

WSR 23-10-014
PERMANENT RULES
COMMISSION ON
JUDICIAL CONDUCT

[Filed April 25, 2023, 11:14 a.m., effective May 26, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Implements Rule 12 and 12.1 of the Commission on Judicial Conduct Rules of Procedure (CJCRP) and repeals chapter 292-10 WAC in its entirety. The CJCRP is the constitutionally-required avenue to establish rules regarding access to commission complaint and administrative records. Case law has established that the Public Records Act, chapter 42.56 RCW, does not apply to the judicial branch. WAC regulations implemented under chapter 42.56 RCW therefore do not apply.

Citation of Rules Affected by this Order: New Rule 12 and 12.1; and repealing chapter 292-10 WAC.

Statutory Authority for Adoption: Washington State Constitution, Article IV, Section 31.

Other Authority: Nast v. Michels, 107 Wn.2d 300 (1986); Cowles Publishing Co. v. Murphy, 96 Wn.2d 584 (1981); City of Federal Way v. Koenig, 167 Wn.2d 241 (2009); Yakima County v. Yakima Herald-Republic, 170 Wn.2d 775 (2011); and West v. Washington State Association of District and Municipal Court Judges, 190 Wn.2d 931 (2015).

Adopted under notice filed as WSR 23-06-076 on March 1, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: April 21, 2023.

J. Reiko Callner
Executive Director

THE COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF WASHINGTON

In the Matter of Adoption of) ORDER 01-23
Commission on Judicial Conduct Rules)
of Procedure)

Pursuant to Article IV, Section 31 of the Washington State Constitution, the Commission on Judicial Conduct determined after a public hearing on April 21, 2023, that the attached proposed amendments to the Commission on Judicial Conduct Rules of Procedure (CJCRP) and the repeal of Washington Administrative Code 292-10 will aid in the prompt and orderly administration of justice.

Therefore, it is

ORDERED:

(a) That Rule 12 of the CJCRP, Access to Commission Complaint Records is adopted,

- (b) That Rule 12.1 of the CJCRP, Access to Commission Administrative Records is adopted,
- (c) That WAC 292-10 is repealed in its entirety, and
- (d) That these changes will be published and shall become effective May 26, 2023.

DATED this 21st day of April 2023.

Robert Alsdorf, Chair

Commission on Judicial Conduct

**Commission on Judicial Conduct Rules of Procedure
Rule 12**

ACCESS TO COMMISSION COMPLAINT RECORDS

(a) Policy and Purpose.

It is the policy of the Commission on Judicial Conduct (Commission) to facilitate access to complaint records as provided by Article IV, Section 31 of the Washington State Constitution. Access to Commission case records is not absolute and shall be consistent with confidentiality requirements as provided by Article IV, Section 31 of the Washington State Constitution, with reasonable expectations of personal privacy as provided by Article I, Section 7 of the Washington State Constitution, and shall not unduly burden the Commission or substantially interfere with agency operations and the administration of justice.

(b) Scope.

This rule applies to all Commission complaint and investigative records, regardless of the physical form of the record, the method of recording the record or the method of storage of the record. Administrative records are not within the scope of this rule.

(c) Definitions.

(1) "Access" means the ability to view or obtain a paper or electronic copy of a Commission record.

(2) "Administrative record" means any record pertaining to day-to-day agency operations or the administration of the Commission, including any committee appointed by the commission.

(3) "Commission" means collectively, the appointed regular and alternate members comprising the Commission on Judicial Conduct and its staff as an organization, including temporary or contract employees.

(4) "Executive Director" means the Commission's chief executive appointed by Commission members to supervise and administer day-to-day agency operations.

(5) "Investigation records" include but are not limited to: All pleadings, papers, evidence records, and files of the commission, including complaints and the identity of complainants, compiled, or obtained during an investigation or initial proceeding of a complaint alleging judicial misconduct or disability.

(6) "Panel deliberation materials," regardless of physical format, are those materials used or created by a Commission hearing panel during case deliberations.

(7) "Probable cause records" include only those specific records of the initial proceeding that were the basis of a finding of probable cause as identified by the Commission members pursuant to CJCRP 17

(d) (4) (C).

(8) "Fact-finding records" include probable cause records, statement of charges, and subsequent records filed as part of official fact-finding proceedings and any stipulated agreement, and excluding records sealed by the presiding officer.

(9) "Identifiable public record" means existing public records that do not require substantial alteration or manipulation, as determined by the Commission, to produce.

(d) Access.

(1) The Commission's records on complaints that are under investigation or are dismissed are investigation records and are permanently exempt from public access and disclosure as required by Article IV, Section 31 of the Washington State Constitution, and established case law. Once a Statement of Charges is served on the respondent judge, documents filed thereafter are presumptively considered public records. Stipulated resolutions must be filed at a public meeting and are thereafter public records. Records requests for public complaint records are deemed satisfied and the Commission is not obligated to respond further if requesters are directed to the Commission's website, www.cjc.state.wa.us, and all the releasable and identifiable case records in the request are available in this location. There is no charge for records available on the Commission's website. Records requested and provided in an alternative manner, outside the Commission's website, are subject to the Commission's published fee schedule.

(2) The public shall have access to probable cause records as of the date of a public hearing except those specifically excluded under Commission rules.

(3) Requests for general information about the Commission do not constitute requests for identifiable public records. The Commission is not obligated to respond to requests that are not for existing and identifiable public records. Merely including the phrase "public records request" or similar language in a request does not in and of itself, constitute a proper request for identifiable public records and does not obligate the Commission to respond to the request as a public records request. The Commission is not obligated to respond more than once to a requester for the same records.

(4) Panel deliberation materials are not public and shall not be provided as public records.

(5) It is the Commission's policy to respond to requests for public records within five business days of receipt with either (1) the requested records or (2) an explanation why the Commission cannot provide the records. The Commission may seek clarification of requests. If no clarification is received, the Commission is not obligated to respond further, and the request is deemed satisfied. If additional time is required for a response, the Commission will state this to the requester and provide a new estimated timeline for response. The Commission may provide records in batches as they are available to provide the fullest assistance to requesters.

(6) The Commission will provide access to identifiable public records during regular business hours as published on its website after arrangements for viewing the records is made in advance.

(7) A fee may not be charged to view identifiable public records at the Commission's office.

(8) Fees charged for research, scanning, and copying shall be determined by the Executive Director and published on the Commission's website. The Executive Director will evaluate fee schedules from time

to time and cause such fees to be updated and published on the Commission's website.

(9) If a fee is assessed, it must be paid in full prior to the Commission fulfilling a partial or complete request. The Commission is not obligated to fulfill a partial request, or complete request if the required fee is not paid. The request is deemed satisfied if no fee is paid and the Commission will close the request without further obligation to respond further.

(e) Method for requesting records.

The public records form provided on the Commission's website should be used for expediency. Alternatively, written requests shall include the following: current date, name, mailing address or email address, and phone number of the requester, preferred delivery method of the records and a description of the identifiable public records requested. Requests are directed to the Commission's Public Records Request Officer.

(f) Appeals.

Appeals of denials of access to Commission records shall be made within 30 days of the denial, and directed to the Commission's Executive Director. A denial by the Executive Director may be appealed within 30 days to the Executive Committee of the Commission. The decision of the Executive Committee is final. Requests for appeals should be made in the same manner as above.

[Adopted effective _____.]

**Commission on Judicial Conduct Rules of Procedure
Rule 12.1**

ACCESS TO COMMISSION ADMINISTRATIVE RECORDS

(a) Policy and Purpose.

It is the policy of the Commission on Judicial Conduct (Commission) to facilitate access to administrative records as provided by Article IV, Section 31 of the Washington State Constitution. Access to Commission administrative records is not absolute and shall be consistent with confidentiality requirements as provided by Article IV, Section 31 of the Washington State Constitution and shall not unduly burden the Commission or substantially interfere with agency operations and the administration of justice.

(b) Scope.

This rule applies to all Commission administrative records, regardless of the physical form of the record, the method of recording the record or the method of storage of the record. Complaint records are not within the scope of this rule.

(c) Definitions.

(1) "Access" means the ability to view or obtain a paper or electronic copy of a Commission record.

(2) "Administrative record" means any record pertaining to day-to-day agency operations or the administration of the Commission, including any committee appointed by the commission.

(3) "Commission" means collectively, the appointed regular and alternate members comprising the Commission on Judicial Conduct and its staff as an organization, including temporary or contract employees.

(4) "Executive Director" means the Commission's chief executive appointed by Commission members to supervise and administer day-to-day agency operations.

(5) "Preliminary investigation records" include but are not limited to: All pleadings, papers, evidence records, and files of the commission, including complaints and the identity of complainants, compiled, or obtained during an investigation or initial proceeding of a complaint alleging judicial misconduct or disability.

(6) "Probable cause case records" include only those specific records of the initial proceeding that were the basis of a finding of probable cause pursuant to CJCRP 17 (d)(4)(C).

(7) "Identifiable public record" means existing records that do not require substantial alteration or manipulation, as determined by the Commission to produce. Requests for information or answers to questions do not constitute requests for identifiable public records. The Commission is not obligated to respond to requests that are not for existing and identifiable public records. Merely including the phrase "public records request" or similar language in a request does not in and of itself, constitute a proper request for identifiable public records and does not obligate the Commission to respond to the request. The Commission is not obligated to respond more than once to a requester for duplicative requests for the same public records.

