on a))~~ full-time or part-time ~~((basis))~~ as a teacher, counselor, librarian or other position for which the training, experience and responsibilities are comparable as determined by the appointing authority, including administrative appointment.

(6) Foot propelled device: Wheeled devices including but not limited to skateboards, roller skates, roller blades, etc. designed or used for recreation and/or transportation purposes.

(7) Public safety officers: Employees of the college accountable to the vice-president of administrative services and responsible for campus security, public safety, and parking and traffic control.

(8) Staff: The administrative and classified members employed by the college.

(9) Student: Any person enrolled in ~~((the))~~ classes at Bellevue College.

(10) Vehicle: An automobile, truck, motorcycle, scooter or bicycle, both engine-powered and ~~((nonengine powered))~~ not.

(11) Visitor(s): Person(s) who come on to campus as guest(s), or who lawfully visit the campus for purposes in keeping with the college's role as an institution of higher learning in the state of Washington and are neither employees nor registered students of the institution.

**AMENDATORY SECTION** (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-320 Applicable parking and traffic rules and regulations.** The applicable parking and traffic rules and regulations ~~((upon the campus are))~~ for Bellevue College include:

- (1) The motor vehicle and other traffic laws of the state of Washington. Title 46 RCW.
- (2) The traffic code of the city of Bellevue.
- (3) The Bellevue ~~((Community))~~ College parking and traffic regulations. In case of conflict among the provisions of the motor vehicle and other traffic laws of the state of Washington or the traffic code of the city of Bellevue and Bellevue ~~((Community))~~ College parking and regulations, the provisions of the state of Washington motor vehicle laws shall govern.

**AMENDATORY SECTION** (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-330 Enforcement of parking and traffic rules and regulations.** The vice-president of administrative services is responsible for parking and traffic man-

agement on campus. Duly appointed public safety officers of Bellevue ((Community)) College are delegated the authority to enforce all college parking and traffic rules and regulations.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-350 Permits required for vehicles on campus.** No person shall park, or leave any vehicle, whether attended or unattended, upon the campus of Bellevue ((Community)) College ((between 6:00 a.m. and 3:00 p.m.)) without properly displaying a valid Bellevue College permit ((issued by the public safety or cashiering offices)), a disability placard or license plate, or a government agency license plate. Drivers needing to leave vehicles on campus overnight or for an extended period of time must display a special permit under Bellevue College Policy and Procedure 6200.

(1) A valid permit ((is)) includes:

(a) A current student or faculty/staff permit ((displayed in accordance with WAC 132H-116-356)).

(b) A temporary permit ((authorized by public safety and displayed in accordance with instructions)).

(2) The college reserves the right to ((refuse to issue)) deny a parking permit.

((3) ~~Vehicles displaying government agency license plates do not need BCC parking permits.~~)

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-351 Authorization for issuance of permits.** ((+)) The vice-president of administrative services or his or her designee is authorized to issue all parking permits under Bellevue College Policy and Procedure 6200.

((Special permits are valid only in the areas specified, on the date(s) specified on the permits, and when displayed on the dashboard of the vehicle. Vehicles operated by students, faculty and staff members must display a regular student or faculty/staff permit in addition to the special permit.

(1) ~~Car pool permits may be issued to faculty, staff and students. All members of the carpool must appear in person when applying for the permit. One transferable permit will be issued by the public safety office for each car pool. This permit is transferable only among the registered members of the car pool. This permit must be displayed in accordance with the instructions provided with the permit. Each carpool vehicle must also display a regular student or faculty/staff permit.~~

(2) ~~Handicapped parking permits. As of Fall 1995, BCC no longer issues special parking permits for disabled students, faculty, or staff. Only vehicles displaying a valid state of Washington placard may park in spaces designated for the disabled.~~

(3) ~~Visitor permits. One day parking permits may be requested from public safety and given to visitors attending conferences, interviews, etc. These permits are valid in faculty/staff lots except E-1.~~

(4) ~~Other special permits. Public safety may issue special permits to faculty members, staff, students, parents of child care or headstart participants, volunteers working in BCC~~

~~programs, or vendors if issuing such permits enhances the operation of the college.~~

(5) ~~Temporary permits. Drivers needing to leave vehicles on campus overnight or for extended periods of time (e.g., because the vehicle is inoperable, or because the driver will participate in a field trip) may request temporary parking permits from public safety. Drivers may also request temporary permits if they will be using a borrowed or rented vehicle.~~

(6) ~~Special events. The public safety office will assist college divisions which sponsor functions such as conferences, seminars, dinners, and similar events, in arranging reserved parking and direction signs as appropriate. Requests for such assistance must be received in public safety at least forty-eight hours in advance.~~)

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-352 Permit revocations.** Parking permits are the property of the college, and may be recalled by the vice-president of administrative services or his or her designee ((for any of the following reasons:

(1) ~~When the purpose for which the permit was issued no longer exists.~~

(2) ~~When a permit is used by an unauthorized individual.~~

(3) ~~Falsification on a parking permit application.~~

(4) ~~Repeated violation of parking and traffic regulations.~~

(5) ~~Counterfeiting or altering of permits.~~

(6) ~~Failure to comply with a final decision of the citation review committee, or institutional hearing officer.~~

~~Parking permit revocations may be appealed to the citation review committee and to the institutional hearing officer)) under Bellevue College Policy and Procedure 6200.~~

AMENDATORY SECTION (Amending Order 115, Resolution No. 206, filed 6/17/92, effective 7/18/92)

**WAC 132H-116-353 Right to appeal revocation.** Parking permit revocations under this chapter may be appealed ((pursuant to the procedures in WAC 132H-120-062)) under Bellevue College Policy and Procedure 6200.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-354 Transfer of permits.** (1) With the exception of carpool permits, parking permits are not transferable. If a vehicle is sold or traded, a replacement permit will be issued to the permit holder ((if he/she:

(a) ~~Records invalid permit number;~~

(b) ~~Removes invalid permit; and~~

(c) ~~Brings invalid permit or remnant thereof to public safety. Public safety will then issue a replacement permit and [the] permit holder will then be registered under the new number)) upon notification.~~

(2) Permits may be reissued as authorized by the director of public safety.

AMENDATORY SECTION (Amending Order 115, Resolution No. 206, filed 6/17/92, effective 7/18/92)

**WAC 132H-116-355 Responsibility** (~~(of person to whom permit issued)~~) **for vehicles.** The person to whom a permit is issued is responsible for the vehicle upon which the permit is affixed. He or she shall be held responsible for all violations of these rules and regulations charged to that vehicle. However, the operator of a vehicle will not be relieved of responsibility for violating any rule or regulation of this chapter simply because he or she is not also the holder of the permit.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-356 Display of permits.** (~~((1) Student or faculty/staff permits. The vehicle permit issued by the college shall be affixed to the inside of the rear window on the lower left corner. If the vehicle is a convertible or a truck-camper or has no permanently fixed rear window, the permit shall be affixed to the front windshield.))~~) The permit issued by the college shall be displayed in accordance with the instructions issued with the permit. Permits not displayed in accordance with the provisions of this section shall not be valid and vehicles displaying the improperly placed permit shall be subject to citation.

~~((2) Temporary or special permits. The temporary permit shall be displayed on the dashboard of the vehicle in such a way that it is legible from outside the vehicle.))~~

AMENDATORY SECTION (Amending Order 115, Resolution No. 206, filed 6/17/92, effective 7/18/92)

**WAC 132H-116-357 Parking fees.** Parking fees may be adopted by the board of trustees (~~(, specifying the charge per quarter and year)~~).

#### NEW SECTION

**WAC 132H-116-358 Disability parking.** Only vehicles displaying a valid state of Washington disability parking placard or license plate may park in spaces designated for the disabled. Vehicles displaying a valid state of Washington disability parking placard or license plate may park in designated parking areas pursuant to Bellevue College Policy and Procedure 6200 and RCW 46.16.381.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-360 Visitors** (~~(—Exemption from permit requirements)~~). (~~((1) The director of public safety may allow visitors without permits to drive through the campus without parking.~~)

~~((2) The director of public safety or his or her designee may require visitors to wait at the entrances to the campus during times when pedestrian and/or vehicular traffic congestion is above normal. (See WAC 132H-116-430.)~~

~~((3) Guests of the college who are present to attend a conference, interview, etc., may be issued visitor permits valid for faculty/staff parking lots.~~

~~((4) Visitors on brief errands to campus may park in any student lot.))~~ Visitors are subject to the visitor parking regulations of Bellevue College under Bellevue College Policy and Procedure 6200.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-405 Allocation of parking spaces.** (~~(The))~~ Parking (~~(space available on the campus))~~) shall be allocated by the vice-president of administrative services or his or her designee (~~(in such manner as will best obtain))~~) consistent with the objectives of these regulations. (~~(The vice-president of administrative services or his or her designee is further authorized to designate and mark the various parking areas on the campus with numbers or titles or both. This includes the authorization to reserve certain areas for vehicles displaying certain special permits.))~~)

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-410 Parking within designated spaces.** (1) No vehicle shall be parked on the campus except in those areas set aside and designated as parking areas.

(2) No vehicle shall be parked so as to occupy any portion of more than one parking space or stall as designated within the parking area. The fact that other vehicles may have been so parked as to require the vehicle parked to occupy a portion of more than one space or stall shall not constitute an excuse for a violation of this section.

(3) No vehicle shall be parked at any time in campus roadways, fire lanes, bus zones, loading zones, or service driveways; or on sidewalks; or in the landscaping except emergency vehicles and designated service vehicles.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-415** (~~(Day and evening)~~) **Parking by permit type.** Students, staff and faculty may obtain (~~(day and/or evening)~~) parking on campus to the extent spaces are available as follows:

(1) Student (~~(daytime)~~) parking permit validity is limited to areas designated student parking.

(2) Staff/faculty (~~(daytime)~~) parking permit validity is limited to areas designated staff/faculty parking.

(3) (~~(Evening parking, after 3:00 p.m., for students, staff and faculty is available in all designated parking areas with the exceptions of the parking spaces for the handicapped, the college motor pool, and specifically signed reserved areas. Students may not park in those lots designated as "staff/faculty parking" with signage stating "no student parking any time Mon-Fri.")~~) Temporary parking permit validity is limited to the areas designated in the issuance of the permit.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-431 Regulatory signs, markings, barricades, etc.** (1) The ~~((director of campus operations is))~~ vice-president of administrative services and his or her designees are authorized to erect signs, barricades, and other structures and to paint marks and other directions upon the streets and parking areas owned ~~((and)),~~ operated, and maintained by the college. ~~((Such signs, barricades, structures, markings, and directions shall be so made and placed as in the opinion of the director of campus operations will best achieve the goals of these regulations.))~~

(2) Drivers of vehicles shall obey the signs, barricades, structures, markings, and directions erected pursuant to this section. Drivers shall also comply with directions given to them by a campus public safety officer or other public safety personnel controlling and regulating traffic or parking.

(3) No person without authorization from the director of campus operations shall move, deface, or in any other way change a sign, barricade, structure, marking or direction so placed, or previously placed, for the purpose of regulating traffic or parking.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-470 Exceptions to parking and traffic restrictions.** The regulations governing permits and parking within designated spaces shall not apply to the drivers of state-owned vehicles operated by Bellevue ~~((Community))~~ College in the performance of assigned functions.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-590 Motorcycles, bicycles, scooters.**

(1) Motorcycles, bicycles and scooters are for the purpose of these regulations considered to be motor vehicles and are subject to all traffic and parking rules and regulations controlling other motor vehicles and Bellevue College Policy and Procedure 6200.

(2) Motorcycles and motorized scooters ~~((may))~~ must be parked in designated areas ~~((in addition to the regular parking lots)).~~

(3) Motorcycles and motorized scooters are not permitted on paths, sidewalks, or authorized bicycle or pedestrian areas or in buildings at any time.

(4) Bicycles shall be parked in designated areas only. Improperly parked bicycles may be impounded and a citation and/or a fine imposed upon the owner.

(5) No bicycles or foot propelled devices shall be operated on or in campus walkways, corridors, hallways or buildings unless their use is required as part of the educational process in an authorized program.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-615 Issuance of traffic citations.** Upon ~~((probable))~~ reasonable cause to believe that a violation

of these rules and regulations has occurred, the vice-president of administrative services and/or duly appointed public safety officers may issue citations ~~((setting forth the date, the approximate time, the locality, the nature of the violation, the permit number, license number, infraction, officer, and the amount fine(s), by attaching or affixing a copy thereof to the vehicle allegedly involved in such violation, by placing a copy thereof in some prominent place within such vehicle, by mail, or by personal service))~~ under Bellevue College Policy and Procedure 6200.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-620 Fines, penalties and impounding.** (1) The current schedule and fines for parking and traffic violations shall be published by the college and made available for review in the public safety office.

(2) An individual receiving a parking and traffic citation must pay all fines ~~((listed on the citation notice within twenty calendar days after the date on the citation notice unless he/she elects to)).~~ Any person may file an appeal ((the)) for any parking citation under Bellevue College Policy and Procedure 6200. ~~((Payments should be taken or mailed to the cashiering office.))~~

(3) If any citation remains unpaid after ~~((twenty calendar days from the date of the citation))~~ the deadline issued on the citation or after any appeal, Bellevue ~~((Community))~~ College may take ~~((any of the following))~~ actions including, but not limited to:

(a) Withhold degrees, transcripts, grades, refunds, and/or credits;

(b) Block or delay registration for the following quarter;

(c) Impound the violator's vehicle;

(d) Deny future parking privileges, whether student or faculty/staff;

(e) Refuse to issue keys to students, faculty or staff;

(f) Send the account to collections.

(4) In addition to imposing fines, the vice-president of administrative services and ~~((duly appointed))~~ the director of public safety ((officers)) are authorized to impound, immobilize and take to such place for storage as the director of public safety selects, any vehicles parked on college property in violation of these regulations with the following stipulations and under Bellevue College Policy and Procedure 6200:

(a) The expenses of such impounding, immobilization and storage shall be charged to the owner or operator of the vehicle and must be paid prior to the vehicle's release.

(b) The college shall not be liable for loss or damage of any kind resulting from such impounding, immobilization or storage.

(c) Impoundment of a vehicle does not remove the obligation for any fines associated with the violation.

~~((d))~~ Grounds for impounding vehicles shall include, but not be limited to the following:

(i) ~~Blocking a roadway so as to impede the flow of traffic;~~

(ii) ~~Blocking a walkway so as to impede the flow of pedestrian traffic;~~

(iii) ~~Blocking a fire hydrant or fire lane;~~

~~(iv) Creating a safety hazard in the opinion of a public safety officer;~~

~~(v) Blocking another legally parked vehicle;~~

~~(vi) Parking in a marked "tow-away" zone.)~~

(5) An accumulation of traffic violations by a student will be cause for disciplinary action, and the vice-president of administrative services or his or her designee may initiate disciplinary proceedings against such students.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-630 Appeals of fines and penalties.**

(1) Right to appeal. Anyone who has received a citation for an alleged violation of these parking and traffic rules has the right to appeal under Bellevue College Policy and Procedure 6200. ~~((Appeals must be made in writing and must be submitted to administrative services within twenty calendar days after the date of the citation. Appeal forms are available from the public safety, cashiering and administrative services offices.~~

~~If the alleged violator has paid the fine(s) associated with the parking and traffic citation, he/she has forfeited the right to appeal the citation.))~~

(2) Citation review committee. Appeals shall be considered by the ~~((BCC))~~ Bellevue College citation review committee ~~((, which is made up of two students (one the ASBCC chief justice), a faculty representative and a classified staff representative. The citation review committee shall hold hearings regularly throughout the academic year. The committee shall consider each appeal on its merits based upon these parking and traffic regulations. Appellants shall be notified on the hearing dates so that they may state their cases and present any additional evidence in person. The committee shall decide the cases of appellants who do not attend the hearing in person based on the statements given on the appeal form, with no penalty for nonappearance. Appellants who do not attend the hearing shall be sent written notification of the committee's decision))~~.

The citation review committee may uphold, reduce, or waive the fine(s) associated with the parking and traffic citation. Any fine(s) still levied against the appellant must be paid within ~~((fifteen calendar days after the date of the hearing))~~ the deadline unless the appellant wishes to pursue a second-level appeal under Bellevue College Policy and Procedure 6200. Nonpayment after ~~((fifteen calendar days))~~ the deadline has passed may result in any of the college actions ~~((listed))~~ referred to under WAC 132H-116-620.

(3) Second level appeal. An appellant who is not satisfied with the decision of the citation review committee has the right to a second-level appeal before the institutional hearing officer appointed by the president of Bellevue ~~((Community))~~ College under Bellevue College Policy and Procedure 6200. ~~((The appellant must contact the institutional hearing officer within fifteen calendar days after the citation review committee hearing to request a second level appeal. The institutional hearing officer shall notify the appellant of his/her decision in writing. The institutional hearing officer's decision is final.))~~

Any appellant who has paid the fine(s) confirmed or set by the citation review committee has forfeited the right to a second-level appeal.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-655 Report of accident and theft.**

The operator of any vehicle involved in an accident on campus ~~((resulting in injury to or death of any person or total or claimed damage to either or both vehicles of \$500;))~~ shall within twenty-four hours report such accident to the public safety department under Bellevue College Policy and Procedure 6200. This does not relieve any person so involved in an accident from his or her responsibility to file a state of Washington motor vehicle accident report within twenty-four hours after such accident.

Students, faculty, staff, and visitors should report any theft of or out of vehicles to the public safety department promptly.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-750 Delegation of authority.** The authority and powers conferred upon the ~~((director of campus operations))~~ vice-president of administrative services or the director of public safety by these regulations may be delegated by them to their subordinates.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

**WAC 132H-116-790 Prohibition of literature.** Distribution of literature by placing ~~((the same))~~ unauthorized literature on motor vehicles parked on the premises of Bellevue ~~((Community))~~ College is hereby prohibited. Literature includes but is not limited to:

- (1) Pamphlets
- (2) Flyers
- (3) Stickers.

AMENDATORY SECTION (Amending Order 115, Resolution No. 206, filed 6/17/92, effective 7/18/92)

**WAC 132H-116-791 Enforcement.** Parking rules and regulations will be ~~((enforced))~~ enforceable throughout the calendar year. Parking and traffic rules and regulations are ~~((enforced))~~ enforceable on a twenty-four hour daily basis.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132H-116-730	Regulatory signs, markings, barricades, etc.
------------------	--

**WSR 12-01-067**  
**PERMANENT RULES**  
**PUGET SOUND**  
**CLEAN AIR AGENCY**

[Filed December 16, 2011, 2:58 p.m., effective February 1, 2012]

Effective Date of Rule: February 1, 2012.

Purpose: Provide authority for the air pollution control officer (or a duly authorized representative) to issue a federally enforceable order to limit emissions in response to a request from a source to do so, and allow modifications to previously adopted orders for this purpose, if requested by the source.

Citation of Existing Rules Affected by this Order: Amending Regulation I, Section 3.03.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 11-22-112 on November 2, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 15, 2011.

Craig Kenworthy  
Executive Director

**AMENDATORY SECTION**

**REGULATION I, SECTION 3.03 GENERAL REGULATORY ORDERS**

(a) **Purpose.** The Board may, by regulatory order, apply to a specific source or sources any applicable provision of chapter 70.94 RCW or the rules adopted thereunder. In addition, federally enforceable regulatory orders that limit the potential to emit any air contaminant(s) pursuant to WAC 173-400-091 and modifications to such orders are issued under Section 3.03(f) of this regulation.

(b) **Public Involvement Process.** The Board may issue a regulatory order after the following public involvement process has been completed:

(1) Public notice of the proposed regulatory order shall be published in a newspaper of general circulation in the area where the source that is the subject of the order is located. Notice shall also be sent to the U.S. Environmental Protection Agency Regional Administrator. The public notice shall include, at a minimum, the following information:

(A) The name and address of the owner or operator and the source;

(B) A brief description of the purpose of the proposed regulatory order and the requirements included in the proposed regulatory order;

(C) The deadline for submitting written comments to the Agency; and

(D) The opportunity for a public hearing if the Agency determines that there is significant public interest in the proposed regulatory order.

(2) The initial public comment period shall be at least 30 days.

(3) During the initial 30-day public comment period, any person may request a public hearing be held. Any such request shall be submitted in writing to the Agency, shall indicate the interest of the entity filing it, and describe why a hearing is warranted. The Agency may, at its discretion, hold a public hearing if it determines significant public interest exists. Any such hearing shall be held before a hearing officer and upon such notice and at a time and place as the Agency deems reasonable. The hearing officer shall hear testimony at the public hearing and prepare a written summary of the testimony received at the hearing. The Agency shall provide at least 30 days prior notice of any hearing. If a public hearing is held, the public comment period shall extend through the hearing date.

(c) **Board Action.** The Board shall only issue a ~~(a)~~ regulatory order under this section after:

(1) The public comment period has ended;

(2) Any public hearing scheduled has been held; and

(3) The Board has considered all information and data related to the proposed regulatory order received by the Agency, including all written comments received and any summary of testimony prepared by the hearing officer.

The Board shall take action on a proposed regulatory order at a Board meeting. Unless otherwise ordered by the Board, a ~~(a)~~ regulatory order issued under this section shall be effective on the date the Board approves the regulatory order.

(d) **Appeals.** Regulatory ~~((a))~~ orders issued by the Board under this section may be appealed to the Pollution Control Hearings Board pursuant to Section 3.17 of Regulation I and RCW 43.21B.310.

(e) **Fees.** When a ~~((general))~~ regulatory order is requested by an applicant, the Agency shall assess a fee of \$4,000 to cover the costs of processing and issuing a ~~((general))~~ regulatory order under this section. The Agency shall also assess a fee equal to the cost of providing public notice in accordance with Section 3.03(b) of this regulation. These fees shall be due and payable within 30 days of the date of the invoice and shall be deemed delinquent if not fully paid within 90 days of the invoice.

(f) When an applicant requests a federally enforceable regulatory order to limit the potential to emit any air contaminant or contaminants pursuant to WAC 173-400-091, or requests a modification to such an order, the Control Officer or a duly authorized representative may issue such order consistent with the requirements of WAC 173-400-091 and 173-400-171 and Section 3.03(e) above. Regulatory orders issued pursuant to this section are effective the day the Control Officer or representative approves the order and may be appealed

to the Pollution Control Hearings Board pursuant to Section 3.17 of Regulation I and RCW 43.21B.310.

**WSR 12-01-068**  
**PERMANENT RULES**  
**PUGET SOUND**  
**CLEAN AIR AGENCY**

[Filed December 16, 2011, 2:59 p.m., effective February 1, 2012]

Effective Date of Rule: February 1, 2012.

Purpose: To implement WAC 173-400-035, as amended on April 11, 2011, by the department of ecology. This section of the WAC defines nonroad engines, imposes nonroad engine fuel standards, notification and recordkeeping requirements for nonroad engines with a cumulative maximum rated capacity >500 horsepower, and a permitting program for nonroad engines with a cumulative maximum rated capacity >2000 horsepower.

Citation of Existing Rules Affected by this Order: Amending Regulation I (adopting new Article 15: Sections 15.01, 15.03, and 15.05).

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 11-22-114 on November 2, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 15, 2011.