(8) "Public" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency, however constituted, or any other organization or group of persons, however organized.

(d) Access.

(1) Administrative Records—Access. Commission administrative records are subject to public disclosure unless access is exempted or prohibited under this rule, other Commission rules, federal statutes, state statutes, court orders, or case law. To the extent that records access would be exempt or prohibited if the Public Records Act applied to the Commission's administrative records, access is also exempt or prohibited under this rule. In addition, to the extent required to prevent a significant risk to individual privacy or safety interests, the Commission shall redact identifying details in a manner consistent with this rule when it makes available or publishes any public record; however, in each instance, the justification for the redaction shall be provided in writing.

(2) Public records requests for administrative records are deemed satisfied and the Commission is not obligated to respond further if requesters are directed to the Commission's website, www.cjc.state.wa.us, and all the releasable records are available in this location. There is no charge for records available on the Commission's website. Records requested and provided in an alternative manner, outside the Commission's website, are subject to the Commission's published fee schedule.

(3) It is the Commission's policy to respond to requests for public records within five (5) business days of receipt with either (1) the requested records or (2) an explanation why the Commission cannot provide the records. The Commission may seek clarification of requests. If no clarification is received, the Commission is not obligated to respond further, and the request is deemed satisfied. If additional time is required for a response, the Commission will state this to the requester and provide a new estimated timeline for response. The Commission may provide records in batches as they are available to provide the fullest assistance to requesters.

(4) The Commission will provide access to identifiable public records during regular business hours as published on its website after arrangements for viewing the records is made in advance.

(5) A fee may not be charged to view identifiable public records at the Commission's office.

(6) Fees charged for research, scanning, and copying shall be determined by the Executive Director and published on the Commission's website. The Executive Director will evaluate fee schedules from time to time and cause such fees to be updated and published on the Commission's website.

(7) If a fee is assessed, it must be paid in full prior to the Commission fulfilling a partial or complete request. The Commission is not obligated to fulfill a partial request, or complete request if the required fee is not paid. The request is deemed satisfied if no fee is paid and the Commission will close the request without further obligation to respond further.

(8) RECORDS REQUESTS THAT INVOLVE HARASSMENT, INTIMIDATION, THREATS TO SECURITY, OR CRIMINAL ACTIVITY. The Commission may deny a records request if it determines that: the request was made to harass or intimidate the Commission or its employees; fulfilling the request would likely threaten the security of the Commission; fulfilling the request would likely threaten the safety or security of Commission members, staff, family members of Commission members or staff, or any other person; or fulfilling the request may assist criminal activity.

(e) Method for requesting records.

The public records form provided on the Commission's website should be used for expediency. Alternatively, written requests shall include the following: current date, name, mailing address or email address, and phone number of the requester, preferred delivery method of the records and a description of the identifiable public records requested. Requests shall be made to the Commission's ~~Public~~ Request Officer.

(f) Appeals.

Appeals of denials of access to Commission records shall be made within 30 days of the denial, and directed to the Commission's Executive Director. The decision of the Executive Director may be appealed within 30 days to the Executive Committee of the Commission. The decision of the Executive Committee is final. Requests for appeals should be made in the same manner as above.

[Adopted effective _____.]

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.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 292-10 PUBLIC RECORDS.

WSR 23-10-029

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed April 27, 2023, 10:38 a.m., effective May 30, 2023]

Effective Date of Rule: May 30, 2023.

Purpose: The department of licensing (department) is required to set fees for each professional, occupational, or business licensing program at a sufficient level to defray the costs of administering that program. Current fees are insufficient to sustain this program. The department is considering fee increases that would go into effect in summer 2023. This is part of a larger fee increase and these fees had been proposed to go into effect in the fall of 2022.

Citation of Rules Affected by this Order: Amending WAC 308-127-160 Fees.

Statutory Authority for Adoption: RCW 43.24.086 Fee policy for professions, occupations, and businesses—Determination by rule, and 46.01.110 Rule-making authority.

Adopted under notice filed as WSR 23-07-117 on March 21, 2023.

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 the 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 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 27, 2023.

Ellis Starrett
Rules and Policy Manager

OTS-3957.1

AMENDATORY SECTION (Amending WSR 20-06-036, filed 2/27/20, effective 3/29/20)

WAC 308-127-160 Fees. The following fees shall be charged under the authority of RCW 64.36.081 and 43.24.086:

(1) Registration application fees:

Start up timeshare program including one project.	((\$1000.00)) <u>\$1,040.00</u>
Each additional project in program.	200.00
Each apartment unit in program.	10.00
The first unit of personal property in the timeshare program.	500.00
Each additional unit of personal property in the timeshare program.	100.00

Businesses of listing or brokering resale intervals.	500.00
(2) Interval Fees:	
For each interval through one thousand.	1.00
Intervals beyond one thousand.	0.00
Each monthly filing of listings of resale intervals (in lieu of interval fees for resale intervals).	10.00
(3) Renewal fees:	
Timeshare program including one project.	(500.00) <u>540.00</u>
Late renewal fee for timeshare program.	2000.00
Each additional project to a maximum of five projects.	200.00
Each apartment unit - to maximum of twenty-five apartment units.	10.00
(4) Consolidation fees:	
Each additional project added.	200.00
Each additional apartment unit.	10.00
The first additional unit of personal property being consolidated.	250.00
Each additional unit of personal property added in one consolidation.	100.00
(5) Exemption fees:	
Programs consisting of a single apartment unit in a single project with fifty-two or fewer intervals.	250.00
All other types of programs.	1000.00
(6) Impound fees:	
Initial establishment of an impound, escrow, trust, or other arrangement requiring a depository.	500.00
Each required periodic report.	50.00
(7) Advertising fees:	
Each initial submission of advertisement whether or not submitted in a timely manner, and whether or not in use at the time of payment.	25.00
Examination of advertisement which are for the purpose of marketing surveys and not involving an examination of project or program instruments.	150.00
(8) Fees for persons in the business of offering commercial promotional programs:	
Registration of individual.	500.00
(9) Salespersons fees:	
Initial application, including first timeshare company association.	((25.00)) <u>35.00</u>
Each timeshare company association after the first.	((25.00)) <u>35.00</u>

Renewal.	((25.00)) 35.00 per timeshare company association
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(10) Fees for amendment of registration:

For a timely submission of an amendment filing.	25.00
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Late fee for failure to file an amendment within twenty days of the occurrence of a materially adverse change.	500.00
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(11) Inspection fees:

Applicants and registrants shall pay the cost of inspections conducted pursuant to chapter 64.36 RCW. The inspection fees shall be paid prior to the granting of a registration or consolidation. The inspection fee shall be the actual cost to the department for conducting of the inspection.

[Statutory Authority: RCW 64.36.270 and 43.24.023. WSR 20-06-036, § 308-127-160, filed 2/27/20, effective 3/29/20. Statutory Authority: RCW 64.36.081, 43.24.023, 43.24.086. WSR 04-19-040, § 308-127-160, filed 9/13/04, effective 11/1/04. Statutory Authority: RCW 64.36.270, 43.24.023. WSR 04-12-028, § 308-127-160, filed 5/26/04, effective 7/1/04; WSR 04-08-003, § 308-127-160, filed 3/24/04, effective 4/24/04. Statutory Authority: RCW 64.36.081 and 43.24.086. WSR 02-15-169, § 308-127-160, filed 7/23/02, effective 1/1/03. Statutory Authority: RCW 43.24.086. WSR 90-07-023, § 308-127-160, filed 3/14/90, effective 4/14/90.]

WSR 23-10-030

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed April 27, 2023, 10:42 a.m., effective May 30, 2023]

Effective Date of Rule: May 30, 2023.

Purpose: The department of licensing (department) is required to set fees for each professional, occupational, or business licensing program at a sufficient level to defray the costs of administering that program. Current fees are insufficient to sustain this program. The department is considering fee increases that would go into effect in summer 2023. This is part of a larger fee increase project which had been proposed to go into effect in the fall of 2022.

Citation of Rules Affected by this Order: Amending WAC 308-33-105 Employment agency fees.

Statutory Authority for Adoption: RCW 43.24.086 Fee policy for professions, occupations, and businesses—Determination by rule, and 46.01.110 Rule-making authority.

Adopted under notice filed as WSR 23-07-115 on March 21, 2023.

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 the 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 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 27, 2023.