Craig Kenworthy  
Executive Director

**NEW SECTION**

**REGULATION I, ARTICLE 15 NONROAD ENGINES**

**REGULATION I, SECTION 15.01 SPECIAL DEFINITIONS**

When used in this Article:

(a) "**Nonroad engine**" means any internal combustion engine that, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform. An internal combustion engine is not a nonroad engine if:

(1) The engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards

promulgated under section 202 of the Federal Clean Air Act; or

(2) The engine is regulated by a New Source Performance Standard promulgated under section 111 of the Federal Clean Air Act; or

(3) The engine remains or will remain at a location for more than twelve consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at that single location approximately three months (or more) each year. This paragraph does not apply to an engine after the engine is removed from the location.

**NEW SECTION**

**REGULATION I, SECTION 15.03 NOTICE OF INTENT TO OPERATE**

(a) **Applicability.** This section applies to any nonroad engines as defined in Section 15.01 of this Regulation, except for:

(1) Any nonroad engine that is:

(A) In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function; or

(B) In or on a piece of equipment that is intended to be propelled while performing its function.

(2) Nonroad engines with a cumulative maximum rated brake horsepower of 500 bhp or less.

(3) Engines being stored in work centers, garages, or engine pool sites prior to being dispatched to the field for use and that do not provide back-up power at the work center, garage, or engine pool. Such engines may be operated at these facilities only for the purpose of engine maintenance, testing, and repair.

(b) **> 500 and ≤ 2000 BHP.** This paragraph applies to the installation and operation of nonroad engines with a cumulative maximum rated brake horsepower greater than 500 bhp and less than or equal to 2000 bhp.

(1) Notification of intent to operate is required before operations begin. The owner or operator must notify the Agency of their intent to operate prior to beginning operation. The notice must contain the following information:

(A) Name and address of owner or operator;

(B) Site address or location;

(C) Date of equipment arrival at the site;

(D) Cumulative engine maximum rated bhp.

(2) **Recordkeeping.** For each site, the owner or operator must record the following information for each nonroad engine:

(A) Site address or location;

(B) Date of equipment arrival at the site;

(C) Date of equipment departure from the site;

(D) Engine function or purpose;

(E) Identification of each component as follows:

(i) Equipment manufacturer, model number and its unique serial number;

(ii) Engine model year;

(iii) Type of fuel used with fuel specifications (sulfur content, cetane number, etc.).

(3) **Record retention requirements.** The owner or operator must keep the records of the current engine and equipment activity in hard copy or electronic form. These records can be maintained on-site or off-site for at least five years and must be readily available to the permitting authority on request.

(c) **>2000 bhp.** This paragraph applies to the installation and operation of any nonroad engine(s) with a cumulative maximum rated brake horsepower greater than 2000 bhp.

(1) **Notification of intent to operate.** Prior to operation, the owner or operator must notify the Agency of the intent to operate and supply sufficient information to enable the Agency to determine that the operation will comply with national ambient air quality standards as regulated by WAC 173-400-113 (3) and (4). This notification of intent to operate shall be submitted on forms provided by the Agency for this purpose. A notification fee of \$100.00 shall be paid prior to any review by the Agency.

(2) **Approval is required before operations begin.** The owner or operator must obtain written nonroad engine approval to operate, from the Agency, prior to operation.

(3) **Recordkeeping.** The owner or operator must meet all of the requirements of Sections 15.03 (b)(2) and 15.03 (b)(3) of this Regulation.

(4) **Appeals.** Final decisions and orders of the Agency may be appealed to the Pollution Control Hearings Board as provided in Chapters RCW 43.21B and WAC 371-08.

## NEW SECTION

### REGULATION I, SECTION 15.05 EMISSION STANDARDS

(a) **Fuel standards.** All nonroad engines must use ultra-low sulfur diesel or ultra-low sulfur biodiesel (a sulfur content of 15 ppm or 0.0015% sulfur by weight or less), gasoline, natural gas, propane, liquefied petroleum gas (LPG), hydrogen, ethanol, methanol, or liquefied/compressed natural gas (LNG/CNG). A facility that receives deliveries of only ultra-low sulfur diesel or ultra-low sulfur biodiesel is deemed to be compliant with this fuel standard.

(b) Nonroad engines are not subject to emission limits set by the state implementation plan.

## WSR 12-01-071

### PERMANENT RULES

### DEPARTMENT OF HEALTH

[Filed December 19, 2011, 12:10 p.m., effective January 19, 2012]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 246-247 WAC, Radiation protection-air emissions, WAC 246-247-035, 246-247-075, and 246-247-080. This rule adopts federal requirements so that the

department of health can request full delegation of the radioactive air emissions program from the Environmental Protection Agency (EPA). The EPA currently retains enforcement authority for specific actions. This partial delegation causes a duplication of regulatory oversight for licensees between the department and EPA.

Citation of Existing Rules Affected by this Order: Amending WAC 246-247-035, 246-247-075, and 246-247-080.

Statutory Authority for Adoption: RCW 70.98.050 and 70.98.080(5).

Adopted under notice filed as WSR 11-20-091 on October 4, 2011.

Changes Other than Editing from Proposed to Adopted Version: Clarified the language in WAC 246-247-075 and 246-247-080 by changing from "A person may not ..." to "No facility owner or operator, or any other person may ..."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 3, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: December 15, 2011.

Mary C. Selecky  
Secretary

AMENDATORY SECTION (Amending WSR 05-12-059, filed 5/26/05, effective 6/26/05)

**WAC 246-247-035 National standards adopted by reference for sources of radionuclide emissions.** (1) The following federal standards, as in effect on July 1, (~~2004~~) 2011, are adopted by reference except as provided in subsections (2) and (3) of this section.

These standards apply in addition to other requirements of this chapter.

(a) For federal facilities:

(i) 40 CFR Part 61, Subpart A - General Provisions.

(ii) 40 CFR Part 61, Subpart H - National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities.

(iii) 40 CFR Part 61, Subpart I - National Emission Standards for Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H.

(iv) 40 CFR Part 61, Subpart Q - National Emission Standards for Radon Emissions From Department of Energy Facilities.

(b) For nonfederal facilities:

- (i) 40 CFR Part 61, Subpart A - General Provisions.
- (ii) 40 CFR Part 61, Subpart B - National Emission Standards for Radon Emissions From Underground Uranium Mines.
- (iii) 40 CFR Part 61, Subpart K - National Emission Standards for Radionuclide Emissions From Elemental Phosphorus Plants.
- (iv) 40 CFR Part 61, Subpart R - National Emissions Standards for Radon from Phosphogypsum Stacks.
- (v) 40 CFR Part 61, Subpart T - National Emission Standards for Radon Emissions From the Disposal of Uranium Mill Tailings.
- (vi) 40 CFR Part 61, Subpart W - National Emission Standards for Radon Emissions From Operating Mill Tailings.

(2) References to "Administrator" or "EPA" in 40 CFR Part 61 include the department of health except in any section of 40 CFR Part 61 for which a federal rule or delegation indicates that the authority will not be delegated to the state.

(3) Any change or alternative to standards, emission monitoring and test procedures, compliance and reporting requirements, or recordkeeping requirements must be approved by EPA.

AMENDATORY SECTION (Amending WSR 04-18-094, filed 9/1/04, effective 10/2/04)

**WAC 246-247-075 Monitoring, testing, and quality assurance.** (1) ~~((All radioactive air emissions monitoring, testing, and quality assurance requirements of 40 CFR 61, subparts H and I (as effective on October 9, 2002), are adopted by reference, as applicable as specified by the referenced subparts.))~~ The department may, upon request by a nonfederal licensee, authorize provisions specific to that nonfederal licensee, other than those already set forth in WAC 246-247-075 for nonfederal emission unit monitoring, testing, or quality assurance, so long as the department finds reasonable assurance of compliance with the performance objectives of this chapter.

(2) Equipment and procedures used for the continuous monitoring of radioactive air emissions shall conform, as applicable, to the guidance contained in ANSI N13.1, ANSI N42.18, ANSI N323, ANSI N317, reference methods 1, 1A, 2, 2A, 2C, 2D, 4, 5, and 17 of 40 CFR Part 60, Appendix A, 40 CFR Part 52, Appendix E, and any other methods approved by the department.

(3) The operator of an emission unit with a potential-to-emit of less than 0.1 mrem/yr TEDE to the MEI may estimate those radionuclide emissions, in lieu of monitoring, in accordance with 40 CFR 61 Appendix D, or other procedure approved by the department. The department may require periodic confirmatory measurements (e.g., grab samples) during routine operations to verify the low emissions. Methods to implement periodic confirmatory monitoring shall be approved by the department.

(4) The department may allow a facility to use alternative monitoring procedures or methods if continuous monitoring is not a feasible or reasonable requirement.

(5) The following types of facilities shall determine radionuclide emissions in accordance with either a methodol-

ogy referenced in subsections (1) through (4) of this section or the respective document referenced below:

(a) Nuclear power reactors licensed by the NRC: Offsite Dose Calculation Manual;

(b) Fuel fabrication plants licensed by the NRC: NRC's Regulatory Guide 4.16, dated December 1985;

(c) Uranium mills that are processing material: NRC's Regulatory Guide 4.14, dated April 1980.

(6) Licensed facilities shall conduct and document a quality assurance program. Except for those types of facilities specified in subsection (5) of this section, the quality assurance program shall be compatible with applicable national standards such as ANSI/ASME NQA-1-1988, ANSI/ASME NQA-2-1986, QA/R-2, and QA/R-5.

(7) Those types of facilities specified in subsection (5) of this section shall conduct and document a quality assurance program compatible with either the applicable national standards referenced in subsection (6) of this section or the NRC's Regulatory Guide 4.15, dated February 1979.

(8) Facilities shall monitor nonpoint and fugitive emissions of radioactive material.

(9) The department may conduct an environmental surveillance program to ensure that radiation doses to the public from emission units are in compliance with applicable standards. The department may require the operator of any emission unit to conduct stack sampling, ambient air monitoring, or other testing as necessary to demonstrate compliance with the standards in WAC 246-247-040.

(10) The department may require the owner or operator of an emission unit to make provision, at existing emission unit sampling stations, for the department to take split or collocated samples of the emissions.

(11) The planning for any proposed new construction or significant modification of the emission unit must address accidental releases with a probability of occurrence during the expected life of the emission unit of greater than one percent.

(12) All facilities must be able to demonstrate that appropriate supervisors and workers are adequately trained in the use and maintenance of emission control and monitoring systems, and in the performance of associated test and emergency response procedures.

(13) All facilities must be able to demonstrate the reliability and accuracy of the radioactive air emissions monitoring data.

(14) A facility owner or operator, or any other person may not render inaccurate any monitoring device or method required under chapter 70.98 RCW, or any ordinance, resolution, regulation, permit, or order in force pursuant thereto.

AMENDATORY SECTION (Amending WSR 04-18-094, filed 9/1/04, effective 10/2/04)

**WAC 246-247-080 Inspections, reporting, and recordkeeping.** (1) The department reserves the right to inspect and audit all construction activities, equipment, operations, documents, data, and other records related to compliance with the requirements of this chapter. The department may require a demonstration of ALARACT at any time.

(2) ~~((All reporting and recordkeeping requirements of 40 CFR 61, subparts H and I (as effective on October 9, 2002), are adopted by reference, as applicable as specified by the referenced subparts.))~~ The department may, upon request by a nonfederal licensee, authorize provisions specific to that nonfederal licensee, other than those already set forth in WAC 246-247-080 for nonfederal emission unit inspections, reporting, or recordkeeping, so long as the department finds reasonable assurance of compliance with the performance objectives of this chapter.

(3) The facility shall annually submit to the department the information requirements adopted in subsection (2) of this section, as applicable, along with the following additional information, as applicable:

- (a) The results of emission measurements for those emission units subject only to periodic confirmatory measurements;
- (b) Wind rose or joint frequency table;
- (c) Annual average ambient temperature;
- (d) Annual average emission unit gas temperature, if available;
- (e) Annual total rainfall;
- (f) Annual average emission unit flow rate and total volume of air released during the calendar year.

If this additional information is available in another annual report, the facility may instead provide a copy of that report along with the information requirements in this subsection. Annual reports are due by June 30<sup>th</sup> for the previous calendar year's operations.

(4) Any report or application that contains proprietary or procurement-sensitive information shall be submitted to the department with those portions so designated. The department shall hold this information confidential, unless required to release the information pursuant to laws, regulations, or court order.

(5) The facility shall notify the department within twenty-four hours of any shutdown, or of any transient abnormal condition lasting more than four hours or other change in facility operations which, if allowed to persist, would result in emissions of radioactive material in excess of applicable standards or license requirements. If requested by the department, the facility shall submit a written report within ten days including known causes, corrective actions taken, and any preventive measures taken or planned to minimize or eliminate the chance of recurrence.

(6) The facility shall file a report of closure with the department whenever operations producing emissions of radioactive material are permanently ceased at any emission unit (except temporary emission units) regulated under this chapter. The closure report shall indicate whether, despite cessation of operations, there is still a potential for radioactive air emissions and a need for an active or passive ventilation system with emission control and/or monitoring devices. If decommissioning is planned and will constitute a modification, a NOC is required, as applicable, in accordance with WAC 246-247-060.

(7) The facility shall maintain a log for each emission unit that has received categorical approval under WAC 246-247-060(8). The log shall contain records of important operations parameters including the date, location, and duration

of the release, measured or calculated radionuclide concentrations, the type of emissions (liquid, gaseous, solid), and the type of emission control and monitoring equipment.

(8) The facility shall maintain readily retrievable storage areas for all records and documents related to, and which may help establish compliance with, the requirements of this chapter. The facility shall keep these records available for department inspection for at least five years.

(9) The facility shall ensure all emission units are fully accessible to department inspectors. In the event the hazards associated with accessibility to a unit require training and/or restrictions or requirements for entry, the facility owner or operator shall inform the department, prior to arrival, of those restrictions or requirements. The owner or operator shall be responsible for providing the necessary training, escorts, and support services to allow the department to inspect the facility.

(10) The facility shall make available, in a timely manner, all documents requested by the department for review. The facility shall allow the department to review documents in advance of an inspection. The facility shall allow access to classified documents by representatives of the department with the appropriate security clearance and a demonstrable need-to-know.

(11) The facility shall respond in writing in a timely manner, or within a time limit set by the department, to inspection results which require the facility to implement corrective actions or any other actions so directed by the department.

(12) A facility owner or operator, or any other person may not make any false material statement, representation, or certification in any form, notice, or report required under chapter 70.98 RCW, or any ordinance, resolution, regulation, permit, or order in force pursuant thereto.

## WSR 12-01-075

### PERMANENT RULES

### SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed December 19, 2011, 1:31 p.m., effective January 19, 2012]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The weight slip and a copy of the warrant are no longer required to be provided to the office of superintendent of public instruction (OSPI) prior to issuance of an operation permits [permit]. These amendments will be a cost-savings benefit to all school district[s], educational service districts, and OSPI.

School districts will provide a copy of the initial school bus inspection to the licensing office for issuance of an exempt plate, instead of the current requirement for a copy of the school bus operation permit.

Other changes were made to allow the flexibility of migrating to electronic submission of acquisition paperwork.

Citation of Existing Rules Affected by this Order: Repealing WAC 392-143-005 and 392-143-025; and amending WAC 392-143-001, 392-143-010, 392-143-015, 392-

143-030, 392-143-031, 392-143-032, 392-143-035, 392-143-040, 392-143-060, 392-143-070, and 392-143-080.

Statutory Authority for Adoption: RCW 46.61.380.

Adopted under notice filed as WSR 11-21-044 on October 12, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 11, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 11, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 11, Repealed 2; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 9, 2011.

Randy Dorn  
State Superintendent  
of Public Instruction

AMENDATORY SECTION (Amending Order 84-39, filed 10/2/84)

**WAC 392-143-001 Authority and purpose.** The authority for this chapter is RCW 46.61.380 which authorizes the superintendent of public instruction to adopt and enforce regulations to govern the design, marking, and mode of operation of all school buses transporting ~~((common))~~ public school students. The purpose of this chapter is to establish the specifications governing the design and marking of all school buses owned and operated by any school district and all school buses which are privately owned and operated under contract with any school district for the transportation of students. The provisions of this chapter shall be incorporated by express reference into all school district contracts for the transportation of public school students in privately owned and operated school buses.

AMENDATORY SECTION (Amending WSR 04-08-117, filed 4/6/04, effective 5/7/04)

**WAC 392-143-010 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "School bus" means every vehicle with a seating capacity of more than ten persons including the driver regularly used to transport students to and from school or in connection with school activities.

(2) "School bus specifications manual" means that manual published ~~((and distributed to each school district))~~ by the superintendent of public instruction.

(3) "School district" means either a school district or an educational service district.

~~((4))~~ (4) "School bus operation permit" means that form issued by the superintendent of public instruction to ~~((an individual))~~ a school district ~~((or educational service district))~~, which is required prior to the use of any school bus for the transportation of ~~((any common school))~~ students. No school bus operation permit is valid for any school bus which does not meet the Federal Motor Vehicle Safety Standards implemented April 1, 1977.

~~((4))~~ (5) "Inspection officer" means an employee of the Washington state patrol ~~((trained and))~~ designated by the chief of the Washington state patrol to inspect school buses.

~~((5))~~ (6) "SPI Form 1028" means that form ~~((prepared and))~~ distributed by the superintendent of public instruction upon which the inspection officer indicates that the school bus has been inspected and approved, for used buses previously inspected by the Washington state patrol.

~~((6))~~ (7) "SPI Form 1029" means that form ~~((prepared and))~~ distributed by the superintendent of public instruction upon which the inspection officer indicates that the school bus has been inspected and approved upon initial purchase, used buses not previously inspected by the Washington state patrol, and buses which have ~~((been repowered or which have))~~ undergone rehabilitation or modification ~~((repair))~~.

(8) "Major repairs" means repairs to or rebuilding of the frame, steering, suspension, or braking systems. Major repairs to braking systems does not include routine maintenance such as replacing brake shoes, pads or drums.

AMENDATORY SECTION (Amending WSR 04-08-117, filed 4/6/04, effective 5/7/04)

**WAC 392-143-015 School bus specifications manual.** ~~((The school bus specifications manual shall incorporate all specifications required by the federal department of transportation motor vehicle safety standards and govern the specifications for all school buses.))~~ The Washington state school bus specifications manual is hereby incorporated into this chapter by reference. Prior to any revision of the school bus specification manual, the superintendent of public instruction shall serve notice to interested parties and shall hold at least one public ~~((hearing))~~ meeting.

AMENDATORY SECTION (Amending WSR 04-08-117, filed 4/6/04, effective 5/7/04)

**WAC 392-143-030 School buses—School bus operating permit and license.** If a ~~((school bus is approved in compliance with WAC 392-143-031 and the))~~ school district has met requirements of WAC 392-143-032 for a newly acquired school bus, the superintendent of public instruction shall send ~~((three copies of the))~~ a school bus operation permit to the appropriate school district. ~~((The original))~~ A copy of the operation permit shall be retained by the school district; ~~((one))~~ a copy shall be placed in the permit holder in the school bus; and ~~((one))~~ a copy shall be presented to the county auditor, along with the operator's application for an exempt state license for the bus if applicable. County auditors shall not issue an exempt license for the bus unless a school bus operation permit and a copy of SPI Form 1029 indicating the school bus has been inspected and approved by the Washington state patrol accompanies the application for a license.

AMENDATORY SECTION (Amending WSR 04-08-117, filed 4/6/04, effective 5/7/04)

**WAC 392-143-031 School bus inspection—School bus operation permit.** All school buses must be inspected and approved by a Washington state patrol inspection officer prior to initial issue or reissue of a school bus operation permit. ~~((Effective December 31, 2004, no school bus operation permit shall be valid for any school bus which does not meet Federal Motor Vehicle Safety Standards adopted April 1, 1977.))~~

AMENDATORY SECTION (Amending WSR 04-08-117, filed 4/6/04, effective 5/7/04)

**WAC 392-143-032 School bus operation permit.** The superintendent of public instruction shall issue school bus operation permits as follows:

(1) School buses owned or operated by a ~~((public))~~ school district or owned by a private contractor under contract to a school district shall be issued a school bus operation permit on receipt of the following ~~((properly executed))~~ electronic files or documents for each new school bus or used school bus not previously issued a school bus operation permit in Washington state:

- (a) ~~((Original))~~ SPI Form 1020A, School Bus Acquisition ~~((Disposition))~~ Report;
- (b) ~~Copy of the seller's invoice or bill of sale;~~
- (c) ~~Copy of complete set of the successful vendor's bid specifications;~~
- (d) ~~Copy of each warrant issued in full payment of the bus or each warrant issued in part payment of the bus, if any, and, copy of the conditional sales contract, lease purchase agreement, or other evidence of contractual liability;~~
- (e) ~~Original weight slip for the vehicle); and~~
- ~~((f) Original))~~ (b) SPI Form 1029, Initial School Bus Inspection.

(2) ~~((School buses owned by a private contractor and operated under contract to a public school shall be issued a school bus operation permit on receipt of the following properly executed documents for each new school bus or used school bus not previously issued a school bus operation permit in Washington state:~~

- (a) ~~Original SPI Form 1020A, School Bus Acquisition Report;~~
- (b) ~~Original weight slip for the vehicle; and~~
- (c) ~~Original SPI Form 1029, Initial School Bus Inspection.~~

~~((3))~~ A school bus operation permit shall be reissued on receipt of the following ~~((properly executed))~~ electronic files or documents for school buses previously licensed in Washington state ~~((Provided, That no school bus operation permit shall be reissued to any school bus which does not meet Federal Motor Vehicle Safety Standards adopted April 1, 1977))~~:

- (a) ~~((Original))~~ SPI Form 1020A, School Bus Acquisition Report, from the school district acquiring the school bus; and
- (b) ~~((Original SPI Form 1020B, School Bus Disposition Report, from the school district disposing of the school bus, with existing school bus operating permit attached;~~

~~((e) Copy of SPI Form 1028, Routine School Bus Inspection, properly authenticated as the inspection report from the most recent annual one hundred percent fleet inspection, which inspection was made within twelve months prior to the date of acquisition;~~

~~((d) For school district owned or operated buses, a seller invoice or bill of sale; and~~

~~((e) A copy of the warrant issued in payment of the purchase of the bus))~~ SPI Form 1029, Initial School Bus Inspection, if the most recent school bus inspection was more than twelve months prior to the date of acquisition.

AMENDATORY SECTION (Amending Order 84-39, filed 10/2/84)

**WAC 392-143-035 Routine inspection of school buses.** All school buses shall be inspected annually by the Washington state patrol. Inspection dates ~~((and centers))~~ shall be determined by ~~((the superintendent of public instruction and))~~ the chief of the state patrol. School districts shall be notified by the chief of the state patrol prior to each annual inspection of the time and place of inspection. School buses not presented for inspection at the time and place scheduled by the chief of the state patrol shall not be operated as a school bus unless the requirement is temporarily waived in writing by the chief of the state patrol or until the school bus has passed a required inspection. A second inspection of at least twenty-five percent of each school district's fleet shall be conducted annually by the Washington state patrol. This second inspection shall be unannounced and the inspection team shall select which buses in the fleet it will inspect. These unannounced inspections shall be scheduled so that they do not disrupt the regular transportation program.