Ellis Starrett
Rules and Policy Manager

OTS-3953.1

AMENDATORY SECTION (Amending WSR 98-18-053, filed 8/28/98, effective 9/28/98)

WAC 308-33-105 Employment agency fees. The following fees shall be charged by the business and professions division of the department of licensing:

Title of Fee	Fee
Agencies:	
Original application and license	((\$783.00)) <u>\$823.00</u>
Renewal	((648.00)) <u>688.00</u>
Transfer of license	150.00

Title of Fee	Fee
((Duplicate)) <u>License print fee</u>	((15.00)) <u>5.00</u>
New/amended contract or fee schedule review	50.00
Branch office:	
Original application and license	((540.00)) <u>580.00</u>
Renewal	((540.00)) <u>580.00</u>
Transfer of license	25.00
((Duplicate)) <u>License print fee</u>	((15.00)) <u>5.00</u>
General manager exam fee	150.00

[Statutory Authority: Chapter 19.31 RCW, RCW 43.240.086 [43.24.086] and 1998 c 346. WSR 98-18-053, § 308-33-105, filed 8/28/98, effective 9/28/98. Statutory Authority: RCW 43.24.086. WSR 90-06-052, § 308-33-105, filed 3/2/90, effective 4/2/90; WSR 87-10-028 (Order PM 650), § 308-33-105, filed 5/1/87. Statutory Authority: 1983 c 168 § 12. WSR 83-22-060 (Order PL 446), § 308-33-105, filed 11/2/83; WSR 83-17-031 (Order PL 442), § 308-33-105, filed 8/10/83. Formerly WAC 308-33-100.]

WSR 23-10-034
PERMANENT RULES
PUGET SOUND
CLEAN AIR AGENCY

[Filed April 27, 2023, 12:45 p.m., effective June 1, 2023]

Effective Date of Rule: June 1, 2023.

Purpose: The registration program fees, like the other fee programs of the Puget Sound Clean Air Agency (agency) (operating permit, notice of construction, and asbestos), are designed to recover the costs [of] implementing and administering the program. The last significant changes to the registration program fee schedule in Regulation I, Section 5.07 were made in 2012.

The agency reviews the registration program fee structure annually to determine if the fees collected are adequate to cover the costs of the program. This year, the proposed fee increases apply across the board to each fee category (excluding emission fees) to reflect the increases in total program costs. These increases are attributable to cost-of-living increases and inflationary impacts to other operational costs.

Increases in fees for the entire program have not been proposed since 2012 as it was not necessary due to, among other things, closely managing program administration, implementing efficiencies, and relatively low inflationary impacts to the program costs. In the last two years, inflation has significantly increased the costs to the program, and an adjustment is necessary for the upcoming budget development.

The financial information for fiscal year (FY) 2023 and the projections for FY 2024 indicates that, without an increase in the registration fees, the revenues generated by the existing fee levels would be less than the annual budget for the program in FY 2024. Current expenses are also reflecting the effects of inflation, as actual expenses are now exceeding the revenues invoiced for calendar year 2023. Left unchanged now, that would lead to deficits for the program that would continue to erode the funding for the program that would potentially produce a deficit at some point in FY 2024.

Based on the information discussed above, the proposed increase in registration fees is 16 percent across the board (all fee elements in the fee structure) except for emission fees. The emission fees, a \$/ton fee for reportable air pollutant emissions levels, are proposed to remain unchanged. This recommendation regarding emission fee charges remaining unchanged will keep the emission fee charges equivalent to those for operating permit sources.

Citation of Rules Affected by this Order: Amending Regulation I, Section 5.07 ([Annual] Registration Fees).

Statutory Authority for Adoption: Chapter 70A.15 RCW.

Adopted under notice filed as WSR 23-05-097 on February 15, 2023.

Date Adopted: April 27, 2023.

Christine Cooley
Executive Director

SECTION 5.07 ANNUAL REGISTRATION FEES Adopted 12/09/82 (530) Revised 01/10/85 (573), 10/12/89 (653), 08/09/90 (670), 12/12/91 (713), 07/08/93 (756), 09/08/94 (798), 09/14/95 (821), 09/12/96 (839), 09/11/97 (856), 09/10/98 (871), 09/09/99 (894), 07/13/00 (925), 06/14/01 (946), 10/11/01 (957), 05/23/02 (968), 05/22/03 (994), 06/24/04 (1030), 06/23/05 (1044), 06/22/06 (1067), 05/22/08 (1117), 03/25/10 (1184), 05/26/11 (1210), 05/24/12 (1242), 09/22/16 (1352)

(a) The Agency shall assess annual fees as set forth in Section 5.07(c) of this regulation for services provided in administering the registration program. Fees received under the registration program shall not exceed the cost of administering the program, which shall be defined as initial registration and annual or other periodic reports from the source owner providing information directly related to air pollution registration, on-site inspections necessary to verify compliance with registration requirements, data storage and retrieval systems necessary for support of the registration program, emission inventory reports and emission reduction credits computed from information provided by sources pursuant to registration program requirements, staff review, including engineering analysis for accuracy and currentness of information provided by sources pursuant to registration program requirements, clerical and other office support provided in direct furtherance of the registration program, and administrative support provided in directly carrying out the registration program. Payment of these fees by the owner or operator of a source shall maintain its active registration status (even if it is not actively operating).

(b) Upon assessment by the Agency, registration fees are due and payable within 45 days of the date of the invoice. Registration fees shall be deemed delinquent if not fully paid within 45 days of the date of the invoice. Persons or sources that under-report emissions, fail to submit other information used to set fees, or fail to pay required fees within 90 days of the date of the invoice, may be subject to a penalty equal to three times the amount of the original fee owed (in addition to other penalties provided by chapter 70.94 RCW).

(c) Except as specified in Section 5.07 (d) and (e) of this regulation, registered sources shall be assessed a fee of \$((~~1,150~~)) 1,350, plus the following fees:

(1) Sources subject to a federal emission standard as specified in Section 5.03 (a)(1) of this regulation shall be assessed \$((~~2,100~~)) 2,450 per subpart of 40 CFR Parts 60-63;

(2) Sources subject to a federally enforceable emission limitation as specified in Section 5.03 (a)(2) or meeting the emission thresholds specified in Section 5.03 (a)(3) of this regulation shall be assessed \$((~~2,300~~)) 2,670;

(3) Sources subject to the emission reporting requirements under Section 5.05(b) of this regulation shall be assessed \$30 for each ton of CO and \$60 for each ton of NO_x, PM₁₀, SO_x, HAP, and VOC, based on the emissions reported during the previous calendar year;

(4) Sources with more than one coffee roaster installed on-site that are approved under a Notice of Construction Order of Approval shall be assessed \$((~~2,300~~)) 2,670;

(5) Sources of commercial composting with raw materials from off-site and with an installed processing capacity of <100,000 tons per year shall be assessed \$((~~5,750~~)) 6,670; and

(6) Sources of commercial composting with raw materials from off-site and with an installed processing capacity of ≥100,000 tons per year shall be assessed \$((~~23,000~~)) 26,680.

(d) Gasoline dispensing facilities shall be assessed the following fees based on their gasoline throughput during the previous calendar year (as certified at the time of payment):

- (1) More than 6,000,000 gallons. \$((~~4,085~~)) 4,740;
- (2) 3,600,001 to 6,000,000 gallons. \$((~~2,030~~)) 2,355;
- (3) 1,200,001 to 3,600,000 gallons. \$((~~1,350~~)) 1,565;

- (4) 840,001 to 1,200,000 gallons. \$((675)) 785;
- (5) 200,001 to 840,000 gallons. \$((340)) 395.

(e) The following registered sources shall be assessed an annual registration fee of \$((140)) 165, provided that they meet no other criteria listed in Section 5.03(a) of this regulation:

(1) Sources with spray-coating operations subject to Section 9.16 of this regulation that use no more than 4,000 gallons per year of total coatings and solvents;

(2) Gasoline dispensing facilities subject to Section 2.07 of Regulation II with gasoline annual throughput during the previous calendar year (as certified at the time of payment) of no more than 200,000 gallons;

(3) Motor vehicle and mobile equipment coating operations subject to Section 3.04 of Regulation II;

(4) Unvented dry cleaners using perchloroethylene; and

(5) Batch coffee roasters subject to notification under Section 6.03 (b) (11) of this regulation.

WSR 23-10-035
PERMANENT RULES
PUGET SOUND
CLEAN AIR AGENCY

[Filed April 27, 2023, 12:47 a.m., effective June 1, 2023]

Effective Date of Rule: June 1, 2023.

Purpose: The notice of construction (NOC) program fees, like the other fee programs of the Puget Sound Clean Air Agency (agency) (registration, operating permit, and asbestos), are designed to recover the costs of implementing and administering the program. A significant change to the NOC fee schedule in Regulation I, Section 6.04 was made two years ago, recognizing the cumulative effects of inflation, along with changes to the complexity and variable nature of the applications received. Prior to the increase adopted in support of the fiscal year 2022 budget, the last across-the-board fee increases were made in 2012. The consumer price index increase is up 16 percent since the last NOC fee increase in 2021.

The current proposed changes are intended to further adjust fees to keep the revenues in balance with the level of effort to complete the compliance work associated with the NOC permit application review program. We continue to see pressure on the program financial status and need to balance the revenue and expenses now to avoid a deficit condition, which the program is approaching.

The proposed amendments to the NOC fee schedule are for four specific transaction fees that are included in the overall NOC fee structure. These proposed increases are for the following:

- NOC filing fee - \$3,000 (currently \$1,550)
- Notification filing fee - \$500 (currently \$200)
- Equipment review fee - \$1,000 (currently \$650)
- SEPA threshold determination of nonsignificance - \$1,200 (currently \$900)

These have been identified in this proposal because they are frequent and common parts of the NOC review fee requirements. They will also balance the revenue and expenses for the NOC review work most directly. The actual fees that any NOC applicant will pay to complete the process depend on the details of the proposal. These proposed fee increases are estimated to add approximately \$14,000 per month in additional revenue, depending on the level of application activity received by the agency. This would rebalance the revenue/expense balance the program is currently experiencing. The NOC program work varies with the application activity and the complexity of the applications received.

The agency also intends to clarify during this proposed fee adjustment that the NOC review fees in this section of the regulation, when in effect, will apply to any application at the agency at the time of billing.

Citation of Rules Affected by this Order: Amending Regulation I, Section 6.04 (Notice of Construction Fees).

Statutory Authority for Adoption: Chapter 70A.15 RCW.

Adopted under notice filed as WSR 23-05-099 on February 15, 2023.

Date Adopted: April 27, 2023.

Christine Cooley
Executive Director

SECTION 6.04 NOTICE OF CONSTRUCTION FEES Adopted 10/10/73 (214) Revised 12/12/73 (218), 11/21/74 (285), 03/13/80 (461), 02/13/86 (597), 06/09/88 (621), 05/11/89 (643), 11/14/91 (710), 09/10/92 (734), 11/19/92 (738), 07/08/93 (756), 10/28/93 (765), 09/12/96 (839), 12/12/96 (842), 09/11/97 (856), 03/11/99 (880), 07/12/01 (944), 05/23/02 (969), 05/22/03 (992), 06/23/05 (1045), 03/23/06 (1064), 05/22/08 (1118), 09/22/11 (1221), 05/24/12 (1243), 04/22/21 (1429)

(a) A Notice of Construction application is incomplete until the Agency has received all applicable fees as shown below:

Filing Fee (for each application, to be paid prior to any review).....	\$(1,550) <u>3,000</u>
Coffee Roaster (less than 40 pounds/batch or 18.14 kg/batch, with thermal or catalytic oxidizer).....	\$650
Hot Mix Asphalt Batch Plant.....	\$8,500
Soil Thermal Desorption Unit.....	\$5,250
Marijuana Production, Processing, or Extraction:	
Production.....	\$1,500
Extraction or Processing.....	\$1,300
Combustion-Based Electric Generation Project: (combined heat input capacity)	
10 - 100 million Btu/hr.....	\$5,250
101 - 250 million Btu/hr.....	\$10,500
More than 250 million Btu/hr.....	\$26,500
Composting Facility, new facility or increased capacity at existing facility (annual waste acceptance capacity):	
Less than 15,000 tons per year.....	\$12,000
15,000 tons or more per year, but less than 75,000 tons per year.....	\$25,000
75,000 or more tons per year.....	\$50,000
Composting Facility, changes to existing permit conditions with no increase in capacity	\$6,000
Commercial Solid Waste Handling Facility Other Than Composting Facilities.....	\$10,500
Landfill Gas System.....	\$2,750
Refuse Burning Equipment: (rated charging capacity)	
Up to 12 tons per day.....	\$5,250
More than 12 tons up to 250 tons per day.....	\$21,000
More than 250 tons per day.....	\$52,500
Modification of Existing Permit Conditions (excluding Composting Facilities addressed above):	
Exclusively related to reporting or recordkeeping with no increase in emissions and no changes to materials processed, emissions unit, or control device.....	\$650
Solely administrative changes as determined by the Control Officer.....	Filing fee only
Document Review to Determine the Notice of Construction Permitting History of an Emissions Unit (if determined necessary by Agency and not provided by applicant):	
Two or more previous Orders of Approval.....	\$650
One previous Order of Approval.....	No additional fee
Each Piece of Equipment and Control Equipment not included in any other category in this section, 6.04(a).....	\$(650) <u>1,000</u>
Additional Charges (for each application):	
State Environmental Policy Act ("SEPA") Threshold Determination.....	\$(900) <u>1,200</u> (DNS, under Regulation I, Section 2.04)
SEPA Threshold Determination.....	\$4,400 (MDNS, under Regulation I, Section 2.07)

SEPA Environmental Impact Statement (EIS), Supplemental EIS or Addendum. . .	\$25,000, in addition to all costs incurred by the Agency for the preparation of the EIS, SEIS or Addendum (EIS or SEIS under Regulation I, Section 2.08 and Addendum under WAC 197-11-630)
Document Collection to Support Conclusion that SEPA Requirements were met by a Previous Environmental Review (not provided by applicant).	\$900 (See WAC 197-11-600)
Document and/or Reference Collection and Review to Develop Project or Facility Emissions Estimates (if not provided in entirety by applicant and not readily available to Agency) (See WAC 173-400-111 (1)(b) and 173-460-050(1)):	
Development of facility-wide inventory if needed to determine applicability of Emissions reporting program, the Operating Permit program, or the status as a major or area source of hazardous air pollutants.	\$2,500
Development of project emissions inventory from Safety Data Sheets.	\$1,000
Other calculation of project emissions:	
Novel source category not previously permitted by Agency.	\$7,500
Higher complexity source category (Commercial solid waste handling facility, commercial composting facility, lumber kiln, landfill, wastewater treatment plant, cement kiln, glass manufacturer, asphalt plant, gasoline terminal, oil refinery, or oil re-refinery).	\$5,000
Lower complexity source category (All other facility types).	\$1,500
Review of Engineering Source Testing submitted in support of application.	\$1,000
Review of Request to Treat Application, or Part of Application, as Confidential (fee applies regardless of the result of the Agency's review).	\$1,000
Public Notice. (under WAC 173-400-171)	\$750 (plus publication costs)
Public Hearing. (under WAC 173-400-171)	\$2,500 (plus cost of facility and equipment needed for the hearing, and publication costs, if separate public notice)
Preparation of Agency Response to Comments Resulting from Public Notice and/or Public Hearing, based on level of difficulty as determined by Control Officer based upon factors including, but not limited to, substance of or numbers of comments received:	
Low Difficulty.	No extra charge
Moderate Difficulty.	\$2,500
High Difficulty.	\$5,000
NSPS or NESHAP.	\$1,050 (per subpart of 40 CFR Parts 60, 61, and 63)
First Tier Review of Toxic Air Contaminants:	
Agency Review of Screening Dispersion Modeling Analysis (provided by applicant).	\$800 (under Regulation III, Section 2.07 (c)(1)(B))
Screening Dispersion Modeling Analysis performed by Agency (not provided by applicant).	\$1,500 (under Regulation III, Section 2.07 (c)(1)(B))
Agency Review of Refined Dispersion Modeling (provided by applicant).	\$1,500 (under Regulation III, Section 2.07 (c)(1)(C))
Refined Dispersion Modeling performed by Agency (not provided by applicant).	\$4,500 (under Regulation III, Section 2.07 (c)(1)(C))
Major Source, Major Modification, or Emission Increases Greater than Prevention of Significant Deterioration (PSD) Thresholds.	\$5,000 (+ Ecology fees)
An Agency request for an Inapplicability Determination for PSD Program Requiring Written Applicability Determination from Ecology.	\$5,000 (+ Ecology fees)

Establishing Voluntary Limits on Emissions for Synthetic Minor Source Status, Concurrent with Notice of Construction Application Review.	\$2,100 (See WAC 173-400-091)
Construction or Reconstruction of a Major Source of Hazardous Air Pollutants (see 40 CFR 63.2).....	\$3,000
Tier II Air Toxics Review. (under WAC 173-460-090)	\$5,000 (+ Ecology fees)
Review of Opacity/Grain Loading Correlation requested under Regulation I, Section 9.04(d).....	\$5,000

(b) A notification under Section 6.03 (b) (1) through Section 6.03 (b) (9) and 6.03 (b) (11) of this regulation is incomplete until the Agency has received a fee of ~~\$(200)~~ 500. An application processed as a Notice of Construction exemption under Section 6.03 (b) (10) requires payment of the Notice of Construction filing fee only. An application for coverage under a general order of approval issued by this Agency is not subject to the fees in Section 6.04(a) and instead requires payment of a \$500 fee, which is due prior to any review of the application.

(c) An application may be subject to and an applicant required to pay multiple fees as determined applicable by the Agency under Section 6.04(a). The Control Officer is authorized to enter into a written cost-reimbursement agreement with an applicant as provided in RCW 70A.15.1570, which shall cover costs incurred by the Agency separate from Section 6.04(a) fees.

(d) Additional Fee for Service - Second Incomplete Application

Upon receipt of a second incomplete Notice of Construction application from the same applicant for the same project, the Control Officer may cease review of the application and provide written notification of that determination. The Control Officer may resume review of the application if, within 30 days of the date of the notification describing the Agency's receipt of the second incomplete Notice of Construction application, the applicant has deposited \$1,000 with the Agency, and executed a fee-for-service agreement with the Agency that allows the Agency to recover the reasonable direct and indirect costs that arise from processing the Notice of Construction application, including the requirements of other relevant laws such as SEPA.

The agreement shall require that the applicant assume full responsibility for paying the Agency for the costs incurred under the fee-for-service agreement. The Agency shall credit the \$1,000 deposit made by the applicant towards the costs required by a fee-for-service agreement. The fee-for-service agreement may require the applicant to make progress payments during the application review period. The \$1,000 deposit referred to in this section and the costs provided for in a fee-for-service agreement are in addition to the fees required in Section 6.04(a).