AMENDATORY SECTION (Amending Order 84-39, filed 10/2/84)

**WAC 392-143-040 Other required inspections of school buses.** All school buses which have been rebuilt, have received a major modification, have received a major repair, or have received an interior renovation or refurbishment shall be inspected prior to transporting students in accordance with the following criteria:

(1) A rebuilt school bus: For the purpose of this section, a rebuilt school bus shall fully comply with all current Washington specifications at the time the school bus is rebuilt ~~((and shall be inspected in accordance with WAC 392-143-030)).~~

(2) A school bus receiving a major modification ~~((For the purpose of this section, school bus modifications))~~ (e.g., hydraulic lift and/or ramp for wheelchairs) shall meet all current state of Washington specifications at the time the major modification is made ~~((and shall be inspected in accordance with WAC 392-143-030)).~~

(3) A school bus receiving a major repair ~~((not routine maintenance): For the purpose of this section, a school bus that has received repairs to or rebuilding of the frame, steering, suspension, or braking systems or has been repowered shall be identified as needing inspection. Any repairs made))~~ shall meet or exceed Washington specifications in effect at the time of the original manufacturing date of the bus and

shall be inspected in the same manner as a new school bus with emphasis on mechanical safety items.

(4) A school bus receiving an interior renovation or refurbishment ~~((not routine seat repair): For the purpose of this section, a school bus that has received an interior renovation or refurbishment shall be identified as needing inspection. Renovation or refurbishment of interiors shall meet the Federal Motor Vehicle Safety Standard (FMVSS) 222 and))~~ shall be inspected in the same manner as a new school bus with respect to ~~((FMVSS))~~ Federal Motor Vehicle Safety Standard 222.

AMENDATORY SECTION (Amending Order 84-39, filed 10/2/84)

**WAC 392-143-060 School bus specifications continued compliance.** School districts shall maintain all school buses in such condition that they shall continue to meet or exceed Washington state specifications in effect when the bus was manufactured, except as such standards or specifications are subsequently repealed or ~~((reduced))~~ modified.

AMENDATORY SECTION (Amending WSR 04-08-117, filed 4/6/04, effective 5/7/04)

**WAC 392-143-070 Other vehicles used to transport students.** All vehicles with a seating capacity including the driver of ten persons or less shall not be required to meet school bus specifications. Such vehicles regularly used to transport students to and from school or in connection with school activities shall carry the approved school bus first-aid kit, fire extinguisher, and highway warning kit. These vehicles also shall pass a safety inspection routinely conducted at the intervals outlined in WAC 392-143-035.

~~((Students, while being transported in any vehicle not required to meet school bus specifications but used for to and from school transportation and to and from school activities transportation, shall share the same compartment and shall be provided the same general safety and comfort as the driver.))~~

All vehicles used to transport students with a manufacturer rated seating capacity including the driver greater than ten persons shall be required to meet school bus specifications.

AMENDATORY SECTION (Amending WSR 04-08-117, filed 4/6/04, effective 5/7/04)

**WAC 392-143-080 Signs and markings for school buses—Exterior—Interior.** Signs and markings on the exterior of any school bus shall be limited to ~~((the requirements of RCW 46.61.380,))~~ the requirements of the school bus specifications manual ~~((for school buses addressing "identification" and "color," the minimum requirements of "Highway Safety Program Standard No. 17," and any applicable Federal Motor Vehicle Safety Standard (FMVSS))~~.

Signs and markings on the interior of any bus shall be limited to necessary and/or required manufacturers' equipment and/or component identification and instruction, and the requirements of the school bus specifications manual.

## REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-143-005	Purpose.
WAC 392-143-025	Additional local specifications.

## **WSR 12-01-077 PERMANENT RULES DEPARTMENT OF HEALTH**

[Filed December 19, 2011, 1:47 p.m., effective February 1, 2012]

Effective Date of Rule: February 1, 2012.

Purpose: Chapter 246-296 WAC, Drinking water state revolving fund loan program. The rules include new federal requirements and establish eligibility requirements for water systems to apply for and receive loans for infrastructure improvements. The rules establish criteria for principal forgiveness; green projects; and restructuring, which may include ownership or management changes or consolidation of water systems. The rules improve clarity and simplify language.

Citation of Existing Rules Affected by this Order: Amending WAC 246-296-010, 246-296-020, 246-296-030, 246-296-040, 246-296-050, 246-296-060, 246-296-070, 246-296-080, 246-296-090, 246-296-100, 246-296-110, 246-296-120, 246-296-130, 246-296-140, 246-296-150, 246-296-160, 246-296-170, and 246-296-180.

Statutory Authority for Adoption: RCW 70.119A.170.

Other Authority: Federal Safe Drinking Water Act, H.R. 1452.

Adopted under notice filed as WSR 11-19-094 on September 20, 2011.

Changes Other than Editing from Proposed to Adopted Version: The department made the following changes:

- Added a definition for "loan closeout," and made editorial changes to clarify terms in WAC 246-296-010 (1) and (24).
- Added a reference in WAC 246-296-030(4) to clarify project criteria in WAC 246-296-140.
- Added language to clarify project selection criteria in WAC 246-296-140.
- Switched the order of subsections (3) and (4) in WAC 246-296-050 to arrange the requirements in step order.
- Added "the board" to WAC 246-296-060(5) and 246-296-150 (9) and (10).
- Changed WAC 246-296-150 (7)(b) from "project closeout" to "loan closeout."

A final cost-benefit analysis is available by contacting Theresa Phillips, Department of Health, Office of Drinking Water, P.O. Box 47822, Olympia, WA 98504-7822, phone (360) 236-3147, fax (360) 236-2252, e-mail [theresa.phillips@doh.wa.gov](mailto:theresa.phillips@doh.wa.gov).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 18, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 18, Repealed 0.

Date Adopted: December 16, 2011.

Gregg L. Grunenfelder  
Deputy Secretary  
for Mary C. Selecky  
Secretary

AMENDATORY SECTION (Amending WSR 01-21-137, filed 10/24/01, effective 11/24/01)

**WAC 246-296-010 Purpose and scope.** The purpose of this chapter is to:

(1) ~~((Define regulatory requirements for the provision of financial assistance to public))~~ Establish a funding program for public water system infrastructure improvements that increase a public water ~~((systems provided by the drinking water state revolving fund (DWSRF);~~

~~((2) Ensure the state's public drinking water supplies are))~~ system's ability to provide safe and reliable drinking water and improve public health protection;

~~((3) Ensure funding is available to eligible))~~ (2) Establish eligibility criteria for public water systems to ~~((finance infrastructure costs associated with providing safe and reliable drinking water))~~ receive funding including, but not limited to, proper operation, management, and maintenance consistent with federal DWSRF capacity requirements;

~~((4) Ensure the department of health utilizes))~~ (3) Provide additional financial assistance to eligible disadvantaged communities;

(4) Use a portion of the EPA capitalization grant for set-aside activities ~~((in accordance with the))~~ according to federal ~~((rule))~~ law;

(5) (Ensure public water systems receiving funding are properly operated, managed, and maintained consistent with DWSRF capacity requirements;

~~((6) Ensure permanent institutions exist))~~ Establish that sound financial practices and ongoing oversight are in place to manage ~~((funds for public water system needs))~~ the DWSRF in perpetuity; ~~((and~~

~~((7) Define))~~ (6) Establish requirements for public water systems to receive a DWSRF loan including, but not limited to, planning requirements; being resource efficient, sustainable, and environmentally sound; and

(7) Establish the responsibilities of the department ~~((of health (DOH);))~~ the ~~((public works))~~ board ~~((board;))~~ and ~~((the board's agent, the department of community, trade and~~

~~economic development (CTED)))~~ commerce, for administering the DWSRF loan program.

AMENDATORY SECTION (Amending WSR 01-21-137, filed 10/24/01, effective 11/24/01)

**WAC 246-296-020 Definitions, abbreviations, and acronyms.** ~~((("Act" means the Federal Safe Drinking Water Act (SDWA).))~~ The definitions, abbreviations, and acronyms in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Affordability" means a community's ability, on a per household basis, to pay for rate increases that result from a DWSRF loan project.

(2) "Application" means ~~((a DWSRF loan application submitted to DOH for DWSRF assistance))~~ the DWSRF loan request form provided by the department.

(3) "Application package" means the DWSRF loan application form(s), requirements, terms of assistance, and related information ~~((jointly developed and published))~~ created by ~~((DOH))~~ the department, the board, and ~~((the board's agent, CTED))~~ commerce.

~~((("Binding commitment" means a legal obligation by the state to an assistance recipient that defines the terms and the timing for assistance under this chapter.))~~ (4) "Board" means the ~~((state of))~~ Washington state public works board.

(5) "Borrower" means the ~~((entity or individual))~~ person that has ~~((the))~~ legal and financial responsibility for the DWSRF loan.

~~((("Certification/certify" means documentation signed by the loan recipient that specific requirements or standards have been or will be met.~~

"Change orders" means a formal document that alters specific conditions of the original construction contract document including a change in the scope of work, contract price, construction methods, construction schedule, change in location, size, capacity, or quality of major equipment.

"Community water system" means any Group A public water system that regularly serves fifteen or more year-round residential connections, or twenty-five or more year-round residents for one hundred eighty or more days per year.

~~((("Construction documents" means construction documents developed and approved under WAC 246-290-120.))~~ (6) "Capitalization grant" means an award by EPA of funds to a state for the DWSRF and other purposes as authorized in Section 1452 of the SDWA.

(7) "Commerce" means the Washington state department of commerce.

(8) "Construction completion report" means a form provided by ~~((DOH to the applicant required to be))~~ the department and completed for each specific construction project to document;

(a) Project construction in accordance with chapter 246-290 WAC and general standards of engineering practice((-);

(b) Physical capacity changes;

(c) Satisfactory test results; and

(d) The completed form ~~((must be))~~ is stamped with an engineer's seal, and signed ~~((;))~~ and dated by a professional engineer.

("Cross cutting authorities" means federal or state laws and authorities that apply to projects or activities receiving federal or state assistance.

"CTED" means the department of community, trade and economic development.

"Debt obligation" means a legal obligation or liability to pay something to someone else.)

(9) "Default" means failure to meet a financial obligation such as a DWSRF loan payment.

(10) "Department" means the Washington state department of health.

(11) "Disadvantaged community" means the service area of a proposed project within a public water system where ((at least fifty one)) the project will result in:

(a) Water rates that are more than one and one-half percent of the ((customers are at or below eighty percent of the county median household income as defined annually by the Federal Department of Housing and Urban Development.

"Distressed county" means a county that is designated by the Washington state employment security department as distressed.

"DOH" means the department of health.) MHI of the service area; or

(b) Restructuring, when one or more public water systems are having financial difficulties.

(12) "DWSRF (drinking water state revolving fund ((DWSRF)))" means the program ((established to)) that meets the requirements of RCW 70.119A.170 to administer ((the)) federal funds and other funds deposited in ((the)) a dedicated account ((authorized)) used to finance public water system infrastructure((-)) improvements and drinking water program activities((-) and to meet the applicable requirements of RCW 70.119A.170).

(13) "DWSRF loan" means an agreement between the board and the borrower in which the DWSRF provides funds for eligible assistance and the borrower agrees to repay the principal sum, applicable interest, and DWSRF loan fee to the DWSRF.

(14) "DWSRF loan fee" means a nonrefundable fee that is charged on all DWSRF loans, including DWSRF loans for which all or part of the principal is forgiven.

(15) "Ecology" means the Washington state department of ecology.

(16) "Eligible public water system" means a Group A community public water ((systems, both)) system, either privately ((and)) or publicly owned, ((and)) or a nonprofit Group A noncommunity public water system((-)).

(17) "EPA" means the United States Environmental Protection Agency.

(18) "Green project" means a public water system infrastructure improvement project that includes water efficiency, energy efficiency, or environmental innovations as follows:

(a) Water efficiency projects use improved technologies and practices to deliver equal or better service with less water, including preventing water loss and reducing customer demand to protect water resources;

(b) Energy efficiency projects use improved technologies and practices to reduce energy consumption or produce cleaner energy for use in water treatment;

(c) Environmentally innovative projects use new or innovative approaches to manage water resources in a more environmentally sustainable way. Projects that are considered environmentally innovative include those that:

(i) Prevent or remove pollution;

(ii) Help a community adapt to climate change through water resource protection programs; or

(iii) Result in other proven, sustainable environmental benefits.

(19) "Group A public water system" means a public water system ((that)) providing service such that it meets the definition of a public water system provided in the 1996 amendments to the federal Safe Drinking Water Act, P.L. 104-182, Section 101(b).

A Group A public water system is further defined as a community or noncommunity public water system.

(a) "Community public water system" means any Group A public water system providing service to fifteen or more service connections used by year-round residents for one hundred eighty or more days within a calendar year, regardless of the number of people, or regularly serving at least twenty-five people year-round more than one hundred eighty days per year, as defined in chapter 246-290 WAC.

(b) "Noncommunity public water system" means a Group A public water system that is not a community public water system. Noncommunity public water systems are further defined as:

(i) "Nontransient noncommunity public water system" means a public water system that serves ((fifteen)) twenty-five or more ((residential connections, or)) of the same non-residential people for one hundred eighty or more days within a calendar year.

(ii) "Transient noncommunity public water system" means a public water system that serves:

(A) Twenty-five or more different people ((per)) each day for sixty or more days ((per)) within a calendar year((-);

(B) Twenty-five or more of the same people each day for sixty or more days, but less than one hundred eighty days within a calendar year; or

(C) One thousand or more people for two or more consecutive days within a calendar year.

(20) "Group B public water system" means a public water system that ((serves less)) is not a Group A public water system. A public water system is classified as a Group B public water system if it serves fewer than fifteen ((residential)) service connections, and ((less));

(a) Fewer than twenty-five people ((per day)); or ((serves))

(b) Twenty-five or more people per day for less than sixty ((or fewer)) days per year provided the public water system does not serve one thousand or more people for two or more consecutive days.

(21) "Individual water supply system" means any water system that is not subject to ((the state board of health drinking water regulations;)) chapter 246-290 ((WAC;)) or ((chapter)) 246-291 WAC((- providing)); and provides water to either one single-family residence, or to a system with four or fewer connections, all of which serve residences on the same farm.

(22) "IUP (intended use plan ((HUP)))" means the federally required document prepared each year by the ((state which identifies)) department identifying the intended uses of the DWSRF funds ((in the DWSRF)) and ((describes)) describing how those uses support the DWSRF goals ((of the DWSRF)).

((HUD) means the United States Department of Housing and Urban Development.

Loan means an agreement between the DWSRF and the assistance recipient through which the DWSRF provides funds for eligible assistance and the recipient agrees to repay the principle sum to the DWSRF.) (23) "Loan closeout" means a loan agreement is complete when the loan is repaid in full.

(24) "MHI (median household income)" means the midpoint or the average of two midpoints in the range of household incomes in the project's service area. The median divides the list of households in a service area into two parts: half of the households exceed the median, and half of the households are below the median.

(25) "Multiple benefit" means projects ((improvements)) that address more than one type of health risk.

((Noncommunity water system) means a Group A public water system that is not a community water system.)

(26) "Municipality" means a city, town, special purpose district, or municipal corporation established according to the applicable laws of this state.

(27) "NEPA" means the National Environmental Policy Act of 1969, 42 United States Code 4321 et seq., PL-91-190.

(28) "Nonprofit organization" means ((a system)) an entity that has a federal tax exempt status identification number.

((Nontransient noncommunity system) means a Group A noncommunity water system that serves twenty-five or more of the same people per day for one hundred eighty or more days per year.) (29) "Owner" means any agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, person, or any other entity that holds as property a public water system.

(30) "Person" means any individual, corporation, company, association, society, firm, partnership, joint stock company, or any governmental agency, or the authorized agents of these entities.

(31) "Principal forgiveness" means that a reduction of up to fifty percent of the total loan amount is not required to be paid back by the borrower. Principal forgiveness is applied when the project is complete.

(32) "Project report" means a ((project report developed and approved)) department-approved document the borrower or borrower's agency develops under ((chapter 246-290)) WAC 246-290-110.

(33) "Public water system" means any public water system((-)) providing water for human consumption through pipes or other constructed conveyances, excluding water systems serving only one single-family residence and water systems with four or fewer connections, all of which serve residences on the same farm((-)

Purveyor means an agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative

association, institution, partnership, or person, or other entity owning or operating a public water system. Purveyor also means the authorized agents of such entities). This includes:

(a) Collection, treatment, storage, and distribution facilities under control of the owner, or owner's authorized agent, primarily used in connection with the public water system; and

(b) Collection or pretreatment storage facilities not under the control of the owner, or owner's authorized agent, but primarily used in connection with the public water system.

(34) "Receivership" means the voluntary or involuntary transfer of ownership and operation of a public water system according to chapter 7.60 RCW and RCW 43.70.195.

(35) "Regional benefit" means project improvements that affect more than one public water system.

(36) "Restructuring" means changing public water system ((operation, management and/or)) ownership, including, but not limited to:

((~~(1) Mergers~~)) (a) Consolidation of two or more existing public water systems into a single public water system;

((~~(2) Voluntary transfer of~~)) (b) Transfer of ownership; or

((~~(3)~~)) (c) Receivership ((involuntary transfer of operation and/or ownership)).

(37) "SDWA (Safe Drinking Water Act ((SDWA)))" means ((the Federal Safe Drinking Water Act)) Public Law 93-523, including all amendments.

((Satellite management agency (SMA)) means a person or entity that is approved by the department of health to own or operate public water systems on a regional or county-wide basis, without the necessity for a physical connection between such systems. SMA's are regulated under chapter 246-295 WAC.) (38) "SEPA" means the State Environmental Policy Act under chapter 43.21C RCW.

(39) "Set-aside" means the use of a portion of DWSRF funds allotted to the state for a range of specific SDWA-related activities ((as authorized in)) under Section 1452 of the SDWA, to fund new programs, and for other drinking water program activities.

((Significant noncomplier (SNC)) means a water system that is violating or has violated department rules and the violations may create or have created an imminent or a significant risk to human health.

~~"Small water system management program (SWSMP)"~~ means a small water system management program developed and approved under WAC 246-290-105.)

(40) "SERP (state environmental review process ((SERP)))" means the NEPA-like environmental review process ((conducted on all DWSRF projects that ensures compliance)) adopted by Washington state to comply with ((state and federal environmental)) the requirements of 40 CFR 35.3140. SERP combines the SEPA review ((through a National Environmental Policy Act (NEPA)-like process)) with additional elements to comply with federal requirements.

((State match) means funds equaling at least twenty percent of the amount of the federal capitalization grants the state must deposit into the DWSRF loan fund including the necessary match for set-asides.) (41) "Surface water"

means a body of water open to the atmosphere and subject to surface runoff.

(42) "**Sustainable**" means able to continue a benefit into the future as a result of appropriate public water system design, processes, operations, governance, and maintenance.

(43) "**SWSMP (small water system management program)**" means a document for a small nonexpanding Group A public water system developed and approved under WAC 246-290-105.

(44) "**System capacity**" means ((the)) a public water system's operational, technical, managerial, and financial capability to achieve and maintain ongoing compliance with all relevant local, state, and federal plans and regulations.

(45) "**Transfer of ownership**" means to ((convey)) change legal ownership of a public water system from one person ((or entity)) to another.

((**Transient noncommunity system**) means a Group A noncommunity water system that serves:

(1) Twenty-five or more different people per day during sixty or more days per year;

(2) Twenty-five or more of the same people per day for less than one hundred eighty days per year and during more than fifty-nine days per year; or

(3) One thousand or more people for two or more consecutive days.

~~"Water facilities inventory form (WFI)" means the DOH form summarizing each public water system's characteristics.~~ (46) "**Water right**" means a legal authorization, such as a permit, claim, or other authorization, on record with or accepted by the department of ecology, authorizing the beneficial use of water in accordance with all applicable state laws.

(47) "**WFI (water facilities inventory)**" means a department form summarizing a public water system's characteristics.

(48) "**WSP (water system plan ((WSP)))**" means a ((water system plan developed)) document that a Group A community public water system submits to the department as required under WAC 246-290-100. The plan addresses a public water system's capacity to comply with relevant local, state, and ((approved under WAC 246-290-100)) federal plans and regulations, describes the public water system's present and future needs, and establishes eligibility for funding under this chapter.

**AMENDATORY SECTION** (Amending WSR 01-21-137, filed 10/24/01, effective 11/24/01)

**WAC 246-296-030 Administration.** (1) ((DOH)) The department, the board, and ((CTED)) commerce shall jointly administer the DWSRF program.

(2) ((DOH is responsible for)) The department shall:

(a) ((Administering)) Apply for and receive the ((federal)) DWSRF grant from EPA;

(b) ((Determining and managing)) Manage the use of DWSRF set-aside funds for ((drinking water program)) regulatory purposes and technical assistance ((purposes)) to public water systems as authorized under the SDWA; ((and))

(c) ((Developing prioritized)) Annually develop ranking values for the criteria under WAC 246-296-130 by assigning

the highest value to proposed projects that resolve the most significant public health problems;

(d) Provide guidance to public water systems before the yearly application cycle begins;

(e) Publish the ranking values in the funding application package;

(f) Determine public water system and project eligibility for DWSRF loans;

(g) Develop lists of proposed projects for DWSRF ((financial assistance)) loans in priority order;

(h) Present lists of proposed projects to the board; and

(i) Submit the IUP to EPA.

(3) The department shall include the following information in the IUP:

(a) The DWSRF loan fee account;

(b) The current fee; and

(c) The account balance.

(4) The board ((is responsible for the final selection of)) shall select projects to receive DWSRF ((financial assistance)) funding based on the criteria under WAC 246-296-140.

((4) CTED, the board's administrative agent, is responsible for managing DWSRF project loans)) (5) Commerce shall:

(a) Act as the board's administrative agent;

(b) Require borrowers to comply with the terms of their DWSRF loan agreements;

(c) Manage DWSRF loan finances, including fiscal tracking and billing; and

(d) Verify that accounting, audit, and fiscal procedures conform to applicable federal government regulations.

**AMENDATORY SECTION** (Amending WSR 01-21-137, filed 10/24/01, effective 11/24/01)

**WAC 246-296-040 Use of funds by the state.** (1) The ((DWSRF)) department may ((be used for)) use the following funds to carry out the purposes of the DWSRF:

((1) To accept and retain funds from)) (a) Capitalization grants provided by the federal government((;));

(b) State matching funds appropriated ((in accordance with)) under RCW 70.119A.170((, payments of));

(c) Principal and interest((, fees;)) payments;

(d) DWSRF loan fees; and

(e) Any other funds earned and deposited((;)).

(2) ((To)) The department may use these funds to:

(a) Finance DWSRF loans for ((the)) planning, design, and((for)) construction ((costs)) of public water system infrastructure ((needed to facilitate compliance with the)) projects that will address or prevent violations of applicable federal, state, and local drinking water ((standards)) requirements;

((3) To)) (b) Finance ((the)) reasonable costs ((incurred by DOH)) for the department, the board, and ((CTED in the administration of)) commerce to administer the DWSRF program; ((or

(4) To)) and

(c) Fund set-aside activities authorized in categories (b) through (e) of Section 35.3535 of the SDWA, including ((b));

(i) DWSRF program administration ((and technical assistance, (e) small systems));

(ii) Technical assistance((,-(d))) specific to small public water systems;

(iii) State drinking water program management((,-)); and  
~~((e))~~

(iv) Local assistance and other state programs.