If the applicant has not made a \$1,000 deposit and executed such a fee-for-service agreement within 30 days of the date of the notification from the Agency describing its receipt of a second incomplete application, the Agency may issue an Intent to Disapprove an Application.

The \$1,000 deposit required under this section is not refundable. In addition, any payments made to the Agency under a fee-for-service agreement are not refundable.

(e) Additional Fee - Revised Application

The Control Officer may assess an additional fee for processing a Notice of Construction application if an applicant submits a signifi-

cantly revised application or submits information stating or demonstrating that the project which is the subject of the application has significantly changed after review by the Agency of the original project has begun and prior to the Agency issuing an Order of Approval or Intent to Disapprove an Application regarding the original application. The revision fee may be assessed if the changed information renders invalid or moot any of the review accomplished before the submission of the changes to the project. The revision fee shall be the sum of the individual fee items for work that the Agency determines must be re-evaluated as a result of the changed information. The resulting total fee required by this Section is the fee for the original Notice of Construction application plus the revision fee.

WSR 23-10-036
PERMANENT RULES
PUGET SOUND
CLEAN AIR AGENCY

[Filed April 27, 2023, 12:49 p.m., effective June 1, 2023]

Effective Date of Rule: June 1, 2023.

Purpose: The operating permit program fees, like the other fee programs of the Puget Sound Clean Air Agency (agency) (registration, notice of construction, and asbestos), are designed to recover the costs implementing and administering the program. A significant change to the operating permit fee schedule in Regulation I, Section 7.07 was made one year ago, recognizing the cumulative effects of inflation. Prior to the increase adopted in support of the fiscal year (FY) 2023 budget, the last across-the-board fee increases were made in 2012.

The current proposed changes are intended to further adjust fees to keep the revenues in balance with the level of effort to complete the compliance work associated with the operating permit program. While the revenue and expenses for the operating permit program have been roughly balanced for most of the past 10 years, the increasing costs to the program in the last two years and increasing level of effort for some types of work by the agency for certain aspects of the operating permit program need to be addressed through another adjustment to the fee schedule to ensure the agency does not reach a deficit condition.

The proposed amendments to the operating permit fee schedule include cost increases for each base fee category at approximately 17 percent. The consumer price index increase since the last operating permit fee increase is eight percent (up 16 percent over the past two years). The proposed increase anticipates the effects of inflation will not readily ease and this proposal assumes the inflationary effects through the FY 2024 time period (and the calendar year 2024 time period) will continue well into 2023. The lag between proposed fee increases and the actual billings that reflects that revenue have also been considered in this proposal. The emission fees, a \$/ton fee for reportable air pollutant emissions levels, are proposed to remain unchanged. This recommendation regarding emission fee charges remaining unchanged will keep the emission fee charges equivalent to those for registration program sources. Additionally, no changes are proposed for the fee elements that relate to permit issuance transactions.

Citation of Rules Affected by this Order: Amending Regulation I, Section 7.07 (Operating Permit Fees).

Statutory Authority for Adoption: Chapter 70A.15 RCW.

Adopted under notice filed as WSR 23-05-108 on February 15, 2023.

Date Adopted: April 27, 2023.

Christine Cooley
Executive Director

SECTION 7.07 OPERATING PERMIT FEES Adopted 10/28/93 (766) Revised 09/08/94 (798), 09/14/95 (821), 09/12/96 (839), 09/11/97 (856), 09/10/98 (871), 09/09/99 (894), 07/13/00 (925), 06/14/01 (946), 10/11/01 (957), 05/23/02 (970), 05/22/03 (995), 07/22/04 (1031), 05/22/08 (1119), 05/24/12 (1244), 09/26/13 (1286), 04/28/22 (1449)

(a) The Agency shall assess annual operating permit fees as set forth in Section 7.07(b) below to cover the cost of administering the operating permit program.

(b) Upon assessment by the Agency, the following annual operating permit fees are due and payable within 45 days of the invoice date.

They shall be deemed delinquent if not fully paid within 90 days of the date of the invoice and will be subject to an additional delinquent fee equal to 25% of the original fee, not to exceed \$8,125. In addition, persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than 90 days late with such payments may be subject to a penalty equal to 3 times the amount of the original fee owed (in addition to other penalties provided by chapter 70A.15 RCW).

(1) Sources in the following North American Industry Classification System (NAICS) codes (*North American Industry Classification System Manual*, U.S. Executive Office of the President, Office of Management and Budget, 2012), or sources subsequently determined by the control officer to be assigned to either Section 7.07 (b) (1) (i) or 7.07 (b) (1) (ii) shall be subject to the following facility fees:

(i) Operating permit sources with the following NAICS codes:

NAICS	NAICS Description Fee
221112	Fossil Fuel Electric Power Generation
324110	Petroleum Refineries
327213	Glass Container Manufacturing
327310	Cement Manufacturing
331110	Iron and Steel Mills and Ferroalloy Manufacturing
336411	Aircraft Manufacturing
336413	Other Aircraft Parts and Auxiliary Equipment Manufacturing
928110	National Security
 \$(71,500) <u>83,650</u>

(ii) Operating permit sources with the following NAICS codes:

NAICS	NAICS Description Fee
311119	Other Animal Food Manufacturing
311812	Commercial Bakeries
321912	Cut Stock, Resawing Lumber, and Planing
321918	Other Millwork (including Flooring)
321999	All Other Miscellaneous Wood Product Manufacturing
322220	Paper Bag and Coated and Treated Paper Manufacturing
326140	Polystyrene Foam Product Manufacturing
332996	Fabricated Pipe and Pipe Fitting Manufacturing
 \$(17,875) <u>20,910</u>

(iii) Operating permit sources with NAICS codes other than listed above. ~~\$(35,750)~~ 41,830

(2) Additional emission rate fees shall be paid in addition to the annual operating permit fees of Section 7.07 (b) (1):

- \$30 for each ton of CO reported in the previous calendar year,
- and
- \$60 for each ton of NO_x reported in the previous calendar year,
- and
- \$60 for each ton of PM₁₀ reported in the previous calendar year,
- and
- \$60 for each ton of SO_x reported in the previous calendar year,
- and

\$60 for each ton of VOC reported in the previous calendar year,
and

\$60 for each ton of HAP reported in the previous calendar year.

(c) In addition to the fees under Sections 7.07 (b) (1) and (b) (2) above, the Agency shall, on a source-by-source basis, assess the following fees:

- (1) \$500 for administrative permit amendments [WAC 173-401-720],
and
- (2) for minor permit modifications [WAC 173-401-725 (2) and (3)],
a fee equal to 10% of the annual operating permit fee, not to exceed \$8,125, and
- (3) for the original issuance [WAC 173-401-700], significant modification [WAC 173-401-725(4)], reopening for cause [WAC 173-401-730], or renewal [WAC 173-401-710] of an operating permit, a fee equal to 20% of the annual operating permit fee, not to exceed \$16,250, and
- (4) to cover the costs of public involvement under WAC 173-401-800, and
- (5) to cover the costs incurred by the Washington State Department of Health in enforcing 40 CFR Part 61, Subpart I and chapter 246-247 WAC.

(d) In addition to the fees described under Sections 7.07 (b) and (c) above, the Agency shall collect and transfer to the Washington State Department of Ecology a surcharge established by the Department of Ecology under chapter 173-401 WAC to cover the Department of Ecology's program development and oversight costs.

(e) Continued payment to the Agency of the annual operating permit fee maintains the operating permit and the status of the source as an operating facility.

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.

WSR 23-10-050
PERMANENT RULES
DEPARTMENT OF
NATURAL RESOURCES

[Filed April 28, 2023, 1:54 p.m., effective July 1, 2023]

Effective Date of Rule: July 1, 2023.

Purpose: Revise the filing and recording fee surcharge for survey maps to appropriately fund the public land survey office program within the department of natural resources.

Citation of Rules Affected by this Order: Amending WAC 332-150-030.

Statutory Authority for Adoption: RCW 58.24.070.

Adopted under notice filed as WSR 22-24-013 on November 30 [29], 2022.

A final cost-benefit analysis is available by contacting Patrick J. Beehler, 1111 Washington Street S.E., Olympia, WA 98504-7030, phone 360-902-1181, fax 360-902-1178, email pat.beehler@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 the 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: April 21, 2023.

Duane Emmons
Deputy Supervisor for State Uplands
for Todd Welker

OTS-4211.1

AMENDATORY SECTION (Amending WSR 15-13-075, filed 6/12/15, effective 8/1/15)

WAC 332-150-030 Filing and recording fees. Each county auditor shall collect the fee of (~~sixty-four dollars~~) \$100 per instrument in addition to any other fees required by law, as a condition precedent to the filing and recording of any surveys, subdivision plats, short plats or condominium surveys, plats or maps.

[Statutory Authority: RCW 58.24.070. WSR 15-13-075, § 332-150-030, filed 6/12/15, effective 8/1/15; WSR 02-15-126 (Order 708), § 332-150-030, filed 7/19/02, effective 8/19/02; WSR 87-15-048 (Order 509), § 332-150-030, filed 7/14/87. Statutory Authority: Chapter 58.24 RCW and 1982 c 165 § 7. WSR 82-14-042 (Order 378), § 332-150-030, filed 6/30/82.]

WSR 23-10-059
PERMANENT RULES
DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed May 1, 2023, 12:56 p.m., effective June 1, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department of children, youth, and families (DCYF) is filing the permanent rules for new chapter 110-302 WAC, Foundational quality standards for outdoor nature-based child care. The new chapter establishes licensing requirements [for] outdoor nature-based child cares. The rules are necessary to implement chapter 304, Laws of 2021, which directed DCYF to license outdoor nature-based child cares. They establish the minimum standards that are needed to promote the health and safety of children who enroll in these programs. DCYF is also repealing chapter 110-300E WAC, Outdoor nature-based programs. New chapter 110-302 WAC replaces repealed chapter 110-300E WAC.

Citation of Rules Affected by this Order: New WAC 110-302-0001, 110-302-0005, 110-302-0010, 110-302-0011, 110-302-0015, 110-302-0016, 110-302-0020, 110-302-0025, 110-302-0030, 110-302-0035, 110-302-0055, 110-302-0065, 110-302-0080, 110-302-0085, 110-302-0100, 110-302-0105, 110-302-0106, 110-302-0107, 110-302-0110, 110-302-0111, 110-302-0115, 110-302-0120, 110-302-0125, 110-302-0130, 110-302-0135, 110-302-0140, 110-302-0145, 110-302-0146, 110-302-0147, 110-302-0148, 110-302-0150, 110-302-0155, 110-302-0160, 110-302-0165, 110-302-0166, 110-302-0170, 110-302-0175, 110-302-0180, 110-302-0185, 110-302-0186, 110-302-0190, 110-302-0195, 110-302-0196, 110-302-0197, 110-302-0198, 110-302-0200, 110-302-0205, 110-302-0210, 110-302-0215, 110-302-0220, 110-302-0221, 110-302-0225, 110-302-0230, 110-302-0235, 110-302-0236, 110-302-0240, 110-302-0241, 110-302-0245, 110-302-0250, 110-302-0255, 110-302-0260, 110-302-0265, 110-302-0300, 110-302-0305, 110-302-0310, 110-302-0315, 110-302-0320, 110-302-0325, 110-302-0330, 110-302-0331, 110-302-0335, 110-302-0340, 110-302-0345, 110-302-0346, 110-302-0347, 110-302-0350, 110-302-0351, 110-302-0352, 110-302-0353, 110-302-0354, 110-302-0356, 110-302-0357, 110-302-0360, 110-302-0400, 110-302-0401, 110-302-0402, 110-302-0410, 110-302-0415, 110-302-0420, 110-302-0425, 110-302-0435, 110-302-0436, 110-302-0440, 110-302-0443, 110-302-0450, 110-302-0455, 110-302-0460, 110-302-0465, 110-302-0470, 110-302-0471, 110-302-0475, 110-302-0480, 110-302-0485, 110-302-0486, 110-302-0490, 110-302-0495, 110-302-0500 and 110-302-0505; and repealing WAC 110-300E-0001, 110-300E-0005, 110-300E-0015, 110-300E-0020, and 110-300E-0400.

Statutory Authority for Adoption: RCW 43.216.742.

Adopted under notice filed as WSR 22-23-072 and 23-07-006 on November 10, 2022 and March 1, 2023, respectively.

Changes Other than Editing from Proposed to Adopted Version: The text of the adopted rule varies from the text of the proposed rule. The changes, other than nonsubstantive edits, are:

110-302-0100 (12)(c)(v)	Changed WAC reference to "WAC 110-302-0110."
110-302-0105 (1)(a)	Moved the word "and" so the sentence ends with "and program supervisors."
110-302-0107 (1)(e)	Deleted the letters "ONB."
110-302-0115 (1)(d)	Duplication with subsection (2)(b). Deleted the sentence "Paper records may be discarded once entered into the electronic workforce registry and verified by the department;"
110-302-0145(2)	Changed WAC reference to "WAC 110-302-0356."
110-302-0160(3)	Fixed typographical error. Sentence should read "or school-age curriculum."
110-302-0210(3)	Added word "accept."

110-302-0221 (1)(e)	Deleted "early learning" and replaced with "ONB" so sentence reads "... not affiliated with the providers' ONB program"
110-302-0255(2)	Added "that operate on public or private school premises" after "ONB school-age only providers."
110-302-0260(6)	Deleted subsection (6) and relocated it to WAC 110-302-0352(2).
110-302-0347(4)	Fixed typographical error. Renumbered as there were two subsections numbered as subsection (3).
110-302-0352(2)	Added text deleted from WAC 110-302-0260(6).
110-302-0352(11)	Deleted subsection (11) because this duty is covered in WAC 110-302-0352(2).
110-302-0356 (6)(d)	Added " <u>who requires individualized supervision pursuant to WAC 110-302-0300</u> " after "A child with special needs."
110-302-0357	Fixed typographical error in title. Changed "ration" to "ratio."
110-302-0401(4)	Deleted "a school age" and replaced with " <u>an ONB</u> " after "The annual licensing fee for ..."
110-302-0450 (2)(j) et seq.	The phrase "ONB program days and hours of operations, including closure dates and observed holidays" was incorrectly merged into subsection (2)(j). It was relocated to subsection (2)(k). Other subsections were renumbered accordingly.
110-302-0460 (2)(e)	Changed WAC reference to "WAC 110-302-0300."
110-302-0471(1)	Added "approved by the department."

A final cost-benefit analysis is available by contacting
dcyf.rulescoordinator@dcyf.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 the 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 108, Amended 0, Repealed 5.

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: May 1, 2023.

Brenda Villarreal
Rules Coordinator

OTS-4183.5

**Chapter 110-302 WAC
FOUNDATIONAL QUALITY STANDARDS FOR OUTDOOR NATURE-BASED CHILD CARE**

INTENT AND AUTHORITYNEW SECTION

WAC 110-302-0001 Authority. (1) Under RCW 43.216.742 the department of children, youth, and families is required to establish an outdoor nature-based (ONB) child care program and must comply with the requirements described in this subsection.

(a) The department must adopt rules to implement the ONB child care program and may waive or adapt licensing rules or requirements when necessary to allow for the operation of outdoor classrooms in Washington state.

(b) The department must apply the early achievers program to the ONB child care program to assess quality in outdoor learning environments and may waive or adapt early achievers rules or requirements when necessary to allow for the operation of outdoor classrooms.

(2) A child care or early learning program operated by a federally recognized tribe may participate in the ONB child care program through an interlocal agreement between the tribe and the department. The interlocal agreement must reflect the government-to-government relationship between the state and the tribe, including recognition of tribal sovereignty.

(3) Pursuant to RCW 43.216.250 (2)(b), the provisions of this chapter governing the physical facility, including buildings and other physical structures attached to buildings and premises, do not apply to licensed school-age programs that operate in facilities used by public or private schools. The department only regulates health, safety, and quality standards that do not relate to the physical facility for school age only ONB programs operating in facilities used by public or private schools.

[]

NEW SECTION

WAC 110-302-0005 Definitions. The following definitions apply to this chapter unless the context clearly requires otherwise.

"Accessible to children" means items, areas, or materials of an outdoor nature-based program (ONB) that a child can reasonably reach, enter, use, or get to on their own.

"Accommodations" means ONB program curriculum and instruction, activities, spaces, and materials that have been adapted to help children and adults with special needs function within their surroundings.

"Active supervision" or **"actively supervise"** means a heightened standard of care beyond supervision. This standard requires an ONB provider to see and hear the children they are responsible for during higher risk activities. The ONB provider must be able to prevent or instantly respond to unsafe or harmful events.

"Agency" has the same meaning as described in RCW 43.216.010.

"Aide" is a person who offers support to the ONB program staff.

"Allergy" or **"allergies"** means an overreaction of the immune system to a substance that is harmless to most people. During an allergic reaction, the body's immune system treats the substance or "allergen" as an invader. The body overreacts by releasing chemicals that may cause symptoms ranging from mildly annoying to life threatening. Common allergens include certain foods such as milk, eggs, fish, shellfish, common tree nuts, peanuts, wheat, and soybeans, as well as pollen, mold, or medication.

"American Society for Testing and Materials (ASTM)" means the international standards organization that develops and publishes voluntary consensus technical standards for a wide range of materials, products, systems, and services.

"Americans with Disabilities Act (ADA)" means the federal "equal opportunity" law protecting people with disabilities.

"Annual" or **"annually"** means an event that occurs each calendar year, not to exceed 365 days between occurrences.

"Applicant" means an individual who has made a formal request for a child care license, certification, exemption, or portable background check.

"Appropriate" when used to refer to child care or educational materials, means that the materials will interest and challenge children in terms of their ages and abilities.

"Appropriately" means correct or properly suited for a particular situation.

"Assistant director" is the person responsible for the overall management, including the facility and operation, of an ONB program that enrolls preschool-age and school-age children, or only preschool-age children.

"Assistant teacher" is a person whose work is to assist a lead teacher in providing instructional supports to children and implementing a developmentally appropriate ONB program. The assistant teacher must carry out assigned tasks under the supervision of a lead teacher, program supervisor, director, program director, assistant director, site director, or licensee.