AMENDATORY SECTION (Amending WSR 01-21-137, filed 10/24/01, effective 11/24/01)

**WAC 246-296-050 ((Establishing) DWSRF loan terms ((of assistance)).** ~~((DWSRF loans shall be provided at or below market rate interest levels. Loans may be made for the useful life of the improvement or for a maximum of twenty years. The assistance recipient shall begin repayment of the principal and interest no later than one year after project completion. A project is complete when operations are initiated or are capable of being initiated. Disadvantaged communities may receive a loan for up to thirty years at an interest rate established at or below market interest rates as long as the loan does not exceed the useful life of the project. The board is responsible for establishing terms that secure the debt and maintain a financially sound revolving loan fund in perpetuity. Specific rates and contract terms shall be published in the annual application package.))~~ (1) The board may approve a DWSRF loan for a project that will not serve a disadvantaged community at or below market interest rates for a maximum of twenty years from project completion.

(2) The board may approve a DWSRF loan for projects that will serve disadvantaged communities:

(a) At an interest rate set at or below market interest rates for up to thirty years, as long as the DWSRF loan does not exceed the useful life of the project; or

(b) That qualifies for principal forgiveness for up to fifty percent of the principal DWSRF loan amount.

(3) A project is considered complete when the department approves the construction completion report.

(4) The borrower shall begin repaying the principal and interest no later than one year after the project is complete.

(5) The department and the board shall:

(a) Set terms that secure repayment of the debt and maintain a financially sound DWSRF program in perpetuity; and

(b) Publish specific rates and contract terms in the annual application package.

AMENDATORY SECTION (Amending WSR 01-21-137, filed 10/24/01, effective 11/24/01)

**WAC 246-296-060 Establishing a DWSRF loan fee, loan fee account, and loan fee uses.** ~~((The board shall establish the terms of a loan fee and assess the fee to each project loan. The loan fee amount is to be established on an annual basis to ensure adequate funding is available to maintain administration of the DWSRF in perpetuity. The loan fee is eligible to be covered by the loan. The amount of the loan fee shall be published in the annual application package. Loan fees shall be deposited into and retained in a dedicated loan fee account and shall only be used for program administration activities unless the board and DOH jointly determine that the loan fee account balance exceeds program adminis-~~

~~tration needs, then a portion of or all of the funds may be transferred to the project loan account to be used for project loans. Information on the loan fee account, including the current fee and account balance, shall be included in the intended use plan. The board and DOH are responsible for jointly determining the amount of the loan fee account funds to be used for current and future program administration.))~~

(1) The department and board shall:

(a) Establish the terms of a DWSRF loan fee; and

(b) Annually set the DWSRF loan fee amount.

(2) The board shall set the DWSRF loan fee for each project.

(3) The DWSRF loan amount may include the DWSRF loan fee.

(4) The department and board shall determine the amount of DWSRF loan fee account funds to be used for program administration.

(5) The department, commerce, and the board shall use DWSRF loan fees only for program administration activities.

(6) Commerce shall deposit and retain DWSRF fees in a dedicated DWSRF loan fee account.

AMENDATORY SECTION (Amending WSR 01-21-137, filed 10/24/01, effective 11/24/01)

**WAC 246-296-070 Eligible projects and project-related costs ((eligible for assistance from the fund)).** (1) Projects ((and project-related costs)) eligible for ((assistance from the DWSRF program)) a DWSRF loan include those that:

(a) Address ((violation of applicable federal, state, and local drinking water standards;

(b) Prevent future)) or prevent violations of applicable federal, state, and local drinking water ((standards)) requirements; ((or

(e)) (b) Replace aging infrastructure ((if needed)) to ((maintain compliance or further)) help a public water system comply with applicable federal, state, and local drinking water requirements to improve public health protection ((goals of applicable federal, state, and local));

(c) Improve system capacity of a public water system to help assure sustainable drinking water ((standards)); or

(d) Promote increased water or energy efficiency, green projects, or innovation that will improve environmental sustainability and protect public health.

(2) Specific ((projects and)) project-related costs eligible for ((assistance)) a DWSRF loan include those that:

(a) ((Are)) Improve a public water system's treatment, transmission, distribution, source, or storage ((projects));

(b) ((Consolidate)) Restructure water supplies or public water systems that have system capacity difficulties;

(c) Retroactively finance municipal projects that:

(i) Are for ((treatment of)) surface water((,-GWI(-)) treat-

ment;

(ii) Address groundwater under the direct influence of surface water((,-));

(iii) Address volatile organic or inorganic chemicals((,- inorganic chemicals, or are projects that)); or

(iv) Are required by department or EPA order;

(d) Acquire real property if ~~((it is integral to a project))~~ needed to meet or maintain compliance ((or further)) with regulations or increase public health protection ((and the property is being acquired from a willing seller));

(e) ~~((Finanee))~~ Pay for planning or design ((costs)) that is directly related to a DWSRF eligible project((s));

(f) Finance the costs ((incurred by)) of restructuring for a publicly owned public water system((s associated with restructuring of systems));

(g) Acquire, build, or ~~((rehabilitate))~~ repair reservoirs, including clear wells, that are part of the treatment process and located on the same property ~~((where))~~ as the treatment facility ~~((is located))~~; ~~((or))~~

(h) Acquire, build, or ~~((rehabilitate))~~ repair distribution reservoirs; or

(i) Are associated with a department-approved green project.

AMENDATORY SECTION (Amending WSR 01-21-137, filed 10/24/01, effective 11/24/01)

**WAC 246-296-080 Ineligible projects and project-related costs ((not eligible for assistance from the fund)).** Projects and project-related costs that are not eligible for assistance from the DWSRF program include:

(1) ~~((Acquisition, construction, or rehabilitation of))~~ Acquiring, building, or repairing dams or raw water reservoirs;

(2) ~~((Acquisition of))~~ Acquiring water rights, except if the water rights are owned by a public water system that is being acquired ~~((through consolidation))~~ by restructuring;

(3) Laboratory ~~((fees))~~ costs for monitoring;

(4) Operation and maintenance ~~((expenses))~~ costs;

(5) Projects needed primarily for fire protection;

(6) Projects needed primarily to serve future population growth;

(7) ~~((Costs incurred by privately owned systems associated with restructuring systems;~~

~~((8)))~~ Projects that have received assistance from the national set-aside for Indian tribes and Alaska native villages under Section 1452(i) of the SDWA;

~~((9)))~~ (8) Projects for an individual water supply system or a Group B public water system unless the public water system is being ~~((consolidated))~~ restructured into a Group A public water system ~~((Consolidation may be accomplished by extending a water line from an existing Group A system or by creating a new Group A system under WAC 246-296-120; or))~~ under WAC 246-296-110; and

~~((10)))~~ (9) Projects that are solely for the purpose of installing service meters.

AMENDATORY SECTION (Amending WSR 01-21-137, filed 10/24/01, effective 11/24/01)

**WAC 246-296-090 Public water system eligibility requirements.** (1) Public water systems eligible for ~~((assistance from the fund))~~ a DWSRF loan include:

(a) Publicly and privately owned community public water systems, ~~((excluding))~~ except those public water systems not eligible for ~~((assistance from the fund))~~ a DWSRF loan under WAC 246-296-100; and

(b) Noncommunity public water systems owned by a nonprofit organization.

(2) Public water systems not eligible for ~~((assistance from the fund))~~ a DWSRF loan include:

(a) Noncommunity public water systems owned by a for-profit organization;

(b) State-owned public water systems;

(c) Federally owned or regulated public water systems; ~~((or))~~

(d) Group B public water systems, unless restructuring; and

(e) Public water systems lacking the ~~((technical, financial, and managerial capability))~~ system capacity to ~~((ensure compliance))~~ comply with all applicable federal, state, and local drinking water ~~((standards))~~ requirements, unless:

(i) The ~~((assistance))~~ project will ~~((ensure))~~ bring the public water system into compliance; and

(ii) The owner~~((s and operators))~~ of the public water system~~((s))~~ agrees to ~~((undertake feasible))~~ reasonable and appropriate changes in operation and management to ((ensure)) stay in compliance ((in the future)).

AMENDATORY SECTION (Amending WSR 01-21-137, filed 10/24/01, effective 11/24/01)

**WAC 246-296-100 ~~((Minimum))~~ DWSRF loan eligibility and application requirements ((to be eligible for assistance from the fund)).** To be eligible for ~~((assistance from the fund))~~ a DWSRF loan, an applicant~~((s are responsible for))~~ shall:

(1) ~~((Demonstrating))~~ Document that the public water system has the ~~((technical, financial, and managerial capability))~~ system capacity to ~~((ensure))~~ stay in compliance with applicable federal, state, and local drinking water ~~((standards))~~ requirements, unless ~~((the assistance will ensure compliance and the owners, managers, and operators of the systems agree to undertake feasible changes to ensure compliance over the long term;))~~;

(a) The funding will bring the public water system into compliance; and

(b) The owner of the public water system agrees to reasonable and appropriate changes to stay in compliance.

(2) ~~((Having))~~ Before applying for a DWSRF loan, have a ((DOH)) current department-approved WSP or SWSMP ((containing)) that:

(a) Includes the proposed project; and ~~((addressing))~~

(b) Addresses any ~~((capacity-related deficiencies prior to execution of a loan contract))~~ difficulties with system capacity;

(3) ~~((Being in compliance))~~ Comply with ~~((applicable))~~ federal, state, and local drinking water ~~((standards))~~ requirements or a variance under WAC 246-290-060, unless the ~~((use of the DWSRF assistance))~~ DWSRF loan will ~~((ensure))~~ fund projects that result in public water system compliance;

(4) ~~((Being in compliance))~~ Comply with ~~((DOH))~~ any department or EPA orders;

(5) ~~((Having))~~ Install a source meter on each source ~~((or installing source))~~ if meters ((as a part of the project)) are not already installed;

(6) ~~((Having))~~ Install service meters on all service ~~((s or installing))~~ connections if meters ~~((on all services as part of))~~ are not already installed within the project area, unless ~~((one of the following exceptions apply))~~:

(a) The project is for a transient noncommunity public water system;

(b) The project is for a mobile home park with a source or master meter;

(c) The project is for an apartment building or complex with a source or master meter; or

(d) The department determines that ~~((the cost of the meters is prohibitive for the DWSRF project as a whole and waiving the meter requirement is necessary to move the project forward and promote priority public health issues;))~~ installing meters is:

(i) Prohibitive for the DWSRF project as a whole; and

(ii) Waiving the meter requirement is necessary to award a DWSRF loan for a project to resolve high priority public health problems.

(7) ~~((Ensuring))~~ Have no outstanding fees or penalties ~~((are))~~ owed to ~~((DOH unless an appeal of the imposition of those penalties is pending;))~~ the department.

(8) ~~((Demonstrating))~~ Provide documentation that the project ~~((conforms to state))~~ has sufficient water rights ~~((laws; and~~

~~((9) Assuring that the project is consistent with local land use plans and policies))~~ as determined by ecology.

(9) Comply with the requirements of WAC 246-296-120(1).

AMENDATORY SECTION (Amending WSR 01-21-137, filed 10/24/01, effective 11/24/01)

**WAC 246-296-110 Requirements for using DWSRF to create a new Group A public water system.** ~~((Projects that))~~ (1) The department may award a DWSRF loan to create a new Group A public water system ~~((are eligible for assistance from the fund))~~ that will meet the requirements under chapter 246-290 WAC when the project is complete if:

~~((1) Upon completion of the project, the system conforms to the rules regarding Group A community water systems promulgated under chapter 246-290 WAC;~~

~~((2))~~ (a) The project ~~((addresses existing))~~ resolves high priority public health problems ~~((with serious risks))~~ caused by unsafe drinking water ~~((;~~

~~((3) The project is limited in scope to the specific geographic area affected by contamination and the project is for the purpose of resolving existing public health problems associated with individual wells or surface water sources, or the project is limited in scope to the service area of the systems being consolidated and the project is for the purpose of creating a new regional system by consolidating existing water systems;~~

~~((4) The applicant gives))~~ provided by an individual well or surface water source. The project is limited in scope to the geographic area directly affected by contamination; or

(b) The project creates a new regional community public water system by restructuring existing systems that have system capacity difficulties. The project is limited in scope to

the service area of the public water systems being restructured.

(2) The applicant shall submit documentation with the application required in WAC 246-296-120(1) to show that:

~~((a) The applicant gave the public and potentially affected parties at least sixty days notice~~ ~~((to the public and potentially affected parties))~~ prior to submitting the DWSRF loan application to the department. At a minimum, ~~((notice must include posting of))~~ the applicant shall post a legal notice of the intent to create a new public water system in the local newspaper;

~~((5))~~ (b) The applicant ~~((has))~~ considered alternative solutions to address the problems;

~~((6))~~ (c) The project is a cost-effective solution to the public health problems being addressed; and

~~((7))~~ (d) The project is intended to protect public health, and not ~~((solely))~~ primarily to accommodate future population growth.

AMENDATORY SECTION (Amending WSR 01-21-137, filed 10/24/01, effective 11/24/01)

**WAC 246-296-120 Annual DWSRF loan application responsibilities.** Annual DWSRF loan application responsibilities are established as follows:

(1) Applicants shall ~~((develop and))~~ submit a ~~((DWSRF assistance))~~ completed application package to ~~((DOH))~~ the department on or before the due date ~~((defined))~~ in the application package.

(2) ~~((DOH responsibilities are to))~~ The department shall:

(a) Determine the eligibility of the project;

(b) Rank the project using the ranking criteria established under WAC 246-296-130;

(c) ~~((Develop))~~ Create a prioritized list of eligible projects ~~((eligible for assistance))~~ in order of public health significance;

(d) Develop an ~~((intended use plan))~~ IUP by:

(i) Publishing a draft ~~((intended use plan))~~ IUP for public review and comment ~~((for a period of thirty days)); and~~

(ii) Amending the ~~((plan))~~ IUP, if necessary, after considering ~~((the))~~ public comments ~~((received));~~

(e) Submit a capitalization grant application, including the final ~~((intended use plan))~~ IUP, to EPA for review and approval;

(f) Revise the ~~((intended use plan))~~ IUP if EPA ~~((requests))~~ requires changes; and

(g) ~~((If necessary;))~~ Provide for administrative review and dispute resolution ~~((in accordance with))~~ under WAC 246-296-160.

(3) The ~~((board's responsibilities are to))~~ board shall:

(a) Determine ~~((the financial capability and readiness to proceed of))~~ if each applicant with a project on the prioritized ~~((list))~~ IUP is financially capable and ready to proceed, using the ~~((risk assessment))~~ criteria ~~((established))~~ under WAC 246-296-140;

(b) ~~((Make the final selection of))~~ Select projects on the IUP to receive assistance from the fund ~~((in accordance with))~~ using the criteria ~~((established))~~ under WAC 246-296-140; and

(c) ~~((If necessary,))~~ Provide for administrative review and dispute resolution ~~((in accordance with))~~ of departmental or board decisions under WAC 246-296-160.

AMENDATORY SECTION (Amending WSR 01-21-137, filed 10/24/01, effective 11/24/01)

**WAC 246-296-130 Project priority rating and ranking criteria.** ~~((+))~~ The department shall, at a minimum, consider the following ((criteria are considered when prioritizing)) to assign points, and rate and rank proposed projects ((for DWSRF financial assistance)):

~~((a))~~ Priority criteria:

~~((i))~~ (1) Criteria for risk categories and points based on:

(a) Type and significance of public health ((risk to be addressed)) problems the project will resolve;

~~((ii))~~ Compliance status and need (b) If the project is needed to bring the public water system into compliance with federal, state, and local drinking water ((standards)) requirements; ((and

~~((iii))~~ (c) Current compliance status; and

(d) Affordability on a per household basis, determined by comparing the community's average water rate to the MHI in the community's service area, for a community public water system((s)).

~~((b))~~ Supporting criteria:

~~((i))~~ Type of project;

~~((ii))~~ Restructuring;

~~((iii))~~ (2) Additional points based on the type of project being proposed, if the project:

(a) Is to restructure a public water system;

(b) Creates a sustainable regional public health benefit;

~~((iv))~~ Multiple benefit;

~~((v))~~ Consistency (c) Has multiple benefits that are sustainable;

(d) Is consistent with the Growth Management Act as determined by commerce;

~~((vi))~~ Installation of (e) Is financially sustainable;

(f) Qualifies as a green project;

(g) Serves a disadvantaged community; or

(h) Results in service meters on existing services not currently metered((=and

~~((vii))~~ Size of population affected by the project.

(2) Values for these criteria shall be developed annually by DOH to ensure projects that resolve the most significant health risks receive the highest values. The values shall be made available to the public in advance of the application cycle and shall be published in the DWSRF application package)).

AMENDATORY SECTION (Amending WSR 01-21-137, filed 10/24/01, effective 11/24/01)

**WAC 246-296-140 Final project selection criteria.** When awarding a DWSRF loan to a public water system, the board shall consider, at a minimum, ((consider the following in assessing the risk associated with the application)) the applicant's ability to:

(1) ((Ability to)) Repay the DWSRF loan based on a risk assessment;

(2) ((Ability to)) Provide adequate security in case of DWSRF loan default; and

(3) ((Readiness to proceed or the ability of the applicant to)) Promptly ((commence)) begin the project based on past contract performance, if applicable.

AMENDATORY SECTION (Amending WSR 01-21-137, filed 10/24/01, effective 11/24/01)

**WAC 246-296-150 DWSRF loan conditions.** (1) A borrower((s-must)) shall comply with all applicable laws, regulations, and requirements.

(2) A DWSRF loan((s-shall-include-conditions-to-ensure-compliance-with-the-following:

~~((a))~~ Agreement must address applicable federal, state, and local laws, orders, regulations, and permits; including, but not limited to ((=procurement, discrimination, labor, job safety, and drug-free environments, state and federal and women-owned business regulations. A current list of cross-cutting authorities shall be contained in the application package;

~~((b))~~ Maintenance of);

(a) Procurement;

(b) Nondiscrimination;

(c) Labor;

(d) Job safety;

(e) National Historic Preservation Act;

(f) Drug-free environments; and

(g) State and federal disadvantaged business regulations, such as those designed to help minority and women-owned businesses.

(3) A borrower shall maintain accounting records ((in accordance with-")) that conform to generally accepted government accounting standards((=" These standards are defined as, but not limited to, those contained in the)) issued by the Comptroller General of the United States ((General Accounting Office (GAO) publication "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions"), available at <http://www.gao.gov/yellowbook>;

~~((c))~~ Demonstration of applicant's (4) A borrower shall document its legal ability to:

(a) Provide a dedicated source of revenue; and

(b) Guarantee the repayment of ((their obligations to)) the ((fund)) DWSRF loan from that dedicated source. Dedicated sources of revenue ((could be special assessments, general taxes, or general obligation bonds, revenue bonds, user charges, rates, fees, or other sources; and

~~((d))~~ Submission of)) may include:

(i) Special assessments;

(ii) General taxes;

(iii) General obligation bonds;

(iv) Revenue bonds;

(v) User charges;

(vi) Rates;

(vii) Fees; and

(viii) Other sources.

(5) A borrower shall submit a construction completion report((=s)) for all project components and other documentation as required under chapter 246-290 WAC.

~~((3) Amendments to the loan agreement must be approved by DOH)) (6) A borrower shall comply with any EPA or department orders and compliance schedules during the term of the DWSRF loan agreement.~~

~~(7) The department, the board, and the (loan recipient) borrower shall approve amendments to the DWSRF loan agreement as needed.~~

~~(a) ((Amendments to)) The DWSRF loan agreement ((are required when there is a)) must be amended:~~

~~(i) For significant changes to the project's original ranked application and project scope of work; or~~

~~(ii) ((Need for a)) If additional time ((extension beyond the time cited in the original loan agreement)) is needed to complete project activities.~~

~~(b) Amendments to the DWSRF loan agreement are not required when adjustments are made at loan closeout to reconcile minor differences between the contract and the ((final)) completed project ((for project close out)).~~

~~((4) CTED)) (8) Commerce, or ((another)) its authorized auditor ((at CTED's discretion,)) shall audit the ((financial assistance agreement and)) borrower's records.~~

~~((5)) (9) The board may terminate the DWSRF loan agreement in whole or in part at any time if the borrower:~~

~~(a) Fails to comply with the terms of the DWSRF loan agreement under ((WAC 246-296-150,)) this chapter; or ((fails to use))~~

~~(b) Uses the DWSRF loan proceeds ((only)) for ((those)) activities other than those identified in the DWSRF loan((; CTED may terminate the)) agreement ((in whole or in part at any time. CTED)).~~

~~(10) The board shall, upon termination of a DWSRF loan agreement:~~

~~(a) Promptly notify the borrower in writing of its ((determination));~~

~~(i) Decision to terminate((;)) the loan agreement;~~

~~(ii) Reason for ((such termination, and the)) terminating the loan agreement;~~

~~(iii) Effective date of ((the termination. Upon)) termination; and~~

~~(b) Require immediate payment of the ((loan agreement, CTED shall request that the)) entire remaining balance of the DWSRF loan ((together with)) and any interest accrued((; be paid immediately)).~~

AMENDATORY SECTION (Amending WSR 01-21-137, filed 10/24/01, effective 11/24/01)

**WAC 246-296-160 Administrative review and dispute resolution.** (1) ((H)) An applicant ((does not agree with the DOH decision regarding application eligibility, the applicant)) may ((request reconsideration of)) request that the department reconsider a decision of ineligibility under WAC 246-296-070, 246-296-080, and 246-296-090. The request must be:

~~(a) Sent in writing to the ((director of the DOH division of drinking water. Requests for reconsideration must be in writing)) department at: P.O. Box 47822, Olympia, Washington, 98504-7822; and~~

~~(b) Received within ten working days of the date ((DOH)) the department notifies the applicant of the decision.~~

~~(2) ((H)) An applicant ((does not agree)) that disagrees with the ((DOH)) department's decision ((regarding priority)) about rating and ranking ((of the)) its application((; the applicant)) under WAC 246-296-130 may submit comments to ((DOH as part of)) the department during public review of the draft ((intended use plan)) IUP.~~

~~(3) ((If an applicant does not agree with board staff recommendations regarding the loan application section submitted, the)) An applicant may request a review of the decision by the board((; Requests)) about its DWSRF loan application. A request for review must be ((in writing and)) received by the board in writing at least fourteen calendar days ((in advance of the)) before a scheduled board meeting.~~

AMENDATORY SECTION (Amending WSR 01-21-137, filed 10/24/01, effective 11/24/01)

**WAC 246-296-170 State environmental review process.** (1) Federal law requires that Washington state follow a ((state environmental review process)) SERP((;)) for projects receiving DWSRF ((assistance)) loans. The purpose of the SERP is to identify any significant impact to the environment that may be caused by ((the implementation of)) a DWSRF project. This review must be done in compliance with ((the National Environmental Policy Act)) NEPA((;)) or ((the State Environmental Policy Act)) SEPA((;)) and any other applicable environmental ((statutes)) laws and regulations.

~~(2) ((CTED)) The department is designated as the lead agency for SERP. ((CTED)) The department shall provide basic guidance to the ((loan recipient) borrower to meet the requirements of ((this process)) SERP. Details ((regarding)) about SERP shall be included in the application package.~~

AMENDATORY SECTION (Amending WSR 01-21-137, filed 10/24/01, effective 11/24/01)

**WAC 246-296-180 Obligation for a public water system((s)) to comply if ((assistance)) a DWSRF loan is not obtained.** The inability or failure of any public water system to receive ((assistance from the)) a DWSRF ((program)) loan, or any delay in obtaining ((assistance)) a DWSRF loan, does not ((alter)) change the ((obligation of the)) public water ((system)) system's duty to comply in a timely manner with all applicable federal, state, and local drinking water ((standards)) regulations.

## WSR 12-01-086

### PERMANENT RULES

### DEPARTMENT OF

### LABOR AND INDUSTRIES

[Filed December 20, 2011, 9:21 a.m., effective February 1, 2012]

Effective Date of Rule: February 1, 2012.

Purpose: This rule is to address the requirements that employers must follow with regard to inspection, maintenance and operation of cranes used in the construction industry. This rule also includes updates to our current rigging and personnel lifting requirements. RCW 49.17.400 through

49.17.440 requires the department to establish by rule a crane certification program for cranes used in the construction industry and to establish requirements that must be met to be considered a qualified crane operator. In addition, the Occupational Safety and Health Administration (OSHA) adopted their final rule and this rule also includes requirements OSHA has in their rule in order for the division of occupational safety and health (DOSH) to be at-least-as-effective-as the federal rule.

This rule was developed with the assistance of a stakeholder group from the industry representing business and labor.

Citation of Existing Rules Affected by this Order: Repealing 52; and amending 25. See Reviser's note below.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.440, and 49.17.060.

Other Authority: 29 C.F.R. 1926, Subpart CC, Cranes and Derricks in Construction.

Adopted under notice filed as WSR 11-16-022 on July 26, 2011.

Changes Other than Editing from Proposed to Adopted Version: See Reviser's note below.

A final cost-benefit analysis is available by contacting Cindy Ireland, P.O. Box 44620, Olympia, WA 98504, phone (360) 902-5522, fax (360) 902-5619, e-mail [cynthia.ireland@lni.wa.gov](mailto:cynthia.ireland@lni.wa.gov).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 99, Amended 25, Repealed 52; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 99, Amended 25, Repealed 52.

Number of Sections Adopted on the Agency's Own Initiative: New 99, Amended 25, Repealed 52.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 99, Amended 25, Repealed 52.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 20, 2011.

Judy Schurke  
Director

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 12-02 issue of the Register.

### WSR 12-01-093

#### PERMANENT RULES

#### BUILDING CODE COUNCIL

[Filed December 20, 2011, 2:06 p.m., effective April 1, 2012]

Effective Date of Rule: April 1, 2012.

Purpose: Adopt changes to the 2009 Washington State Energy Code, Section 101.3.2.6 regarding duct testing and sealing in existing buildings. This is the permanent adoption of language previously adopted as an emergency rule in WSR

11-17-123. The permanent rule requires that when a furnace or other heating equipment is replaced, the ductwork must be tested for leakage. The rule does not require any leakage be sealed.

Citation of Existing Rules Affected by this Order: Amending WAC 51-11-0101.

Statutory Authority for Adoption: RCW 19.27A.020, 19.27A.025, and 19.27A.045.

Other Authority: Chapters 19.27 and 34.05 RCW.

Adopted under notice filed as WSR 11-16-082 on August 1, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: November 18, 2011.

Kristyn Clayton  
Council Chair

**AMENDATORY SECTION** (Amending WSR 10-03-115, 10-13-113 and 10-22-056, filed 1/20/10, 6/21/10 and 10/28/10, effective 1/1/11)

#### **WAC 51-11-0101 Section 101—Scope and general requirements.**

101.1 Title: Chapters 1 through 10 of this Code shall be known as the "Washington State Single-Family Residential Energy Code" and may be cited as such; and will be referred to herein as "this Code."

101.2 Purpose and Intent: The purpose of this Code is to provide minimum standards for new or altered buildings and structures or portions thereof to achieve efficient use and conservation of energy.

The purpose of this Code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by the terms of this Code.

It is intended that these provisions provide flexibility to permit the use of innovative approaches and techniques to achieve efficient use and conservation of energy. These provisions are structured to permit compliance with the intent of this Code by any one of the following three paths of design:

1. A systems analysis approach for the entire building and its energy-using sub-systems which may utilize renewable energy sources, Chapters 4 and 9.

2. A component performance approach for various building elements and mechanical systems and components, Chapters 5 and 9.

3. A prescriptive requirements approach, Chapters 6 and 9.

Compliance with any one of these approaches meets the intent of this Code. This Code is not intended to abridge any safety or health requirements required under any other applicable codes or ordinances.

The provisions of this Code do not consider the efficiency of various energy forms as they are delivered to the building envelope. A determination of delivered energy efficiencies in conjunction with this Code will provide the most efficient use of available energy in new building construction.

**101.3 Scope:** This Code sets forth minimum requirements for the design of new buildings and structures that provide facilities or shelter for residential occupancies by regulating their exterior envelopes and the selection of their mechanical systems, domestic water systems, electrical distribution and illuminating systems, and equipment for efficient use and conservation of energy.

Buildings shall be designed to comply with the requirements of either Chapter 4, 5, or 6 of this Code and the additional energy efficiency requirements included in Chapter 9 of this Code.

Spaces within the scope of Section R101.2 of the International Residential Code shall comply with Chapters 1 through 10 of this Code. All other spaces, including other Group R Occupancies, shall comply with Chapters 11 through 20 of this Code. Chapter 2 (Definitions), Chapter 7 (Standards), and Chapter 10 (default heat loss coefficients), are applicable to all building types.

**101.3.1 Exempt Buildings:** Buildings and structures or portions thereof meeting any of the following criteria shall be exempt from the building envelope requirements of Sections 502 and 602, but shall comply with all other requirements for mechanical systems and domestic water systems.

**101.3.1.1:** Buildings and structures or portions thereof whose peak design rate of energy usage is less than three and four tenths (3.4) Btu/h per square foot or one point zero (1.0) watt per square foot of floor area for space conditioning requirements.

**101.3.1.2:** Buildings and structures or portions thereof which are neither heated according to the definition of heated space in Chapter 2, nor cooled by a nonrenewable energy source, provided that the nonrenewable energy use for space conditioning complies with requirements of Section 101.3.1.1.

**101.3.1.3:** Greenhouses isolated from any conditioned space and not intended for occupancy.

**101.3.1.4:** The provisions of this code do not apply to the construction, alteration, or repair of temporary worker housing except as provided by rule adopted under chapter

70.114A RCW or chapter 37, Laws of 1998 (SB 6168). "Temporary worker housing" means a place, area, or piece of land where sleeping places or housing sites are provided by an employer for his or her employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary, seasonal occupancy, and includes "labor camps" under RCW 70.54.110.

**101.3.2 Application to Existing Buildings:** Additions, historic buildings, changes of occupancy or use, and alterations or repairs shall comply with the requirements in the subsections below.

**EXCEPTION:** The building official may approve designs of alterations or repairs which do not fully conform with all of the requirements of this Code where in the opinion of the building official full compliance is physically impossible and/or economically impractical and:

1. The alteration or repair improves the energy efficiency of the building; or
2. The alteration or repair is energy efficient and is necessary for the health, safety, and welfare of the general public.

In no case, shall building envelope requirements or mechanical system requirements be less than those requirements in effect at the time of the initial construction of the building.

**101.3.2.1 Additions to Existing Buildings:** Additions to existing buildings or structures may be made to such buildings or structures without making the entire building or structure comply, provided that the new additions shall conform to the provisions of this Code.

**EXCEPTION:** New additions which do not fully comply with the requirements of this Code and which have a floor area which is less than seven hundred fifty square feet shall be approved provided that improvements are made to the existing occupancy to compensate for any deficiencies in the new addition. Compliance shall be demonstrated by either systems analysis or component performance calculations. The nonconforming addition and upgraded, existing occupancy shall have an energy budget or Target UA which is less than or equal to the unimproved existing building (minus any elements which are no longer part of the building envelope once the addition is added), with the addition designed to comply with this Code.

**101.3.2.2 Historic Buildings:** The building official may modify the specific requirements of this Code for historic buildings and require in lieu thereof alternate requirements which will result in a reasonable degree of energy efficiency. This modification may be allowed for those buildings which have been specifically designated as historically significant by the state or local governing body, or listed in The National Register of Historic Places or which have been determined to be eligible for listing.

**101.3.2.3 Change of Occupancy or Use:**

Any space not within the scope of Section 101.3 which is converted to space that is within the scope of Section 101.3 shall be brought into full compliance with this Code.

**101.3.2.4 Alterations and Repairs:** All alterations and repairs to buildings or portions thereof originally constructed subject to the requirements of this Code shall conform to the

provisions of this Code without exception. For all other existing buildings, initial tenant alterations shall comply with the new construction requirements of this Code. Other alterations and repairs may be made to existing buildings and moved buildings without making the entire building comply with all of the requirements of this Code for new buildings, provided the requirements of Sections 101.3.2.5 through 101.3.2.8 are met.

101.3.2.5 Building Envelope: The result of the alterations or repairs both:

1. Improves the energy efficiency of the building, and
2. Complies with the overall average thermal transmittance values of the elements of the exterior building envelope in Table 5-1 of Chapter 5 or the nominal R-values and glazing requirements of the reference case in Tables 6-1 and 6-2.

EXCEPTIONS:

1. Untested storm windows may be installed over existing glazing for an assumed U-factor of 0.90, however, where glass and sash are being replaced, glazing shall comply with the appropriate reference case in Tables 6-1 and 6-2.
2. Where the structural elements of the altered portions of roof/ceiling, wall or floor are not being replaced, these elements shall be deemed to comply with this Code if all existing framing cavities which are exposed during construction are filled to the full depth with batt insulation or insulation having an equivalent nominal R-value. 2x4 framed walls shall be insulated to a minimum of R-15 and 2x6 framed walls shall be insulated to a minimum of R-21. Roof/ceiling assemblies shall maintain the required space for ventilation. Existing walls and floors without framing cavities need not be insulated. Existing roofs shall be insulated to the requirements of this Code if
  - a. The roof is uninsulated or insulation is removed to the level of the sheathing, or
  - b. All insulation in the roof/ceiling was previously installed exterior to the sheathing or nonexistent.

101.3.2.6 Mechanical Systems: Those parts of systems which are altered or replaced shall comply with Section 503 of this Code. When a space-conditioning system is altered by the installation or replacement of space-conditioning equipment (including replacement of the air handler, outdoor condensing unit of a split system air conditioner or heat pump, cooling or heating coil, or the furnace heat exchanger), the duct system that is connected to the new or replacement space-conditioning equipment shall be ~~((sealed, as confirmed through field verification and diagnostic testing in accordance with procedures for duct sealing of existing duct systems))~~ tested as specified in RS-33. The test results shall ~~((confirm at least one of the following performance requirements:~~

1. ~~The measured total duct leakage shall be less than or equal to 8 percent of the conditioned floor area, measured in CFM @ 25 Pascals; or~~
2. ~~The measured duct leakage to outside shall be less than 6 percent of the conditioned floor area, measured in CFM @ 25 Pascals; or~~
3. ~~The measured duct leakage shall be reduced by more than 50 percent relative to the measured leakage prior to the~~

~~installation or replacement of the space conditioning equipment and a visual inspection including a smoke test shall demonstrate that all accessible leaks have been sealed; or~~

4. ~~If it is not possible to meet the duct requirements of 1, 2 or 3, all accessible leaks shall be sealed and verified through a visual inspection and through a smoke test by a certified third party))~~ be provided to the building official and the homeowner.

EXCEPTIONS:

1. Duct systems that are documented to have been previously sealed as confirmed through field verification and diagnostic testing in accordance with procedures in RS-33.
2. Ducts with less than 40 linear feet in unconditioned spaces.
3. Existing duct systems constructed, insulated or sealed with asbestos.

101.3.2.7 Domestic Water Systems: Those parts of systems which are altered or replaced shall comply with section 504.

101.3.2.8 Lighting: Alterations shall comply with Sections 505 and 1132.3.

101.3.3 Mixed Occupancy: When a building houses more than one occupancy, each portion of the building shall conform to the requirements for the occupancy housed therein. Where approved by the building official, where minor accessory uses do not occupy more than ten percent of the area of any floor of a building, the major use may be considered the building occupancy.

101.4 Amendments by Local Government: Except as provided in RCW 19.27A.020(7), this Code shall be the maximum and minimum energy code for single-family residential in each town, city and county.

**WSR 12-01-097**  
**PERMANENT RULES**  
**HEALTH CARE AUTHORITY**  
 (Medicaid Program)

[Filed December 20, 2011, 4:01 p.m., effective January 20, 2012]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The health care authority (HCA) is revising chapter 182-533 WAC pursuant to ESHB 1086, which reduces funding for maternity support services and mandates HCA to prioritize evidence-based practices for delivery of maternity support services and to target funding for maternity support services by leveraging local public funding for those services. In addition, upon order of the governor, HCA must reduce its budget expenditures for the current fiscal year ending June 30, 2011, by 6.3 percent.

While WAC 182-533-0390 is not part of this budget reduction, HCA has reorganized the section and rewritten it to make it clearer. No policy was changed.

Citation of Existing Rules Affected by this Order: Amending WAC 182-533-0300, 182-533-0320, 182-533-0325, 182-533-0370, 182-533-0380, and 182-533-0390.

Statutory Authority for Adoption: RCW 41.05.021.

Other Authority: Chapter 5, Laws of 2011, ESHB 1086.

Adopted under notice filed as WSR 11-22-085 on November 1, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 6, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 0.

Date Adopted: December 20, 2011.

Kevin M. Sullivan  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

**WAC 182-533-0300 Services under First Steps.** (1) Under the 1989 Maternity Care Access Act, and RCW 74.09.760 through 74.09.910, the ~~((department))~~ agency established First Steps to provide access to services for eligible women and their infants.

(2) The rules for the:

(a) Maternity support services (MSS) component of First Steps are found in WAC ~~((388-533-0310))~~ 182-533-0310 through ~~((388-533-0345))~~ 182-533-0345.

(b) Infant case management (ICM) component of First Steps are found in WAC ~~((388-533-0360))~~ 182-533-0360 through ~~((388-533-0386))~~ 182-533-0386.

(c) Childbirth education (CBE) component of First Steps are found in WAC ~~((388-533-0390))~~ 182-533-0390.

(3) Other services under First Steps include:

(a) Medical services, including full medical coverage, prenatal care, delivery, post-pregnancy follow-up, ~~((dental, vision,))~~ and twelve months family planning services post-pregnancy;

(b) Ancillary services, including but not limited to, expedited medical eligibility determination ~~((,-ease finding and outreach))~~; and

(c) Alcohol and drug assessment and treatment services for pregnant women available statewide and administered by the division of behavioral health and recovery (see WAC ~~((388-533-0701))~~ 182-533-0701).

**AMENDATORY SECTION** (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

**WAC 182-533-0320 Maternity support services—Client eligibility.** (1) To receive maternity support services (MSS), a client must:

(a) Be covered under one of the following medical assistance programs:

(i) Categorically needy ~~((program (CNP)))~~ (CN);

(ii) ~~((CNP—Children's health insurance program))~~ Children's health care as described in WAC 388-505-0210;

(iii) Medically needy program (MNP); or

(iv) A pregnancy medical program as described in WAC 388-462-0015.

(b) Be within the eligibility period of a maternity cycle as defined in WAC ~~((388-533-0315))~~ 182-533-0315; and

(c) Meet any other eligibility criteria as determined by the ~~((department))~~ agency and published in the ~~((department's))~~ agency's current billing instructions and/or numbered memoranda.

(2) Clients who meet the eligibility criteria in this section may receive:

(a) An in-person screening by a provider who meets the criteria established in WAC ~~((388-533-0325))~~ 182-533-0325. Clients are screened for risk factors related to issues that may impact their birth outcomes.

(b) Up to the maximum number of MSS units of service allowed per client as determined by the ~~((department))~~ agency and published in the ~~((department's))~~ agency's current billing instructions and/or numbered memoranda. The ~~((department))~~ agency may determine the maximum number of units allowed per client when directed by the legislature to achieve targeted expenditure levels for payment of maternity support services for any specific biennium.

(3) Clients meeting the eligibility criteria in this section who are enrolled in ~~((a department contracted))~~ an agency-contracted managed care ~~((plan))~~ organization (MCO), are eligible for MSS outside their plan.

(4) See chapter ~~((388-534))~~ 182-534 WAC for clients eligible for coverage under the early periodic screening, diagnosis and treatment (EPSDT) program.

(5) Clients receiving MSS before ~~((July 1, 2009))~~ March 1, 2011, are subject to the transition plan as determined and published by the ~~((department))~~ agency in numbered memoranda.

(6) Clients who do not agree with ~~((a department))~~ an agency decision regarding eligibility for MSS have a right to a fair hearing under chapter 388-02 WAC.

**AMENDATORY SECTION** (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

**WAC 182-533-0325 Maternity support services—Provider requirements.** (1) To be paid for providing maternity support services (MSS) and infant case management (ICM) services to eligible clients, an agency or entity must:

(a) Be currently approved as an MSS/ICM provider by the ~~((department of health (DOH)))~~ medicaid agency;

(b) Be enrolled as an eligible provider with the ~~((department of social and health services' (department's) health and recovery services administration (HRSA)))~~ medicaid agency (see WAC ~~((388-502-0010))~~ 182-502-0010);

(c) Ensure that staff providing services meet the minimum regulatory and educational qualifications for the scope of services provided; and

(d) Meet the requirements in this chapter, chapter ~~((388-502))~~ 182-502 WAC and the ~~((department's))~~ medicaid

agency's current published billing instructions and numbered memoranda.

(2) An individual or service organization that has a written agreement with an agency or entity that meets the requirements in subsection (1) of this section may also provide MSS and ICM services to eligible clients.

(a) The ~~((department))~~ medicaid agency requires the agency or entity to:

(i) Keep a copy of the written agreement on file;

(ii) Ensure that an individual or service organization staff member providing MSS/ICM services meets the minimum regulatory and educational qualifications required of an MSS/ICM provider;

(iii) Assure that the individual or service organization provides MSS/ICM services under the requirements of this chapter; and

(iv) Maintain professional, financial, and administrative responsibility for the individual or service organization.

(b) The agency or entity is responsible to:

(i) Bill for services using the agency's or entity's assigned provider number; and

(ii) Reimburse the individual or service organization for MSS/ICM services provided under the written agreement.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

**WAC 182-533-0370 Infant case management—Eligibility.** (1) To receive infant case management (ICM), an infant must:

(a) Be covered under one of the medical assistance programs listed in WAC ~~((388-533-0320))~~ 182-533-0320(1);

(b) Meet the age requirement for ICM which is the day after the maternity cycle (defined in WAC ~~((388-533-0315))~~ 182-533-0315) ends, through the last day of the month of the infant's first birthday;

(c) Reside with at least one parent (see WAC ~~((388-533-0315))~~ 182-533-0315 for definition of parent);

(d) Have a parent(s) who needs assistance in accessing medical, social, educational and/or other services to meet the infant's basic health and safety needs; and

(e) Not be receiving any case management services funded through Title XIX medicaid that duplicate ICM services.

(2) Infants who meet the eligibility criteria in subsection (1) of this section, and the infant's parent(s), are eligible to receive:

(a) An in-person screening by a provider who meets the criteria established in WAC ~~((388-533-0375))~~ 182-533-0375. Infants and their parent(s) are screened for risk factors related to issues that may impact the infant's welfare, health, and/or safety.

(b) Up to the maximum number of ICM units of service allowed per client as determined by the ~~((department))~~ agency and published in the ~~((department's))~~ agency's current billing instructions and/or numbered memoranda. The ~~((department))~~ agency may determine the maximum number of units allowed per client when directed by the legislature to achieve targeted expenditure levels for payment in any specific biennium.

(3) Clients meeting the eligibility criteria in subsection (1) of this section who are enrolled in ~~((a department contracted))~~ an agency-contracted managed care ((plan)) organization (MCO) are eligible for ICM services outside their plan.

(4) See chapter ~~((388-534))~~ 182-534 WAC for clients eligible for coverage under the early periodic screening, diagnosis and treatment (EPSDT) program.

(5) Clients receiving ICM before ~~((July 1, 2009))~~ March 1, 2011, are subject to the transition plan as determined and published by the ~~((department))~~ agency in numbered memoranda.

(6) Clients who do not agree with ~~((a department))~~ an agency decision regarding eligibility for ICM have a right to a fair hearing under chapter 388-02 WAC.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

**WAC 182-533-0380 Infant case management—Covered services.** (1) The ~~((department))~~ agency covers infant case management (ICM) services subject to the restrictions and limitations in this section and other applicable WAC.

(2) Covered services include:

(a) An initial in-person screening for ICM services which includes an assessment of risk factors, and the development of an individualized care plan;

(b) Case management services and care coordination;

(c) Linking and referring the infant and parent(s) to other services or resources;

(d) Advocating for the infant and parent(s);

(e) Follow-up contact(s) with the parent(s) to ensure the care plan continues to meet the needs of the infant and parent(s); and

(f) Additional services as determined and published in the maternity support services/infant case management (MSS/ICM) billing instructions.

(3) The ~~((department))~~ agency pays for covered ICM services according to WAC ~~((388-533-0386))~~ 182-533-0386.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

**WAC 182-533-0390 Childbirth education (CBE) classes ~~((CBE))~~.** (1) Purpose. The purpose of childbirth education ~~((services described in this section are intended to))~~ (CBE) classes is to help prepare the ~~((pregnant))~~ client and her support person(s):

(a) For ((labor and delivery)) the physiological, emotional, and psychological changes experienced during and after pregnancy;

(b) To develop self-advocacy skills;

(c) To increase knowledge about and access to local community resources;

(d) To improve parenting skills; and

(e) To improve the likelihood of positive birth outcomes.

(2) Definitions. The ~~((following))~~ definitions ~~((apply to))~~ in chapter 182-500 WAC, medical assistance definitions, and WAC ((388-533-0390):

~~((a))~~ Approved instructor—A childbirth instructor meeting specific criteria set by the Washington department of

health (DOH) maternal and infant health section and approved by the DOH health education consultant to provide childbirth education to pregnant clients.