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

"Benefit-risk assessment" means, for purposes of outdoor nature-based programs, a process used to identify and document hazards and risky play elements associated with childhood outdoor play and making plans to mitigate the risk of injury to children while maintaining developmental benefits for children. This process includes identifying the types of risk present in a location or activity, the likelihood and severity of potential injury, the potential benefits to children, methods of mitigating hazards, e.g., elimination, substitution, isolation, safeguards, and managing risk, e.g., heightened supervision, scaffolding, intervention, and identifying who is responsible for implementing the appropriate methods and when.

"Bias" means a tendency to believe that some people or ideas are better than others that usually results in treating some people unfairly.

"Biological needs" means, for purposes of outdoor nature-based programming, department approved toileting, handwashing, and transitional activities for children and providers.

"Body of water" or **"bodies of water"** is a natural area or human-made area or device that contains or holds a depth of more than four inches of water. Examples include swimming pools, ditches, canals,

fish ponds, water retentions, excavations, quarries, streams, rivers, lakes, and ocean waters.

"Campfire" means an outdoor fire that is used for cooking, personal warmth, lighting, or ceremonial or esthetic purposes. For the purposes of this chapter, "campfire" does not include a fire within any building, mobile home, motor vehicle, or recreational vehicle.

"Campfire activities" means ONB program activities in which enrolled children have access to a campfire that may pose a risk of burns to children.

"Cannabis" also known as "marijuana" refers to all parts of the cannabis plant, whether growing or not, the seeds thereof, the resin or concentrate extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture, or preparation of the plant.

"Capacity" means the maximum number of children an ONB provider is authorized by the department to have in care at any given time. This includes any children on-site at the ONB program and any children in transit to or from the ONB program or other activities such as field trips while the children are signed in to the care of the ONB program.

"Certificate of exemption (COE)" means a form that is approved by the DOH and consistent with the requirements of WAC 246-105-050, or an immunization form produced by the state immunization information system.

"Certificate of immunization status (child)" means a form that is approved by the DOH and consistent with the requirements of WAC 246-105-050, or an immunization form produced by the state immunization information system.

"Certification" means, as applied to the licensing process, department approval of a person, home, or facility that is exempt from licensing but requests evidence that the ONB program meets these foundational licensing standards.

"Child" means an individual who is younger than age 13, including any preschool-age child or school-age child as defined in this chapter.

"Child and adult care food program (CACFP)" means the food program established by Congress and funded by the United States Department of Agriculture (USDA).

"Child abuse" or **"neglect"** means the physical abuse, sexual abuse, sexual exploitation, abandonment, negligent treatment or maltreatment of a child by any person as defined in RCW 26.44.020.

"Child care" refers to supervision of children outside the child's home for periods of less than 24 hours a day.

"Child care basics (CCB)" means curriculum designed to meet the initial basic training requirement for early learning program staff working in licensed or certified programs in Washington state. It serves as a broad introduction for professionals who are pursuing a career in the early care and education field.

"Chromated copper arsenate (CCA)" is a wood preservative and insecticide that contains roughly 22 percent arsenic, a known carcinogen. The United States restricted the use of CCA on residential lumber in 2003, but it can still be found on older decks and playground equipment. Information about the health hazards of arsenic can be found on the DOH's website.

"Clean" or **"cleaning"** means to remove dirt and debris from a surface by scrubbing and washing with a detergent solution and rinsing

with water. This process must be accomplished before sanitizing or disinfecting a surface.

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

"Consistent care" means providing steady opportunities for children to build emotionally secure relationships by primarily interacting with a limited number of ONB program staff.

"Consumer product safety commission (CPSC)" means the United States Consumer Product Safety Commission.

"Contagious disease" means an illness caused by an infectious agent of public health concern which can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission through an intermediate host or vector, food, water, or air. Contagious diseases pertinent to this chapter are described in WAC 246-110-010.

"Continuous" means without interruptions, gaps, or stopping.

"Core competencies" are standards required by the department that detail what an early learning or school-age provider needs to know and is able to do to provide quality care and education for children and their families.

"Cultural" or **"culturally"** means in a way that relates to the ideas, customs, and social behavior of different societies.

"Curriculum philosophy" means a written statement of principles developed by an ONB provider to form the basis of the learning ONB program activities, including age appropriate developmental learning objectives for children.

"Department" means the Washington state department of children, youth, and families (DCYF).

"Department of defense (DOD)" means the United States Department of Defense.

"Department of health (DOH)" means the Washington state department of health.

"Developmental screening" is the use of standardized tools to identify a child at risk of a developmental delay or disorder.

(Source: American Academy of Pediatrics, *Healthy Child Care America*, 2009)

"Developmentally appropriate" means:

- (a) An ONB provider interacts with each child in a way that recognizes and respects the child's chronological and developmental age;
- (b) Knowledge about how children grow and learn;
- (c) Reflects the developmental level of the individual child; and
- (d) Interactions and activities are planned with the developmental needs of the individual child in mind.

"Director" means the person responsible for the overall management, including the facility and operation, of an ONB program that enrolls preschool-age and school-age children, or only preschool-age children.

"Disability" or **"disabilities"** has the same meaning in this chapter as the meaning in RCW 49.60.040(7).

"Disaster" means a sudden event, accident, or natural catastrophe that causes great damage to property, serious bodily injury, or loss of life.

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

"Disinfect" means to eliminate virtually all germs from an inanimate surface by the process of cleaning and rinsing, followed by:

(a) The application of a fragrance-free chlorine bleach and water solution following the DOH's current guidelines for mixing bleach solutions for child care and similar environments; or

(b) The application of other disinfectant products registered with the EPA, if used strictly according to the manufacturer's label instructions including, but not limited to, quantity, 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."

"Disinfectant" means a chemical or physical process that kills bacteria and viruses.

"Drinking water" or **"potable water"** means water that is suitable for drinking by the general public as determined by the DOH or a local health jurisdiction.

"Dual language learners" means children who are learning two or more languages at the same time. This term includes children who learn two or more languages from birth, and children who are still mastering their home language when they are introduced to and start learning a second language. (Source: The *Washington State Early Learning and Development Guidelines*, a resource published by the department, OSPI, and Thrive Washington for children birth through third grade that outlines what children know and are able to do at different stages of their development.)

"Early achievers" is a statewide system of high-quality early learning that connects families to early learning programs with the help of an easy to understand rating system and offers coaching, professional development, and resources for early learning providers to support each child's learning and development.

"Early childhood education (ECE) initial certificate" (12 quarter credits) is Washington's initial certificate in early childhood education and serves as the point of entry for a career in early learning and covers foundational content for early learning professionals.

"Early childhood education and assistance program (ECEAP)" is a comprehensive preschool program that provides free services and support to eligible children and their families.

"Early childhood education (ECE) short certificate" is an ECE initial certificate plus eight quarter credits and is Washington's short certificate in early childhood education that offers areas of specialization, building on the state's initial certificate. Outdoor nature-based short certificate is an initial certificate plus eight quarter credits and is Washington's short certificate in outdoor nature-based education that offers areas of specialization, building on the state's initial certificate.

"Early childhood education (ECE) state certificate" is a short certificate plus 27 quarter credits and is Washington's state certificate in early childhood education that is the benchmark for Level 2 core competencies for early care and education professionals and prepares for the next step, an associate's degree in early childhood education.

"Early learning" has the same meaning as described in RCW 43.216.010.

"Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record including,

but not limited to, a digital signature. An electronic signature is a paperless way to sign a document using an electronic sound, symbol, or process, attached to or logically associated with a record, and executed or adopted by a person with the intent to sign the record.

"Electronic workforce registry" refers to the Washington state department of children, youth, and families' current database of professional records of individual ONB providers.

"Emergency preparedness" means a continuous cycle of planning, organizing, training, equipping, exercising, evaluating, and taking corrective action in an effort to ensure effective coordination in case of emergencies or during incident response.

"Emergent curriculum" means a teaching philosophy and a curriculum planning method designed to create meaningful learning experiences that focus on being responsive to child interests. This philosophy prioritizes active participation, relationship building, flexible and adaptable methods, inquiry, and play-based learning. The curriculum is child-initiated, collaborative and responsive to the child's needs, and teachers come prepared with information, offer resources to support child explorations, or both.

"Enforcement action" means the denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.216.325(1) or assessment of civil penalties or fines pursuant to RCW 43.216.325(3). An ONB provider may contest an enforcement action and seek an adjudicative proceeding pursuant to chapter 110-03 WAC.

"EPA" means the United States Environmental Protection Agency.

"Equivalent" or **"equivalency"** means, when referring to staff qualifications, an individual is allowed to meet the chapter 110-302 WAC requirements that are based on a department recognized alternative credential, or demonstration of competency, that indicates similar knowledge as the identified credential.

"Exempt" or **"exemption"** means, as applied to immunizations, a type of immunization status where a child has not been fully immunized against one or more vaccine preventable diseases required by chapter 246-105 WAC for full immunization due to medical, religious, philosophical or personal reasons. Under chapter 362, Laws of 2019, if a child plans on attending or is attending an outdoor nature-based program, a philosophical or personal objection may not be used to exempt a child from the measles, mumps, and rubella vaccine.