(b) ~~Childbirth education classes (CBE) — A series of educational sessions offered in a group setting, with a minimum of eight hours of instruction and led by an approved instructor to prepare a pregnant woman and her support person for an upcoming childbirth.~~

(e) ~~Social services payment systems (SSPS) — The payment method used by the department of social and health services (DSHS) for certain social services and independent providers)) 182-533-0315, maternity support services definitions, also apply to this section.~~

(3) ~~Client eligibility. ((Childbirth education)) To be eligible for CBE classes ((under WAC 388-533-0390 are available to women who are)), a client must be:~~

(a) ~~Pregnant; and~~

(b) ~~Covered under one of the ((following)) medical assistance ((administration (MAA))) programs(=~~

(i) ~~Categorically needy program (CNP);~~

(ii) ~~Categorically needy program — Children's health insurance program; (CNP — Children's health insurance program); or~~

(iii) ~~Categorically needy program emergency medical only (CNP — Emergency medical only)) described in WAC 182-533-0320 (1)(a)(i) and (iv).~~

(4) ~~Provider requirements. ((A childbirth educator providing services under WAC 388-533-0390)) To be paid for providing CBE classes to eligible clients, an approved instructor must:~~

(a) ~~((Be an approved CBE provider (individual or agency) with an assigned SSPS/CBE billing number, and a signed program assurances document on file with MAA;~~

(b)) ~~Have a core provider agreement on file with the health care authority (the agency);~~

(b) ~~Ensure that individuals providing CBE classes have credentials and/or certification as outlined in the agency's current published billing instructions;~~

(c) ~~Deliver CBE ((services)) classes in a series of group sessions; ((e) Bill the medical assistance administration (MAA):~~

(i) ~~Using the assigned SSPS/CBE billing number; and~~

(ii) ~~According to the form and instruction requirements in MAA's CBE billing instructions; and~~

(d) ~~Accept the MAA fee as final and complete payment for a client.~~

(5) ~~Covered services. MAA covers childbirth education when the instruction is:~~

(a) ~~Provided to clients eligible under WAC 388-533-0390(3);~~

(b) ~~Delivered in group sessions with a minimum of eight hours of instruction; and~~

(e) ~~Delivered according to a curriculum approved by the MAA/DOH program managers.~~

(6) ~~Nonecovered services. The following are considered nonecovered services under childbirth education:~~

(a) ~~Any services beyond the scope of CBE; and~~

(b) ~~Any education about childbirth that is provided during a one-to-one home or office visit. (CBE provided in a one-to-one home or office visit must be billed according to~~

~~WAC 388-533-0340 and 388-533-0345, Maternity support services rules.)) and~~

(d) ~~Provide curriculum containing topics outlined in the agency's CBE curriculum checklist found in the agency's current published billing instructions. Topics include, but are not limited to:~~

(i) ~~Pregnancy;~~

(ii) ~~Labor and birth;~~

(iii) ~~Newborns; and~~

(iv) ~~Family adjustment.~~

(5) ~~Documentation. Providers must:~~

(a) ~~Follow the health care record requirements found in WAC 182-502-0020; and~~

(b) ~~Maintain the following additional documentation:~~

(i) ~~An original signed copy of each client's Freedom of Choice/Consent for Services form;~~

(ii) ~~A client sign-in sheet for each class; and~~

(iii) ~~Names and ProviderOne Client ID numbers of eligible clients attending CBE classes and the date(s) they participated in each CBE class.~~

(6) ~~Coverage.~~

(a) ~~The agency covers one CBE class series per client, per pregnancy. The client must attend at least one CBE session for the provider to be paid.~~

(b) ~~CBE classes must include a minimum of eight hours of instruction and are subject to the restrictions and limitations in this section and other applicable WAC.~~

(7) ~~((Reimbursement)) Payment. ((MAA reimburses) The agency pays for the CBE ((services subject to the following terms and limitations)) classes described in subsection (6) of this section on a fee-for-service basis subject to the following:~~

(a) ~~((Reimbursement)) CBE must:~~

(i) ~~((Is limited to one series per client, per pregnancy;~~

(ii) ~~Must be for the clients specifically enrolled in the session; and~~

(iii)) ~~Include((s)) all classes, core materials, publications, and educational materials provided throughout the class series. ((MAA)) Clients must receive the same materials as are offered to other attendees((-)); and~~

(ii) ~~Be billed according to the agency's current published billing instructions.~~

(b) ~~((A client must attend at least one CBE session in order for the provider to be reimbursed for the CBE services to the client.)) The provider must accept the agency's fee as payment in full for classes provided to a client in accordance with 42 CFR § 447.15.~~

## WSR 12-01-099

### PERMANENT RULES

#### BUILDING CODE COUNCIL

[Filed December 20, 2011, 5:58 p.m., effective April 1, 2012]

Effective Date of Rule: April 1, 2012.

Purpose: For clerical ease, there are two separate issues being combined in this form:

(a) To comply with RCW 19.27.530 which requires the state building code council to adopt rules related to installation of carbon monoxide alarms in residential settings.

(b) To provide additional safety measures for certain child care centers that serve children from birth to age thirty months, as requested by the state fire marshal due to life safety concerns and in compliance with licensing requirements.

These matters are being filed together as certain WAC sections are common to both filings.

Citation of Existing Rules Affected by this Order: Amending WAC 51-50-0907, 51-51-0315, 51-54-0900 and 51-54-4600; and new section WAC 51-50-0908.

Statutory Authority for Adoption: RCW 19.27.074 (for both issues (a) and (b)); RCW 19.27.530 (for issue (a) only).

Adopted under notice filed as WSR 11-16-081 (for issue (a)) on August 1, 2011; and WSR 11-19-076 (for issue (b)) on September 16, 2011.

Changes Other than Editing from Proposed to Adopted Version: For issue (a): In the proposed modifications to WAC 51-54-4600 there was an adjustment made to Section 4603.8 to remove references to a carbon monoxide "alarm system." The terminology was modified to simply refer to "carbon monoxide alarms."

For issue (b): In the proposed modifications to WAC 51-50-0907, certain language was left in place that should have been removed. It is removed in this filing for consistency with aspects of issue (a).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 5, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 18, 2011.

Kristyn Clayton  
Chair

AMENDATORY SECTION (Amending WSR 10-03-097, filed 1/20/10, effective 7/1/10)

**WAC 51-50-0907 Section 907—Fire alarm and detection systems.**

~~((**[F] 907.2.8 Group R-1.** Fire alarm systems, smoke alarms and carbon monoxide alarms shall be installed in Group R-1 occupancies as required in Sections 907.2.8.1 through 907.2.8.4.~~

~~**[F] 907.2.8.4. Carbon monoxide alarms.** For new construction, an approved carbon monoxide alarm shall be installed by January 1, 2011, outside of each separate sleeping area in the immediate vicinity of the bedroom in sleeping units. In a building where a tenancy exists, the tenant shall maintain the~~

~~CO alarm as specified by the manufacturer including replacement of the batteries.~~

~~**[F] 907.2.8.4.1 Existing sleeping units.** Existing sleeping units shall be equipped with carbon monoxide alarms by July 1, 2011.~~

~~**[F] 907.2.8.4.2 Alarm requirements.** Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions.~~

~~**[F] 907.2.9 Group R-2.** Fire alarm systems, smoke alarms and carbon monoxide alarms shall be installed in Group R-2 occupancies as required in Sections 907.2.9.1 through 907.2.9.3.~~

~~**[F] 907.2.9.3. Carbon monoxide alarms.** For new construction, an approved carbon monoxide alarm shall be installed by January 1, 2011, outside of each separate sleeping area in the immediate vicinity of the bedroom in dwelling units. In a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries.~~

~~**[F] 907.2.9.3.1 Existing dwelling units.** Existing dwelling units shall be equipped with carbon monoxide alarms by July 1, 2011.~~

~~**907.2.9.3.2 Alarm requirements.** Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions.~~

~~**[F] 907.2.10 Group R-3.** Carbon monoxide alarms shall be installed in Group R-3 occupancies as required in Sections 907.2.10.1 through 907.2.10.3.~~

~~**[F] 907.2.10.1 Carbon monoxide alarms.** For new construction, an approved carbon monoxide alarm shall be installed by January 1, 2011, outside of each separate sleeping area in the immediate vicinity of the bedroom in dwelling units. In a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries.~~

~~**[F] 907.2.10.2 Existing dwelling units.** Existing dwelling units shall be equipped with carbon monoxide alarms by July 1, 2011.~~

~~EXCEPTION: Owner-occupied Group R-3 residences legally occupied prior to July 1, 2010.~~

~~**[F] 907.2.10.3 Alarm requirements.** Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions.~~

~~**[F] 907.2.6 Group I.** A manual fire alarm system that activates the occupant notification system shall be installed in Group I occupancies. An automatic smoke detection system that notifies the occupant notification system shall be provided in accordance with Sections 907.2.6.1, 907.2.6.2, 907.2.6.3.3 and 907.2.6.4.~~

~~EXCEPTIONS: 1. Manual fire alarm boxes in resident or patient sleeping areas of Group I-1 and I-2 occupancies shall not be~~

required at exits if located at nurses' control stations or other constantly attended staff locations, provided such stations are visible and continually accessible and that travel distances required in Section 907.4.2 are not exceeded.

2. Occupant notification systems are not required to be activated where private mode signaling installed in accordance with NFPA 72 is approved by the fire code official.

**[F] 907.2.6.4 Group I-4 child care facilities.** An automatic smoke detection system that activates the occupant notification system in accordance with Sections 907.6 through 907.6.2.3.2 shall be provided and installed in accordance with NFPA 72.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

## NEW SECTION

**WAC 51-50-0908 Section 908—Emergency alarm systems.**

**[F] 908.7 Carbon monoxide alarms.** Group R occupancies shall be provided with carbon monoxide alarms. The carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions.

**EXCEPTION:** Sleeping units or dwelling units in R-1 occupancies and R-2 college dormitories, hotel, and DSHS licensed boarding home and residential treatment facility occupancies which do not themselves contain a fuel-burning appliance, or a fuel-burning fireplace, or have an attached garage, but which are located in a building with a fuel-burning appliance, or a fuel-burning fireplace, or an attached garage, need not be provided with carbon monoxide alarms provided that:

1. The sleeping unit or dwelling unit is not adjacent to any room which contains a fuel-burning appliance, a fuel-burning fireplace, or an attached garage; and
2. The sleeping unit or dwelling unit is not connected by duct work or ventilation shafts with a supply or return register in the same room to any room containing a fuel-burning appliance, a fuel-burning fireplace, or to an attached garage; and
3. The building is provided with a common area carbon monoxide alarm system.
4. An open parking garage, as defined in the *International Building Code*, or enclosed parking garage ventilated in accordance with Section 404 of the *International Mechanical Code* shall not be deemed to be an attached garage.

**908.7.1 Carbon monoxide detection systems.** Carbon monoxide detection systems, that include carbon monoxide detectors and audible notification appliances, installed and maintained in accordance with this section for carbon monoxide alarms and NFPA 720 shall be permitted. The carbon monoxide detectors shall be listed as complying with UL 2075.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**AMENDATORY SECTION** (Amending WSR 10-03-098, filed 1/20/10, effective 7/1/10)

**WAC 51-51-0315 Section R315—Carbon monoxide alarms.**

**R315.1 Carbon Monoxide Alarms.** For new construction, an approved carbon monoxide alarm shall be installed (~~(by January 1, 2011,)~~) outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units (~~(in a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries)~~) and on each level of the dwelling and in accordance with the manufacturer's recommendations.

**R315.2 Existing Dwellings.** Existing dwellings shall be equipped with carbon monoxide alarms (~~(by July 1, 2011)~~) when alterations, repairs or additions requiring a permit occur, or when one or more sleeping rooms are added or created.

**EXCEPTIONS:** (~~(Owner-occupied detached one-family dwellings legally occupied prior to July 1, 2010,)~~)

1. Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, or electrical permits, are exempt from the requirements of this section.
2. Installation, alteration or repairs of noncombustion plumbing or mechanical systems are exempt from the requirements of this section.

**R315.3 Alarm Requirements.** Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions.

**AMENDATORY SECTION** (Amending WSR 10-24-059, filed 11/29/10, effective 7/1/11)

**WAC 51-54-0900 Chapter 9—Fire protection systems.**

### **902.1 Definitions.**

**ALERT SIGNAL.** See Section 402.1.

**ALERTING SYSTEM.** See Section 402.1.

**PORTABLE SCHOOL CLASSROOM.** A structure, transportable in one or more sections, which requires a chassis to be transported, and is designed to be used as an educational space with or without a permanent foundation. The structure shall be trailerable and capable of being demounted and relocated to other locations as needs arise.

**903.2.1.6 Nightclub.** An automatic sprinkler system shall be provided throughout Group A-2 nightclubs as defined in this code.

**903.2.3 Group E.** An automatic sprinkler system shall be provided for Group E Occupancies.

**EXCEPTIONS:**

1. Portable school classrooms, provided aggregate area of any cluster or portion of a cluster of portable school classrooms does not exceed 5,000 square feet (1465 m<sup>2</sup>); and clusters of portable school classrooms shall be separated as required by the building code.
2. Group E Occupancies with an occupant load of 50 or less, calculated in accordance with Table 1004.1.1.

**903.2.7 Group M.** An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy, where one of the following conditions exists:

1. A Group M fire area exceeds 12,000 square feet (1115 m<sup>2</sup>).
2. A Group M fire area is located more than three stories above grade plane.
3. The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m<sup>2</sup>).
4. Where a Group M occupancy that is used for the display and sale of upholstered furniture or mattresses exceeds 5000 square feet (464 m<sup>2</sup>).

**903.2.8 Group R.** An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

EXCEPTION: Group R-1 if all of the following conditions apply:

1. The Group R fire area is no more than 500 square feet and is used for recreational use only.
2. The Group R fire area is on only one story.
3. The Group R fire area does not include a basement.
4. The Group R fire area is no closer than 30 feet from another structure.
5. Cooking is not allowed within the Group R fire area.
6. The Group R fire area has an occupant load of no more than 8.
7. A hand held (portable) fire extinguisher is in every Group R fire area.

#### SECTION 906—PORTABLE FIRE EXTINGUISHERS

**906.1 Where required.** Portable fire extinguishers shall be installed in the following locations:

1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.
2. Within 30 feet (9144 mm) of commercial cooking equipment.
3. In areas where flammable or combustible liquids are stored, used or dispensed.
4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1415.1.
5. Where required by the sections indicated in Table 906.1.
6. Special-hazard areas, including, but not limited to, laboratories, computer rooms and generator rooms, where required by the fire code official.

#### SECTION 907—FIRE ALARM AND DETECTION SYSTEMS

~~((F) 907.2.8 Group R-1. Fire alarm systems, smoke alarms and carbon monoxide alarms shall be installed in Group R-1 occupancies as required in this section and Section 907.2.8.4.~~

~~(F) 907.2.8.4. Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm shall be installed by January 1, 2011, outside of each separate sleeping area in the immediate vicinity of the bedroom in sleeping units. In a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries.~~

~~(F) 907.2.8.4.1 Existing sleeping units. Existing sleeping units shall be equipped with carbon monoxide alarms by July 1, 2011.~~

~~(F) 907.2.8.4.2 Alarm requirements. Single station carbon monoxide alarms shall be listed as complying with UL 2034~~

~~and shall be installed in accordance with this code and the manufacturer's installation instructions.~~

~~(F) 907.2.9 Group R-2. Fire alarm systems, smoke alarms and carbon monoxide alarms shall be installed in Group R-2 occupancies as required in Sections 907.2.9.1 through 907.2.9.3.)~~

~~(F) 907.2.9.1.1 Group R-2 boarding homes. A manual fire alarm system shall be installed in Group R-2 occupancies where the building contains a boarding home licensed by the state of Washington.~~

EXCEPTION: In boarding homes licensed by the state of Washington, manual fire alarm boxes in resident sleeping areas shall not be required at exits if located at all constantly attended staff locations, provided such staff locations are visible, continuously accessible, located on each floor, and positioned so no portion of the story exceeds a horizontal travel distance of 200 feet to a manual fire alarm box.

~~((F) 907.2.9.3 Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm shall be installed by January 1, 2011, outside of each separate sleeping area in the immediate vicinity of the bedroom in dwelling units. In a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries.~~

~~(F) 907.2.9.3.1 Existing dwelling units. Existing dwelling units shall be equipped with carbon monoxide alarms by July 1, 2011.~~

~~(F) 907.2.10 Group R-3. Carbon monoxide alarms shall be installed in Group R-3 occupancies as required in Sections 907.2.10.1 through 907.2.10.3.~~

~~(F) 907.2.10.1 Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm shall be installed by January 1, 2011, outside of each separate sleeping area in the immediate vicinity of the bedroom in dwelling units. In a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries.~~

~~(F) 907.2.10.2 Existing dwelling units. Existing dwelling units shall be equipped with carbon monoxide alarms by July 1, 2011.~~

EXCEPTION: Owner-occupied Group R-3 residences legally occupied prior to July 1, 2010.

~~(F) 907.2.10.3 Alarm requirements. Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions.)~~

#### SECTION 908—EMERGENCY ALARM SYSTEMS

**908.7 Carbon monoxide alarms.** Group R occupancies shall be provided with carbon monoxide alarms. The carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions.

EXCEPTION: Sleeping units or dwelling units in R-1 occupancies and R-2 college dormitories, hotel, and DSHS licensed boarding home and residential treatment

facility occupancies which do not themselves contain a fuel-burning appliance, or a fuel-burning fireplace, or have an attached garage, but which are located in a building with a fuel-burning appliance, or a fuel-burning fireplace, or an attached garage, need not be provided with carbon monoxide alarms provided that:

1. The sleeping unit or dwelling unit is not adjacent to any room which contains a fuel-burning appliance, a fuel-burning fireplace, or an attached garage; and
2. The sleeping unit or dwelling unit is not connected by duct work or ventilation shafts with a supply or return register in the same room to any room containing a fuel-burning appliance, a fuel-burning fireplace, or an attached garage; and
3. The building is provided with a common area carbon monoxide alarm system.
4. An open parking garage, as defined in the *International Building Code*, or enclosed parking garage ventilated in accordance with Section 404 of the *International Mechanical Code* shall not be deemed to be an attached garage.

**908.7.1 Carbon monoxide detection systems.** Carbon monoxide detection systems, that include carbon monoxide detectors and audible notification appliances, installed and maintained in accordance with this section for carbon monoxide alarms and NFPA 720 shall be permitted. The carbon monoxide detectors shall be listed as complying with UL 2075.

**909.6.3 Elevator shaft pressurization.** Where elevator shaft pressurization is required to comply with Exception 6 of IBC Section 708.14.1, the pressurization system shall comply with and be maintained in accordance with IBC 708.14.2.

**909.6.3.1 Activation.** The elevator shaft pressurization system shall be activated by a fire alarm system which shall include smoke detectors or other approved detectors located near the elevator shaft on each floor as approved by the building official and fire code official. If the building has a fire alarm panel, detectors shall be connected to, with power supplied by, the fire alarm panel.

**909.6.3.2 Power system.** The power source for the fire alarm system and the elevator shaft pressurization system shall be in accordance with Section 909.11.

#### SECTION 915 ALERTING SYSTEMS

**915.1 General.** An approved alerting system shall be provided in buildings and structures as required in chapter 4 and this section, unless other requirements are provided by another section of this code.

EXCEPTION: Approved alerting systems in existing buildings, structures or occupancies.

**915.2 Power source.** Alerting systems shall be provided with power supplies in accordance with Section 4.4.1 of NFPA 72 and circuit disconnecting means identified as "EMERGENCY ALERTING SYSTEM."

EXCEPTION: Systems which do not require electrical power to operate.

**915.3 Duration of Operation.** The alerting system shall be capable of operating under nonalarm condition (quiescent load) for a minimum of 24 hours and then shall be capable of operating during an emergency condition for a period of 15 minutes at maximum connected load.

**915.4 Combination system.** Alerting system components and equipment shall be allowed to be used for other purposes.

**915.4.1 System priority.** The alerting system use shall take precedence over any other use.

**915.4.2 Fire alarm system.** Fire alarm systems sharing components and equipment with alerting systems must be in accordance with Section 6.8.4 of NFPA 72.

**915.4.2.1 Signal priority.** Recorded or live alert signals generated by an alerting system that shares components with a fire alarm system shall, when actuated, take priority over fire alarm messages and signals.

**915.4.2.2 Temporary deactivation.** Should the fire alarm system be in the alarm mode when such an alerting system is actuated, it shall temporarily cause deactivation of all fire alarm-initiated audible messages or signals during the time period required to transmit the alert signal.

**915.4.2.3 Supervisory signal.** Deactivation of fire alarm audible and visual notification signals shall cause a supervisory signal for each notification zone affected in the fire alarm system.

**915.5 Audibility.** Audible characteristics of the alert signal shall be in accordance with Section 7.4.1 of NFPA 72 throughout the area served by the alerting system.

EXCEPTION: Areas served by approved visual or textual notification, where the visible notification appliances are not also used as a fire alarm signal, are not required to be provided with audibility complying with Section 915.6.

**915.6 Visibility.** Visible and textual notification appliances shall be permitted in addition to alert signal audibility.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**AMENDATORY SECTION** (Amending WSR 10-24-059, filed 11/29/10, effective 7/1/11)

#### WAC 51-54-4600 Chapter 46—Existing buildings.

#### CHAPTER 46 CONSTRUCTION REQUIREMENTS FOR EXISTING BUILDINGS

#### SECTION 4601 GENERAL

**4601.1 Scope.** The provisions of this chapter shall apply to existing buildings constructed prior to the adoption of this Code.

**4601.2 Intent.** The intent of this chapter is to provide a minimum degree of fire and life safety to persons occupying buildings by providing for alterations to such existing buildings that do not comply with the minimum requirements of the International Building Code.

**4601.3 Permits.** Permits shall be required as set forth in Section 105.7 and the International Building Code and this Code.

**4601.4 Owner notification.** Where a building is found to be in noncompliance, the fire code official shall duly notify the owner of the building. Upon receipt of such notice, the owner

shall, subject to the following time limits, take necessary actions to comply with the provisions of this chapter.

**4601.4.1 Construction documents.** Construction documents for the necessary alterations shall be completed within a time schedule approved by the fire code official.

**4601.4.2 Completion of work.** Work on the required alterations to the building shall be completed within a time schedule approved by the fire code official.

**4601.4.3 Extension of time.** The fire code official is authorized to grant necessary extensions of time when it can be shown that the specified time periods are not physically practical or pose an undue hardship. The granting of an extension of time for compliance shall be based on the showing of good cause and subject to the filing of an acceptable systematic plan of correction with the fire code official.

**SECTION 4602 DEFINITIONS**

**4602.1 Definitions.** The following word and term shall, for the purpose of this chapter and as used elsewhere in this Code, have the meaning shown herein.

**EXISTING.** Buildings, facilities or conditions that are already in existence, constructed or officially authorized prior to the adoption of this Code.

**SECTION 4603 FIRE SAFETY REQUIREMENTS FOR EXISTING BUILDINGS**

**4603.1 Required construction.** Existing buildings shall comply with not less than the minimum provisions specified in Table 4603.1 and as further enumerated in Sections 4603.2 through 4603.7.3.

The provisions of this chapter shall not be construed to allow the elimination of fire protection systems or a reduction in the level of fire safety provided in buildings constructed in accordance with previously adopted codes.

EXCEPTION: Group U occupancies.

**4603.2 Elevator operation.** Existing elevators with a travel distance of 25 feet (7620 mm) or more above or below the main floor or other level of a building and intended to serve the needs of emergency personnel for firefighting or rescue purposes shall be provided with emergency operation in accordance with ASME A17.3.

**4603.3 Vertical openings.** Interior vertical shafts, including, but not limited to, stairways, elevator hoistways, service and utility shafts, that connect two or more stories of a building, shall be enclosed or protected as specified in Sections 4603.3.1 through 4603.3.7.

**4603.3.1 Group I occupancies.** In Group I occupancies, interior vertical openings connecting two or more stories shall be protected with 1-hour fire-resistance-rated construction.

**4603.3.2 Three to five stories.** In other than Group I occupancies, interior vertical openings connecting three to five stories shall be protected by either 1-hour fire-resistance-rated construction or an automatic sprinkler system shall be installed throughout the building in accordance with Section 903.3.1.1 or 903.3.1.2.

- EXCEPTIONS:
1. Vertical opening protection is not required for Group R-3 occupancies.
  2. Vertical opening protection is not required for open parking garages and ramps.
  3. Vertical opening protection is not required for escalators.

**4603.3.3 More than five stories.** In other than Group I occupancies, interior vertical openings connecting more than five stories shall be protected by 1-hour fire-resistance-rated construction.

- EXCEPTIONS:
1. Vertical opening protection is not required for Group R-3 occupancies.
  2. Vertical opening protection is not required for open parking garages and ramps.
  3. Vertical opening protection is not required for escalators.

**TABLE 4603.1  
OCCUPANCY AND USE REQUIREMENTS**

SECTION	USE			OCCUPANCY CLASSIFICATION																			
	High Rise	Atrium and covered mall	Underground building	A	B	E	F	H-1	H-2	H-3	H-4	H-5	I-1	I-2	I-3	I-4	M	R-1	R-2	R-3	R-4	S	
4603.2	R		R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
4603.3.1	R		R										R	R	R	R							
4603.3.2	R		R	R	R	R	R	R	R	R	R	R	R				R	R	R			R	R
4603.3.3	R		R	R	R	R	R	R	R	R	R	R					R	R	R			R	R
4603.3.4		R																					
4603.3.5					R												R						
4603.3.6				R		R	R	R	R	R	R	R	R	R	R	R		R	R	R	R	R	R
4603.3.7				R		R	R	R	R	R	R	R	R	R	R	R		R	R	R	R	R	R
4603.4				R			R		R	R							R						
4603.5	R		R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R			R	R
4603.6.1						R																	
4603.6.2														R									
4603.6.3															R								
4603.6.4																R							
4603.6.5																		R					
4603.6.6																			R				
4603.6.7																						R	
4603.7																		R	R	R	R	R	R
4604.4	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R

R = The building is required to comply.

**4603.3.4 Atriums and covered malls.** In other than Group I occupancies, interior vertical openings in a covered mall building or a building with an atrium shall be protected by either 1-hour fire-resistance-rated construction or an automatic sprinkler system shall be installed throughout the building in accordance with Section 903.3.1.1 or 903.3.1.2.

EXCEPTIONS:

1. Vertical opening protection is not required for Group R-3 occupancies.
2. Vertical opening protection is not required for open parking garages and ramps.

**4603.3.5 Escalators in Group B and M occupancies.** Escalators creating vertical openings connecting any number of stories shall be protected by either 1-hour fire-resistance-rated construction or an automatic fire sprinkler system in accordance with Section 903.3.1.1 installed throughout the building, with a draft curtain and closely spaced sprinklers around the escalator opening.

**4603.3.6 Escalators connecting four or fewer stories.** In other than Group B and M occupancies, escalators creating vertical openings connecting four or fewer stories shall be protected by either 1-hour fire-resistance-rated construction or an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2 shall be installed throughout the building, and a draft curtain with closely spaced sprinklers shall be installed around the escalator opening.

**4603.3.7 Escalators connecting more than four stories.** In other than Group B and M occupancies, escalators creating vertical openings connecting five or more stories shall be protected by 1-hour fire-resistance-rated construction.

**4603.4 Sprinkler systems.** An automatic sprinkler system shall be provided in all existing buildings in accordance with Sections 4603.4.1 and 4603.4.2.

**4603.4.1 Pyroxylin plastics.** An automatic sprinkler system shall be provided throughout existing buildings where cellulose nitrate film or pyroxylin plastics are manufactured, stored or handled in quantities exceeding 100 pounds (45 kg). Vaults located within buildings for the storage of raw pyroxylin shall be protected with an approved automatic sprinkler system capable of discharging 1.66 gallons per minute per square foot (68 L/min/m<sup>2</sup>) over the area of the vault.

**4603.4.2 Group I-2.** An automatic sprinkler system shall be provided throughout existing Group I-2 fire areas. The sprinkler system shall be provided throughout the floor where the Group I-2 occupancy is located, and in all floors between the Group I-2 occupancy and the level of exit discharge.

**4603.4.3 Nightclub.** An automatic sprinkler system shall be provided throughout Group A-2 nightclubs as defined in this code. No building shall be constructed for, used for, or converted to occupancy as a nightclub except in accordance with this section.

**4603.5 Standpipes.** Existing structures with occupied floors located more than 50 feet (15,240 mm) above or below the lowest level of fire department vehicle access shall be equipped with standpipes installed in accordance with Section 905. The standpipes shall have an approved fire department connection with hose connections at each floor level

above or below the lowest level of fire department access. The fire code official is authorized to approve the installation of manual standpipe systems to achieve compliance with this section where the responding fire department is capable of providing the required hose flow at the highest standpipe outlet.

**4603.6 Fire alarm systems.** An approved fire alarm system shall be installed in existing buildings and structures in accordance with Sections 4603.6.1 through 4603.6.7 and provide occupant notification in accordance with Section 907.6 unless other requirements are provided by other sections of this code.

EXCEPTION:

Occupancies with an existing, previously approved fire alarm system.

**4603.6.1 Group E.** A fire alarm system shall be installed in existing Group E occupancies in accordance with Section 907.2.3.

EXCEPTIONS:

1. A manual fire alarm system is not required in a building with a maximum area of 1,000 square feet (93 m<sup>2</sup>) that contains a single classroom and is located no closer than 50 feet (15,240 mm) from another building.
2. A manual fire alarm system is not required in Group E occupancies with an occupant load less than 50.

**4603.6.2 Group I-1.** An automatic fire alarm system shall be installed in existing Group I-1 residential care/assisted living facilities in accordance with Section 907.2.6.1.

EXCEPTIONS:

1. Manual fire alarm boxes in resident or patient sleeping areas shall not be required at exits if located at all nurses' control stations or other constantly attended staff locations, provided such stations are visible and continuously accessible and that travel distances required in Section 907.5.2 are not exceeded.
2. Where each sleeping room has a means of egress door opening directly to an exterior egress balcony that leads directly to the exits in accordance with WAC 51-50-1019, and the building is not more than three stories in height.

**4603.6.3 Group I-2.** An automatic fire alarm system shall be installed in existing Group I-2 occupancies in accordance with Section 907.2.6.2.

EXCEPTION:

Manual fire alarm boxes in resident or patient sleeping areas shall not be required at exits if located at all nurses' control stations or other constantly attended staff locations, provided such stations are visible and continuously accessible and that travel distances required in Section 907.5.2.1 are not exceeded.

**4603.6.4 Group I-3.** An automatic and manual fire alarm system shall be installed in existing Group I-3 occupancies in accordance with Section 907.2.6.3.

**4603.6.5 Group R-1.** A fire alarm system and smoke alarms shall be installed in existing Group R-1 occupancies in accordance with Sections 4603.6.5.1 through 4603.6.5.2.1.

**4603.6.5.1 Group R-1 hotel and motel manual fire alarm system.** A manual fire alarm system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-1 hotels and motels more than three stories or with more than 20 sleeping units.

EXCEPTIONS:

1. Buildings less than two stories in height where all sleeping units, attics and crawl spaces are separated by

1-hour fire-resistance-rated construction and each sleeping unit has direct access to a public way, exit court or yard.

2. Manual fire alarm boxes are not required throughout the building when the following conditions are met:

- 2.1. The building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2;
- 2.2. The notification appliances will activate upon sprinkler water flow; and
- 2.3. At least one manual fire alarm box is installed at an approved location.

**4603.6.5.1.1 Group R-1 hotel and motel automatic smoke detection system.** An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-1 hotels and motels throughout all interior corridors serving sleeping rooms not equipped with an approved, supervised sprinkler system installed in accordance with WAC 51-50-0903.

EXCEPTION: An automatic smoke detection system is not required in buildings that do not have interior corridors serving sleeping units and where each sleeping unit has a means of egress door opening directly to an exit or to an exterior exit access that leads directly to an exit.

**4603.6.5.2 Group R-1 boarding and rooming houses manual fire alarm system.** A manual fire alarm system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-1 boarding and rooming houses.

EXCEPTION: Buildings less than two stories in height where all sleeping units, attics and crawl spaces are separated by 1-hour fire-resistance-rated construction and each sleeping unit has direct access to a public way, exit court or yard.

**4603.6.5.2.1 Group R-1 boarding and rooming houses automatic smoke detection system.** An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-1 boarding and rooming houses throughout all interior corridors serving sleeping units not equipped with an approved, supervised sprinkler system installed in accordance with WAC 51-50-0903.

EXCEPTION: Buildings equipped with single-station smoke alarms meeting or exceeding the requirements of Section 907.2.10.1 and where the fire alarm system includes at least one manual fire alarm box per floor arranged to initiate the alarm.

**4603.6.6 Group R-2.** An automatic or manual fire alarm system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-2 occupancies more than three stories in height or with more than 16 dwelling or sleeping units.

EXCEPTIONS:

1. Where each living unit is separated from other contiguous living units by fire barriers having a fire-resistance rating of not less than 0.75 hour, and where each living unit has either its own independent exit or its own independent stairway or ramp discharging at grade.
2. A separate fire alarm system is not required in buildings that are equipped throughout with an approved supervised automatic sprinkler system installed in accordance with Section 903.3.1.1 or

903.3.1.2 and having a local alarm to notify all occupants.

3. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units and are protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, provided that dwelling units either have a means of egress door opening directly to an exterior exit access that leads directly to the exits or are served by open-ended corridors designed in accordance with Section 1023.6, Exception 4.

**4603.6.7 Group R-4.** This section not adopted.

EXCEPTIONS:

1. Where there are interconnected smoke alarms meeting the requirements of Section 907.2.11 and there is at least one manual fire alarm box per floor arranged to continuously sound the smoke alarms.
2. Other manually activated, continuously sounding alarms approved by the fire code official.

**4603.7 Single and multiple-station smoke alarms.** Single and multiple-station smoke alarms shall be installed in existing Group R occupancies and in dwellings not classified as Group R occupancies in accordance with Sections 4603.7.1 through 4603.7.3.

**4603.7.1 Where required.** Existing Group R occupancies and dwellings not classified as Group R occupancies not already provided with single-station smoke alarms shall be provided with single-station smoke alarms. Installation shall be in accordance with Section 907.2.10, except as provided in Sections 4603.7.2 and 4603.7.3.

**4603.7.2 Interconnection.** Where more than one smoke alarm is required to be installed within an individual dwelling or sleeping unit, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

EXCEPTIONS:

1. Interconnection is not required in buildings that are not undergoing alterations, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.

**4603.7.3 Power source.** Single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

EXCEPTIONS:

1. Smoke alarms are permitted to be solely battery operated in existing buildings where no construction is taking place.
2. Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.
3. Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing

alterations or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

**4603.8 Carbon monoxide alarms.** Existing Group R occupancies shall be provided with carbon monoxide alarms. R-2 occupancies not already equipped with carbon monoxide alarms shall be provided with carbon monoxide alarms when alterations, repairs or additions requiring a permit occur, or when one or more sleeping rooms are added or created. The carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions.

**EXCEPTIONS:**

1. Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, or electrical permits.
2. Installation, alteration or repairs of noncombustion plumbing or mechanical systems.
3. Sleeping units or dwelling units in R-1 occupancies and R-2 college dormitories, hotel, and DSHS licensed boarding home and residential treatment facility occupancies which do not themselves contain a fuel-burning appliance, a fuel-burning fireplace, or have an attached garage, but which are located in a building with a fuel-burning appliance, a fuel-burning fireplace, or an attached garage, need not be provided with carbon monoxide alarms provided that:
  - a. The sleeping units or dwelling unit is not adjacent to any room which contains a fuel-burning appliance, a fuel-burning fireplace, or an attached garage; and
  - b. The sleeping units or dwelling unit is not connected by duct work or ventilation shafts with a supply or return register in the same room to any room containing a fuel-burning appliance, a fuel-burning fireplace, or to an attached garage; and
  - c. The building is provided with a common area carbon monoxide detection system.
  - d. An open parking garage, as defined in the International Building Code, or enclosed parking garage ventilated in accordance with Section 404 of the International Mechanical Code shall not be deemed to be an attached garage.

**SECTION 4604 MEANS OF EGRESS FOR EXISTING BUILDINGS**

**4604.1 General.** Means of egress in existing buildings shall comply with Section 1030 and 4604.2 through 4604.23.

**EXCEPTION:** Means of egress conforming to the requirements of the building code under which they were constructed and Section 1030 shall not be required to comply with 4604.2 through 4604.21.

**4604.1.1 Evaluation.** Existing buildings that were not required to comply with a building code at the time of construction, and that constitute a distinct hazard to life as determined by the fire official, shall comply with the minimum egress requirements when specified in Table 4603.1 as further enumerated in Sections 4604.2 through 4604.23. The fire official shall notify the building owner in writing of the distinct hazard and, in addition shall have the authority to require a life safety evaluation be prepared, consistent with the requirements of Section 104.7.2. The life safety evaluation shall identify any changes to the means of egress that are necessary to provide safe egress to occupants and shall be subject to review and approval by the fire and building code

officials. The building shall be modified to comply with the recommendations set forth in the approved evaluation.

**4604.2 Elevators, escalators and moving walks.** Elevators, escalators and moving walks shall not be used as a component of a required means of egress.

**EXCEPTIONS:**

1. Elevators used as an accessible means of egress where allowed by Section 1007.4.
2. Previously approved escalators and moving walks in existing buildings.

**4604.3 Exit sign illumination.** Exit signs shall be internally or externally illuminated. The face of an exit sign illuminated from an external source shall have an intensity of not less than 5 foot-candles (54 lux). Internally illuminated signs shall provide equivalent luminance and be listed for the purpose.

**EXCEPTION:** Approved self-luminous signs that provide evenly illuminated letters shall have a minimum luminance of 0.06 foot-lamberts (0.21 cd/m<sup>2</sup>).

**4604.4 Power source.** Where emergency illumination is required in Section 4604.5, exit signs shall be visible under emergency illumination conditions.

**EXCEPTION:** Approved signs that provide continuous illumination independent of external power sources are not required to be connected to an emergency electrical system.

**4604.5 Illumination emergency power.** The power supply for means of egress illumination shall normally be provided by the premises' electrical supply. In the event of power supply failure, illumination shall be automatically provided from an emergency system for the following occupancies where such occupancies require two or more means of egress:

1. Group A having 50 or more occupants.

**EXCEPTION:** Assembly occupancies used exclusively as a place of worship and having an occupant load of less than 300.

2. Group B buildings three or more stories in height, buildings with 100 or more occupants above or below a level of exit discharge serving the occupants or buildings with 1,000 or more total occupants.

3. Group E in interior stairs, corridors, windowless areas with student occupancy, shops and laboratories.

4. Group F having more than 100 occupants.

**EXCEPTION:** Buildings used only during daylight hours which are provided with windows for natural light in accordance with the International Building Code.

5. Group I.
6. Group M.

**EXCEPTION:** Buildings less than 3,000 square feet (279 m<sup>2</sup>) in gross sales area on one story only, excluding mezzanines.

7. Group R-1.

**EXCEPTION:** Where each sleeping unit has direct access to the outside of the building at grade.

8. Group R-2.

**EXCEPTION:** Where each dwelling unit or sleeping unit has direct access to the outside of the building at grade.

9. Group R-4.

**EXCEPTION:** Where each sleeping unit has direct access to the outside of the building at ground level.

**4604.5.1 Emergency power duration and installation.** In other than Group I-2, the emergency power system shall provide power for not less than 60 minutes and consist of storage batteries, unit equipment or an on-site generator. In Group I-2, the emergency power system shall provide power for not less than 90 minutes and consist of storage batteries, unit equipment or an on-site generator. The installation of the emergency power system shall be in accordance with Section 4604.

**4604.6 Guards.** Guards complying with this section shall be provided at the open sides of means of egress that are more than 30 inches (762 mm) above the floor or grade below.

**4604.6.1 Height of guards.** Guards shall form a protective barrier not less than 42 inches (1067 mm) high.

- EXCEPTIONS:
1. Existing guards on the open side of stairs shall be not less than 30 inches (760 mm) high.
  2. Existing guards within dwelling units shall be not less than 36 inches (910 mm) high.
  3. Existing guards in assembly seating areas.

**4604.6.2 Opening limitations.** Open guards shall have balusters or ornamental patterns such that a 6-inch-diameter

(152 mm) sphere cannot pass through any opening up to a height of 34 inches (864 mm).

- EXCEPTIONS:
1. At elevated walking surfaces for access to, and use of, electrical, mechanical or plumbing systems or equipment, guards shall have balusters or be of solid materials such that a sphere with a diameter of 21 inches (533 mm) cannot pass through any opening.
  2. In occupancies in Group I-3, F, H or S, the clear distance between intermediate rails measured at right angles to the rails shall not exceed 21 inches (533 mm).
  3. Approved existing open guards.

**4604.7 Minimum required egress width.** The means of egress width shall not be less than as required by the code under which constructed but not less than as required by this section. The total width of means of egress in inches (mm) shall not be less than the total occupant load served by the means of egress multiplied by the factors in Table 4604.7 and not less than specified elsewhere in this section. Multiple means of egress shall be sized such that the loss of any one means of egress shall not reduce the available capacity to less than 50 percent of the required capacity. The maximum capacity required from any story of a building shall be maintained to the termination of the means of egress.

TABLE 4604.7  
EGRESS WIDTH PER OCCUPANT SERVED

OCCUPANCY	WITHOUT SPRINKLER SYSTEM		WITH SPRINKLER SYSTEM <sup>a</sup>	
	Stairways (inches per occupant)	Other egress components (inches per occupant)	Stairways (inches per occupant)	Other egress components (inches per occupant)
Occupancies other than those listed below	0.3	0.2	0.2	0.15
Hazardous: H-1, H-2, H-3 and H-4	Not permitted	Not permitted	0.3	0.2
Institutional: I-2	Not permitted	Not permitted	0.3	0.2

For SI: 1 inch = 25.4 mm.

a. Buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.

**4604.8 Size of doors.** The minimum width of each door opening shall be sufficient for the occupant load thereof and shall provide a clear width of not less than 28 inches (711 mm). Where this section requires a minimum clear width of 28 inches (711 mm) and a door opening includes two door leaves without a mullion, one leaf shall provide a clear opening width of 28 inches (711 mm). The maximum width of a swinging door leaf shall be 48 inches (1219 mm) nominal. Means of egress doors in an occupancy in Group I-2 used for the movement of beds shall provide a clear width not less than 41.5 inches (1054 mm). The height of doors shall not be less than 80 inches (2032 mm).

- EXCEPTIONS:
1. The minimum and maximum width shall not apply to door openings that are not part of the required means of egress in occupancies in Groups R-2 and R-3.
  2. Door openings to storage closets less than 10 square feet (0.93 m<sup>2</sup>) in area shall not be limited by the minimum width.
  3. Width of door leaves in revolving doors that comply with Section 1008.1.4.1 shall not be limited.

4. Door openings within a dwelling unit shall not be less than 78 inches (1981 mm) in height.
5. Exterior door openings in dwelling units, other than the required exit door, shall not be less than 76 inches (1930 mm) in height.
6. Exit access doors serving a room not larger than 70 square feet (6.5 m<sup>2</sup>) shall be not less than 24 inches (610 mm) in door width.

**4604.9 Opening force for doors.** The opening force for interior side-swinging doors without closers shall not exceed a 5-pound (22 N) force. For other side-swinging, sliding and folding doors, the door latch shall release when subjected to a force of not more than 15 pounds (66 N). The door shall be set in motion when subjected to a force not exceeding 30 pounds (133 N). The door shall swing to a full open position when subjected to a force of not more than 50 pounds (222 N). Forces shall be applied to the latch side.

**4604.10 Revolving doors.** Revolving doors shall comply with the following:

1. A revolving door shall not be located within 10 feet (3048 mm) of the foot or top of stairs or escalators. A dispersal area shall be provided between the stairs or escalators and the revolving doors.

2. The revolutions per minute for a revolving door shall not exceed those shown in Table 4604.10.

3. Each revolving door shall have a conforming side-hinged swinging door in the same wall as the revolving door and within 10 feet (3048 mm).

- EXCEPTIONS:
1. A revolving door is permitted to be used without an adjacent swinging door for street-floor elevator lobbies provided a stairway, escalator or door from other parts of the building does not discharge through the lobby and the lobby does not have any occupancy or use other than as a means of travel between elevators and a street.
  2. Existing revolving doors where the number of revolving doors does not exceed the number of swinging doors within 20 feet (6096 mm).

**4604.10.1 Egress component.** A revolving door used as a component of a means of egress shall comply with Section 4604.10 and all of the following conditions:

1. Revolving doors shall not be given credit for more than 50 percent of the required egress capacity.
2. Each revolving door shall be credited with not more than a 50-person capacity.
3. Revolving doors shall be capable of being collapsed when a force of not more than 130 pounds (578 N) is applied within 3 inches (76 mm) of the outer edge of a wing.

**4604.11 Stair dimensions for existing stairs.** Existing stairs in buildings shall be permitted to remain if the rise does not exceed 8 1/4 inches (210 mm) and the run is not less than 9 inches (229 mm). Existing stairs can be rebuilt.

EXCEPTION: Other stairs approved by the fire code official.

TABLE 4604.10  
REVOLVING DOOR SPEEDS

INSIDE DIAMETER	POWER-DRIVEN-TYPE SPEED CONTROL (RPM)	MANUAL-TYPE SPEED CONTROL (RPM)
6' 6"	11	12
7' 0"	10	11
7' 6"	9	11
8' 0"	9	10
8' 6"	8	9
9' 0"	8	9
9' 6"	7	8
10' 0"	7	8

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm.

**4604.11.1 Dimensions for replacement stairs.** The replacement of an existing stairway in a structure shall not be required to comply with the new stairway requirements of WAC 51-11-1009 where the existing space and construction will not allow a reduction in pitch or slope.

**4604.12 Winders.** Existing winders shall be allowed to remain in use if they have a minimum tread depth of 6 inches

(152 mm) and a minimum tread depth of 9 inches (229 mm) at a point 12 inches (305 mm) from the narrowest edge.

**4604.13 Circular stairways.** Existing circular stairs shall be allowed to continue in use provided the minimum depth of tread is 10 inches (254 mm) and the smallest radius shall not be less than twice the width of the stairway.

**4604.14 Stairway handrails.** Stairways shall have handrails on at least one side. Handrails shall be located so that all portions of the stairway width required for egress capacity are within 44 inches (1118 mm) of a handrail.

EXCEPTION: Aisle stairs provided with a center handrail are not required to have additional handrails.

**4604.14.1 Height.** Handrail height, measured above stair tread nosings, shall be uniform, not less than 30 inches (762 mm) and not more than 42 inches (1067 mm).

**4604.15 Slope of ramps.** Ramp runs utilized as part of a means of egress shall have a running slope not steeper than one unit vertical in 10 units horizontal (10 percent slope). The slope of other ramps shall not be steeper than one unit vertical in 8 units horizontal (12.5 percent slope).

**4604.16 Width of ramps.** Existing ramps are permitted to have a minimum width of 30 inches (762 mm) but not less than the width required for the number of occupants served as determined by Section 1005.1.

**4604.17 Fire escape stairs.** Fire escape stairs shall comply with Sections 4604.17.1 through 4604.17.7.

**4604.17.1 Existing means of egress.** Fire escape stairs shall be permitted in existing buildings but shall not constitute more than 50 percent of the required exit capacity.

**4604.17.2 Protection of openings.** Openings within 10 feet (3048 mm) of fire escape stairs shall be protected by fire door assemblies having a minimum 3/4-hour fire-resistance rating.

EXCEPTION: In buildings equipped throughout with an approved automatic sprinkler system, opening protection is not required.

**4604.17.3 Dimensions.** Fire escape stairs shall meet the minimum width, capacity, riser height and tread depth as specified in Section 4604.10.

**4604.17.4 Access.** Access to a fire escape from a corridor shall not be through an intervening room. Access to a fire escape stair shall be from a door or window meeting the criteria of Section 1005.1. Access to a fire escape stair shall be directly to a balcony, landing or platform. These shall be no higher than the floor or window sill level and no lower than 8 inches (203 mm) below the floor level or 18 inches (457 mm) below the window sill.

**4604.17.5 Materials and strength.** Components of fire escape stairs shall be constructed of noncombustible materials. Fire escape stairs and balconies shall support the dead load plus a live load of not less than 100 pounds per square foot (4.78 kN/m<sup>2</sup>). Fire escape stairs and balconies shall be provided with a top and intermediate handrail on each side. The fire code official is authorized to require testing or other

satisfactory evidence that an existing fire escape stair meets the requirements of this section.

**4604.17.6 Termination.** The lowest balcony shall not be more than 18 feet (5486 mm) from the ground. Fire escape stairs shall extend to the ground or be provided with counter-balanced stairs reaching the ground.

EXCEPTION: For fire escape stairs serving 10 or fewer occupants, an approved fire escape ladder is allowed to serve as the termination.

**4604.17.7 Maintenance.** Fire escapes shall be kept clear and unobstructed at all times and shall be maintained in good working order.

**4604.18 Corridors.** Corridors serving an occupant load greater than 30 and the openings therein shall provide an effective barrier to resist the movement of smoke. Transoms, louvers, doors and other openings shall be kept closed or self-closing.

EXCEPTIONS:

1. Corridors in occupancies other than in Group H, which are equipped throughout with an approved automatic sprinkler system.
2. Patient room doors in corridors in occupancies in Group I-2 where smoke barriers are provided in accordance with the International Building Code.
3. Corridors in occupancies in Group E where each room utilized for instruction or assembly has at least one-half of the required means of egress doors opening directly to the exterior of the building at ground level.
4. Corridors that are in accordance with the International Building Code.

**4604.18.1 Corridor openings.** Openings in corridor walls shall comply with the requirements of the International Building Code.

EXCEPTIONS:

1. Where 20-minute fire door assemblies are required, solid wood doors at least 1.75 inches (44 mm) thick or insulated steel doors are allowed.
2. Openings protected with fixed wire glass set in steel frames.
3. Openings covered with 0.5-inch (12.7 mm) gypsum wallboard or 0.75-inch (19.1 mm) plywood on the room side.
4. Opening protection is not required when the building is equipped throughout with an approved automatic sprinkler system.

**4604.18.2 Dead ends.** Where more than one exit or exit access doorway is required, the exit access shall be arranged such that dead ends do not exceed the limits specified in Table 4604.17.2.

EXCEPTION: A dead-end passageway or corridor shall not be limited in length where the length of the dead-end passageway or corridor is less than 2.5 times the least width of the dead-end passageway or corridor.

**4604.18.3 Exit access travel distance.** Exits shall be located so that the maximum length of exit access travel, measured from the most remote point to an approved exit along the natural and unobstructed path of egress travel, does not exceed the distances given in Table 4604.17.2.

**4604.18.4 Common path of egress travel.** The common path of egress travel shall not exceed the distances given in Table 4604.18.2.

**4604.19 Stairway discharge identification.** A stairway in an exit enclosure which continues below its level of exit discharge shall be arranged and marked to make the direction of egress to a public way readily identifiable.

EXCEPTION: Stairs that continue one-half story beyond their levels of exit discharge need not be provided with barriers where the exit discharge is obvious.

**4604.20 Exterior stairway protection.** Exterior exit stairs shall be separated from the interior of the building as required in Section 1026.6. Openings shall be limited to those necessary for egress from normally occupied spaces.

EXCEPTIONS:

1. Separation from the interior of the building is not required for buildings that are two stories or less above grade where the level of exit discharge serving such occupancies is the first story above grade.
2. Separation from the interior of the building is not required where the exterior stairway is served by an exterior balcony that connects two remote exterior stairways or other approved exits, with a perimeter that is not less than 50 percent open. To be considered open, the opening shall be a minimum of 50 percent of the height of the enclosing wall, with the top of the opening not less than 7 feet (2134 mm) above the top of the balcony.
3. Separation from the interior of the building is not required for an exterior stairway located in a building or structure that is permitted to have unenclosed interior stairways in accordance with Section 1022.
4. Separation from the interior of the building is not required for exterior stairways connected to open-ended corridors, provided that:
  - 4.1. The building, including corridors and stairs, is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.
  - 4.2. The open-ended corridors comply with Section 1018.
  - 4.3. The open-ended corridors are connected on each end to an exterior exit stairway complying with Section 1026.
  - 4.4. At any location in an open-ended corridor where a change of direction exceeding 45 degrees occurs, a clear opening of not less than 35 square feet (3 m<sup>2</sup>) or an exterior stairway shall be provided. Where clear openings are provided, they shall be located so as to minimize the accumulation of smoke or toxic gases.

**TABLE 4604.18.2  
COMMON PATH, DEAD-END AND TRAVEL DISTANCE LIMITS (by occupancy)**

OCCUPANCY	COMMON PATH LIMIT		DEAD-END LIMIT		TRAVEL DISTANCE LIMIT	
	Unsprinklered (feet)	Sprinklered (feet)	Unsprinklered (feet)	Sprinklered (feet)	Unsprinklered (feet)	Sprinklered (feet)
Group A	20/75 <sup>a</sup>	20/75 <sup>a</sup>	20 <sup>b</sup>	20 <sup>b</sup>	200	250
Group B	75	100	50	50	200	250
Group E	75	75	20	50	200	250
Group F-1, S-1 <sup>d</sup>	75	100	50	50	200	250

OCCUPANCY	COMMON PATH LIMIT		DEAD-END LIMIT		TRAVEL DISTANCE LIMIT	
	Unsprinklered (feet)	Sprinklered (feet)	Unsprinklered (feet)	Sprinklered (feet)	Unsprinklered (feet)	Sprinklered (feet)
Group F-2, S-2 <sup>d</sup>	75	100	50	50	300	400
Group H-1	25	25	0	0	75	75
Group H-2	50	100	0	0	75	100
Group H-3	50	100	20	20	100	150
Group H-4	75	75	20	20	150	175
Group H-5	75	75	20	20	150	200
Group I-1	75	75	20	50	200	250
Group I-2 (Health Care)	NR <sup>e</sup>	NR <sup>e</sup>	NR	NR	150	200 <sup>c</sup>
Group I-3 (Detention and Correctional—Use Conditions II, III, IV, V)	100	100	NR	NR	150 <sup>c</sup>	200 <sup>c</sup>
Group I-4 (Day Care Centers)	NR	NR	20	20	200	250
Group M (Covered Mall)	75	100	50	50	200	400
Group M (Mercantile)	75	100	50	50	200	250
Group R-1 (Hotels)	75	75	50	50	200	250
Group R-2 (Apartments)	75	75	50	50	200	250
Group R-3 (One- and Two-Family)	NR	NR	NR	NR	NR	NR
Group R-4 (Residential Care/Assisted Living)	NR	NR	NR	NR	NR	NR
Group U	75	75	20	50	200	250

For SI: 1 foot = 304.8 mm.

- a. 20 feet for common path serving 50 or more persons; 75 feet for common path serving less than 50 persons.
  - b. See Section 1028.9.5 for dead-end aisles in Group A occupancies.
  - c. This dimension is for the total travel distance, assuming incremental portions have fully utilized their allowable maximums. For travel distance within the room, and from the room exit access door to the exit, see the appropriate occupancy chapter.
  - d. See the International Building Code for special requirements on spacing of doors in aircraft hangars.
  - e. Any patient sleeping room, or any suite that includes patient sleeping rooms, of more than 1,000 square feet (93 m<sup>2</sup>) shall have at least two exit access doors placed a distance apart equal to not less than one-third of the length of the maximum overall diagonal dimension of the patient sleeping room or suite to be served, measured in a straight line between exit access doors.
- NR = No requirements.

**4604.21 Minimum aisle width.** The minimum clear width of aisles shall be:

1. Forty-two inches (1067 mm) for aisle stairs having seating on each side.  
EXCEPTION: Thirty-six inches (914 mm) where the aisle serves less than 50 seats.
2. Thirty-six inches (914 mm) for stepped aisles having seating on only one side.  
EXCEPTION: Thirty inches (760 mm) for catchment areas serving not more than 60 seats.
3. Twenty inches (508 mm) between a stepped aisle handrail or guard and seating when the aisle is subdivided by the handrail.
4. Forty-two inches (1067 mm) for level or ramped aisles having seating on both sides.  
EXCEPTION: Thirty-six inches (914 mm) where the aisle serves less than 50 seats.

5. Thirty-six inches (914 mm) for level or ramped aisles having seating on only one side.

EXCEPTION: Thirty inches (760 mm) for catchment areas serving not more than 60 seats.

6. Twenty-three inches (584 mm) between a stepped stair handrail and seating where an aisle does not serve more than five rows on one side.

**4604.22 Stairway floor number signs.** Existing stairs shall be marked in accordance with Section 1022.8.

**4604.23 Egress path markings.** Existing buildings of Group A, B, E, I, M and R-1 having occupied floors located more than 75 feet (22,860 mm) above the lowest level of fire department vehicle access shall be provided with luminous egress path markings in accordance with Section 1024.

EXCEPTION: Open, unenclosed stairwells in historic buildings designated as historic under a state or local historic preservation program.

**SECTION 4605 REQUIREMENTS FOR OUTDOOR OPERATIONS**

**4605.1 Tire storage yards.** Existing tire storage yards shall be provided with fire apparatus access roads in accordance with Sections 4605.1.1 and 4605.1.2.

**4605.1.1 Access to piles.** Access roadways shall be within 150 feet (45,720 mm) of any point in the storage yard where storage piles are located, at least 20 feet (6096 mm) from any storage pile.

**4605.1.2 Location within piles.** Fire apparatus access roads shall be located within all pile clearances identified in Section 2505.4 and within all fire breaks required in Section 2505.5.

**WSR 12-01-102**  
**PERMANENT RULES**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2011-25—Filed December 21, 2011, 8:40 a.m., effective January 21, 2012]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The rule corrects an omission of language in WAC 284-17-429(6).

Citation of Existing Rules Affected by this Order: Amending WAC 284-17-429.

Statutory Authority for Adoption: RCW 48.17.005.

Adopted under notice filed as WSR 11-21-098 on October 19, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 21, 2011.

Mike Kreidler  
Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2010-07, filed 1/28/11, effective 2/28/11)

**WAC 284-17-429 Appointments and affiliations of licensees.** (1) An insurance producer may be appointed or affiliated by submitting electronically the notice of appointment or affiliation through a third-party on-line licensing provider or the commissioner's on-line services, available at [www.insurance.wa.gov](http://www.insurance.wa.gov).

(2) Insurance producers upon initial appointment by an insurer or upon initial affiliation by a business entity must be authorized to transact at least one line of authority within the authority of the insurer or the business entity.

(3) Initial appointments and affiliations are continuous. Each appointment or affiliation is effective until the first of the following occurs:

(a) The insurance producer's license is revoked, terminated, or nonrenewed;

(b) The appointment or affiliation renewal fee is not paid; or

(c) Notice of termination is electronically submitted to the commissioner.

(4) The insurer is obligated to ensure that its appointed insurance producers are licensed for the proper line of authority for which the insurance producer submits an application for insurance.

(5) Individual surplus line brokers may be affiliated with a business entity possessing a surplus line broker license in the manner set forth in subsection (1) of this section.

(6) Business entities are obligated to ensure that all affiliated insurance producers are licensed for the proper line of authority for which the insurance producer submits an application for insurance and that surplus line brokers are properly licensed.

(7) The applicable initial and renewal appointment and affiliation fees, as set forth in RCW 48.14.010, must be paid at the time of appointment, affiliation, or their renewals.

**WSR 12-01-103**  
**PERMANENT RULES**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2011-24—Filed December 21, 2011, 8:41 a.m., effective January 21, 2012]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The rule will make the title of the SERFF filing instructions consistent throughout chapters 284-44[A], 284-46[A] and 284-58 WAC.

Citation of Existing Rules Affected by this Order: Amending chapters 284-44[A], 284-46[A] and 284-58 WAC.

Statutory Authority for Adoption: RCW 48.02.060, 48.44.050, 48.46.200, 48.110.150.

Adopted under notice filed as WSR 11-21-097 on October 19, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 0.

Date Adopted: December 21, 2011.

Mike Kreidler  
Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2009-04, filed 12/17/09, effective 1/17/10)

**WAC 284-44A-040 Filing instructions that are incorporated into this chapter.** SERFF is a dynamic application that the NAIC will revise and enhance over time. To be consistent with NAIC filing standards and provide timely instructions to filers, the commissioner will incorporate documents posted on the SERFF web site into this chapter. By

reference, the commissioner incorporates these documents into this chapter:

(1) The *SERFF Industry Manual* (~~((posted on the SERFF web site (www.serff.com)))~~) available within the SERFF application; and

(2) ~~((The))~~ State specific rate and form filing instructions posted on the commissioner's web site (www.insurance.wa.gov), including the:

(a) Washington State SERFF Health and Disability ((Rate and)) Form Filing General Instructions ((posted on the commissioner's web site (www.insurance.wa.gov))); and

(b) Washington State SERFF Health and Disability Rate Filing General Instructions.

AMENDATORY SECTION (Amending Matter No. R 2009-04, filed 12/17/09, effective 1/17/10)

**WAC 284-44A-050 General form and rate filing rules.** (1) Each form or rate filing must be submitted to the commissioner electronically using SERFF.

(a) Every form filed in SERFF must:

(i) Be attached to the form schedule; and

(ii) Have a unique identifying number and a way to distinguish it from other versions of the same form.

(b) Filers must send all written correspondence related to a form or rate filing in SERFF.

(2) All filed forms must be legible for both the commissioner's review and retention as a public record. Filers must submit new or revised forms to the commissioner for review in final form displayed in ten-point or larger type.

(3) Filers must submit complete filings that comply with the *SERFF Industry Manual* (~~((posted on the SERFF web site (www.serff.com) and the))~~) available within the SERFF application and state specific instructions posted on the commissioner's web site (www.insurance.wa.gov) including the:

(a) Washington State SERFF Health and Disability Form Filing General Instructions ((posted on the commissioner's web site (www.insurance.wa.gov))); or

(b) Washington State SERFF Health and Disability Rate Filing General Instructions.

(4) Filers must submit separate filings for each type of insurance.

AMENDATORY SECTION (Amending Matter No. R 2009-04, filed 12/17/09, effective 1/17/10)

**WAC 284-46A-040 Filing instructions that are incorporated into this chapter.** SERFF is a dynamic application that the NAIC will revise and enhance over time. To be consistent with NAIC filing standards and provide timely instructions to filers, the commissioner will incorporate documents posted on the SERFF web site into this chapter. By reference, the commissioner incorporates these documents into this chapter:

(1) The *SERFF Industry Manual* (~~((posted on the SERFF web site (www.serff.com)))~~) available within the SERFF application; and

(2) ~~((The))~~ State specific rate and form filing instructions posted on the commissioner's web site (www.insurance.wa.gov), including the:

(a) Washington State SERFF Health and Disability ((Rate and)) Form Filing General Instructions ((posted on the commissioner's web site (www.insurance.wa.gov))); and

(b) Washington State SERFF Health and Disability Rate Filing General Instructions.

AMENDATORY SECTION (Amending Matter No. R 2009-04, filed 12/17/09, effective 1/17/10)

**WAC 284-46A-050 General form and rate filing rules.** (1) Each form or rate filing must be submitted to the commissioner electronically using SERFF.

(a) Every form filed in SERFF must:

(i) Be attached to the form schedule; and

(ii) Have a unique identifying number and a way to distinguish it from other versions of the same form.

(b) Filers must send all written correspondence related to a form or rate filing in SERFF.

(2) All filed forms must be legible for both the commissioner's review and retention as a public record. Filers must submit new or revised forms to the commissioner for review in final form displayed in ten-point or larger type.

(3) Filers must submit complete filings that comply with the *SERFF Industry Manual* (~~((posted on the SERFF web site (www.serff.com) and the))~~) available within the SERFF application and state specific instructions posted on the commissioner's web site (www.insurance.wa.gov), including the:

(a) Washington State SERFF Health and Disability Form Filing General Instructions ((posted on the commissioner's web site (www.insurance.wa.gov))); or

(b) Washington State SERFF Health and Disability Rate Filing General Instructions.

(4) Filers must submit separate filings for each type of insurance.

AMENDATORY SECTION (Amending Matter No. 2007-11, filed 10/15/08, effective 2/1/09)

**WAC 284-58-025 Filing instructions that are incorporated into this chapter.** SERFF is a dynamic application that the NAIC will revise and enhance over time. To be consistent with NAIC filing standards and provide timely instructions to filers, the commissioner will incorporate documents posted on the SERFF web site into this chapter. By reference, the commissioner incorporates these documents into this chapter:

(1) The *SERFF Industry Manual* (~~((posted on the SERFF web site (www.serff.com)))~~) available within the SERFF application; and

(2) The *Washington State SERFF Life and Disability Rate and Form Filing General Instructions* posted on the commissioner's web site (www.insurance.wa.gov).

AMENDATORY SECTION (Amending Matter No. 2007-11, filed 10/15/08, effective 2/1/09)

**WAC 284-58-030 General form and rate filing rules.** (1) Each credit, life or disability insurance form or rate filing must be submitted to the commissioner electronically using SERFF.

(a) Every form filed in SERFF must be attached to the form schedule.

(b) Filers must send all written correspondence related to a form or rate filing in SERFF.

(2) All filed forms must be legible for both the commissioner's review and retention as a public record. Filers must submit new or revised forms to the commissioner for review in final form displayed in ten-point or larger type.

(3) Filers must submit complete filings that comply with the *SERFF Industry Manual* (~~posted on the SERFF web site (www.serff.com))~~ available within the SERFF application and the *Washington State SERFF Life and Disability Rate and Form Filing General Instructions* posted on the commissioner's web site (www.insurance.wa.gov).

(4) Filers must submit separate filings for each type of insurance. This section does not apply to:

(a) Credit insurance filings made under RCW 48.34.040; or

(b) Group insurance where different types of insurance are incorporated into a single certificate.

**WSR 12-01-130**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**

[Filed December 21, 2011, 11:22 a.m., effective February 1, 2012]

Effective Date of Rule: February 1, 2012.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: RCW 43.135.055 requires legislative approval to raise or add fees. On June 15, 2011, the legislature authorized the department of natural resources (DNR) to increase silvicultural burning fees in 2ESHB 1087.

Purpose: The Washington State Clean Air Act (RCW 70.94.6534) directs DNR to set burn permit fees by rule at the level necessary to cover the costs of its burning program after receiving recommendations on such fees from the public. Current burn permit fees cover approximately eighteen percent of program costs. Increasing permit fees as authorized by the 2011 Washington state legislature allows DNR to comply to the maximum extent possible with the statutory direction in RCW 70.94.6534.

Citation of Existing Rules Affected by this Order: Amending WAC 332-24-221.

Statutory Authority for Adoption: RCW 70.94.6534. The 2011 legislature, in 2ESHB 1087, authorized DNR to increase permit fees by up to \$80.00 plus \$0.50 per ton of debris to be burned.

Adopted under notice filed as WSR 11-19-092 on September 20, 2011.

A final cost-benefit analysis is available by contacting Darrel Johnston, 1111 Washington Street S.E., P.O. Box 47037, Olympia, WA 98504-7037, phone (360) 902-1300, fax (360) 902-1757, e-mail darrel.johnston@dnr.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 1, 2011.

Randy Acker  
 Deputy Supervisor

AMENDATORY SECTION (Amending WSR 99-12-085, filed 6/1/99, effective 7/2/99)

**WAC 332-24-221 Specific rules for burning that requires a written burning permit.** Persons not able to meet the requirements of WAC 332-24-205 and 332-24-211 must apply for a written burning permit through the department. In addition to the rules outlined in WAC 332-24-205, the following are additional requirements for written permits:

(1) ~~(Written burning permits will be in effect for one year from the validation date, unless suspended or revoked.~~

~~(2))~~ Fees for written burning permits will be charged and collected pursuant to chapter 70.94 RCW and shall be ~~((twenty-five))~~ one hundred five dollars fifty cents for under one hundred tons of consumable debris; and for burns one hundred tons of consumable debris and greater as follows:

Consumable Debris		Fee schedule
100	- 500 tons	<del>\$(127))</del> <u>357</u>
501	- 1,000 tons	<del>((394))</del> <u>846</u>
1,001	- 1,500 tons	<del>((654))</del> <u>1,356</u>
1,501	- 2,000 tons	<del>((914))</del> <u>1,869</u>
2,001	- 2,500 tons	<del>((1,175))</del> <u>2,380</u>
2,501	- 3,000 tons	<del>((1,438))</del> <u>2,893</u>
3,001	- 3,500 tons	<del>((1,697))</del> <u>3,402</u>
3,501	- 4,000 tons	<del>((1,959))</del> <u>3,914</u>
4,001	- 4,500 tons	<del>((2,222))</del> <u>4,427</u>
4,501	- 5,000 tons	<del>((2,483))</del> <u>4,938</u>
5,001	- 5,500 tons	<del>((2,746))</del> <u>5,451</u>
5,501	- 6,000 tons	<del>((3,007))</del> <u>5,962</u>
6,001	- 6,500 tons	<del>((3,271))</del> <u>6,476</u>
6,501	- 7,000 tons	<del>((3,532))</del> <u>6,987</u>
7,001	- 7,500 tons	<del>((3,794))</del> <u>7,499</u>
7,501	- 8,000 tons	<del>((4,056))</del> <u>8,011</u>
8,001	- 8,500 tons	<del>((4,318))</del> <u>8,523</u>
8,501	- 9,000 tons	<del>((4,580))</del> <u>9,035</u>
9,001	- 9,500 tons	<del>((4,843))</del> <u>9,548</u>
9,501	- 10,000 tons	<del>((5,102))</del> <u>10,057</u>

Consumable Debris		Fee schedule
10,001	+ tons	<del>((5,365))</del> <u>10,395</u> plus \$0.50 per <u>ton for tons over</u> <u>10,000</u>

For purposes of this section, consumable debris is the amount of debris that the department determines will be consumed by the proposed burning.

~~((3))~~ (2) Written burning permits are not considered valid unless all of the following conditions apply:

(a) The written permit has been signed by the applicant agreeing to follow all requirements of chapter 332-24 WAC, the smoke management plan in effect at the time of the burning, and any additional terms and conditions specified by the department in writing; and

(b) The required permit fee has been secured or paid according to approved department procedures; and

(c) The person doing the burning has the permit in possession while burning and is complying with all terms and conditions of such permit, the smoke management plan in effect at the time of the burning, and all applicable portions of chapter 332-24 WAC.

~~((4))~~ (3) Permits are written only for the burn site and fuel quantity ~~((that is presented at the time of the inspection))~~ represented to the department on the permit application. Addition of fuel~~((;))~~ or changing the burn site, after the ~~((site inspection has been made))~~ permit application has been submitted to the department, is prohibited unless a new ~~((inspection is made))~~ permit application is submitted and ~~((an))~~ any added permit fee is paid, if required.