"Expel" or **"expulsion"** means to end a child's enrollment in an ONB program. An ONB provider will end a child's enrollment if the ONB provider is unable to meet a child's needs due to the child's challenging behavior.

"Facility licensing compliance agreement (FLCA)" has the same meaning as in RCW 43.216.395 (2) (a).

"Food and Drug Administration (FDA)" means the United States Food and Drug Administration.

"Food worker card" means a food and beverage service worker's permit as required under chapter 69.06 RCW.

"Good repair" means about 80 percent of materials and components are unbroken, have all their pieces, and can be used by the children as intended by the manufacturer or builder.

"Hazard" means a source of harm that may or may not be obvious to the child. The source of harm is not obvious if the potential for injury is hidden or is greater than a child can manage to avoid given the individual circumstances and characteristics of the child.

"Health care provider" means a person who is licensed, certified, registered, or otherwise authorized by the laws of the state of Wash-

ington to provide health care in the ordinary course of business or practice of a profession.

"Immunization" means the process of administering a vaccine to make that person immune or resistant to an infectious disease.

"Inaccessible to children" means a method to prevent a child from reaching, entering, using, or getting to items, areas, or materials of an ONB program.

"Inactive" means, when used by the department to indicate a licensing status, an ONB provider who has informed the department of their intent to temporarily cease caring for children and close their ONB program in a manner that departs from the ONB program's regular schedule.

"Individual care plan" means a specific plan to meet the individual needs of a child with a food allergy, special dietary requirement due to a health condition, or other special needs or circumstances.

"In-service training" means professional development requirements for continuing education delivered or approved by the department to maintain staff standards and qualifications while employed as an ONB provider.

"Inspection report" has the same meaning as in RCW 43.216.010(17).

"Internal review process" has the same meaning as described in RCW 43.216.395.

"Lead teacher" means an ONB provider who works as the lead staff person in charge of a child or group of children and oversees or implements ONB activities or ONB programs.

"License" means a permit issued by the department legally authorizing an applicant to operate an outdoor nature-based program.

"Licensed space" means the indoor and outdoor space on the premises approved by the department for the purpose of providing an ONB licensed program.

"Licensee" means an individual or legal entity listed on a license issued by the department, authorized to provide child care or early learning services in an ONB program.

"Lockdown" means restricted to an interior room with few or no windows while the facility or building is secured from a threat, or other department approved lockdown plan.

"Locking mechanism" means a lock that requires a key, tumbler, dial, passcode, touchpad, or similar device or method to lock and unlock.

"Modification" means, when used in reference to an ONB provider's licensing status, an enforcement action by the department to change the conditions identified on a licensee's current license.

"Moisture-wicking" means a fabric that draws moisture away from the body, such as polyester or wool. Cotton is not a moisture-wicking fabric.

"Natural space" means land that is natural, semi-natural, or planted and includes plants, animals, and other features and products of the earth.

"Nonexpiring license" means a license that is issued pursuant to chapter 43.216 RCW to an ONB provider following the initial licensing period.

"Office of superintendent of public instruction (OSPI)" means the Washington state office of superintendent of public instruction.

"Operating hours" means the hours listed in an ONB program parent handbook when the ONB program is open and providing care and services to children.

"Outdoor nature-based (ONB) child care" or "outdoor nature-based (ONB) program" has the same meaning as described in RCW 43.216.010(1)(e).

"Outdoor nature-based child care basics" means a curriculum designed to meet the initial basic training requirement for outdoor nature-based program staff working in licensed or certified ONB programs in Washington state. It serves as a broad introduction for professionals who are pursuing a career in the outdoor nature-based child care and education field.

"Outdoor nature-based program (ONB)" means an ONB program that is authorized under RCW 43.216.742.

"Outdoor nature-based (ONB) program staff" or "staff" means all persons who work, substitute, or volunteer in an ONB program during hours when children are or may be present, excluding licensees. "Staff" include ONB child care directors, program directors, assistant directors, site directors, program supervisors, lead teachers, assistant teachers, aides, and volunteers.

"Outdoor nature-based child care (ONB) provider" or "provider" means an outdoor nature-based child care licensee or a designee who works in an ONB program during hours when children are or may be present. Designees include ONB child care directors, program directors, assistant directors, site directors, program supervisors, lead teachers, assistant teachers, aides, and volunteers.

"Outdoor nature-based tools" include, but are not limited to, peelers, whittling knives, small hammers, hand drills, pliers, child-sized saws, wrenches, and screwdrivers. Folding whittling knives must be equipped with a locking feature to keep knives open when in use. Motorized tools must be inaccessible to children.

"Parent" or "guardian" means birth parent, custodial parent, foster parent, legal guardian or those authorized by the parent or entity legally responsible for the welfare of the child.

"Permanently located outdoor classroom" means an outdoor area that is allocated to an ONB program for daily use, and the ONB provider or public park installs permanent or semi-permanent equipment for the ONB program's use, such as storage containers, portable chemical toilets, or child-sized furniture.

"Personal needs" means an ONB provider's toileting or medication needs that removes the ONB provider from the children. Personal needs do not include 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 unattended care.

"Pest" means an animal, plant, or insect that has a harmful effect on humans, food, or living conditions.

"Pesticide" refers to chemicals used to kill pests.

"Pet" means a domestic or tamed animal or bird kept for companionship or pleasure.

"Physical barrier" or "barrier" means a nonclimbable fence or wall that is at least five feet tall and has no openings greater than two inches, nor a gate or door that allows entry to and exit from a body of water. Any gate or opening, in addition to the requirements already listed, must have a locking mechanism, a self-closing or self-latching device, and a device used to open the locks which is inaccessible to children but readily available to staff.

"Physical boundary" or "boundary" means a way of marking the limits of an area consisting of, but not limited to, fences, barriers,

ropes, large boulders or logs, or visual aids such as cones, tape, or ribbons.

"Physical restraint" means holding a child as gently as possible for the minimum amount of time necessary to control a situation where that child's safety or the safety of others is threatened.

"Poison" 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 and unlicensed space at the licensed address including, but not limited to, buildings, land, residences, and other real property.

"Preschool-age child" means a child 30 months through six years of age not attending kindergarten or elementary school.

"Preservice training" means professional development standards or requirements for ONB program staff prior to hiring or within a department specified time frame and delivered or approved by the department.

"Private septic system" means a septic system as defined in chapter 246-272A WAC that is not connected to a public sewer system or a large on-site sewage system as defined in chapter 246-272B WAC. A private septic system includes, but is not limited to, the septic system's drain field and tanks.

"Probationary license" has the same meaning as described in RCW 43.216.010(25).

"Professional development support plan" is a formal means by which an individual who is supervising staff sets out the goals, strategies, and outcomes of learning and training.

"Program director" means the person responsible for the overall management, including the facility and operations, of an ONB program that enrolls only school-age children. The program director is not responsible for being on-site at the ONB program, unless the program director is filling in for an on-site role.

"Program supervisor" means the person responsible for planning and supervising the learning and activity programming of the ONB program that enrolls preschool-age and school-age children, or only preschool-age children.

"RCW" means the Revised Code of Washington.

"Readily available" means able to be used or obtained quickly and easily.

"Revocation" or **"revoke"** when used in reference to an ONB provider's licensing status, means an enforcement action by the department to close an ONB program and permanently remove the license.

"Risk" means, with regard to "risky play," a situation that a child can recognize and evaluate challenges to decide on a course of action, although there may be a potential for injury.

"Risk management policy" means a written policy or plan to mitigate children's risk of injury associated with risky play or learning activities.

"Risky play" means physical activity and play that is challenging and involves a risk of physical injury. Risky play for ONB programs includes, but is not limited to, play involving heights, speed, dangerous tools, close proximity to dangerous elements, such as falling into something potentially hazardous, and risk of getting lost. Risky play is also known as "adventure play."

"Routine care" means typical or usual care provided to a child during the time the child is enrolled in the ONB program, such as

feeding, diapering, toileting, napping, resting, playing, and learning.

"Safe route" means a way or course taken to get from a starting point to a destination that is protected from danger or risk.

"Safety plan" means a written plan to implement ONB program changes to bring an ONB program into compliance with this chapter and chapter 43.216 RCW. Safety plans are developed at meetings involving at least an ONB provider and a department licensor and supervisor. Safety plans detail changes the ONB provider needs to make to mitigate the risk of direct and indirect harm to children enrolled in the ONB program. ONB program changes must be agreed to in writing, and signed by all participants at the meeting. Safety plans expire 30 calendar days after being signed by all parties. Safety plans may only be extended for an additional 30 days and extensions may only be authorized by a department supervisor.

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

(a) Cleaning and rinsing with water at a high temperature pursuant to the requirements described in this chapter; or

(b) Cleaning and rinsing, followed by using:

(i) A fragrance-free chlorine bleach and water solution following the DOH's current guidelines for mixing bleach solutions for child care and similar environments; or

(ii) Other sanitizer product if it is registered with the EPA and 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, 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."

"School age child" has the same meaning as in RCW 43.216.010(27).

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

"Serious injury" means:

(a) An injury resulting in an overnight hospital stay;

(b) A severe neck or head injury;

(c) Choking or serious unexpected breathing problems;

(d) Severe bleeding;

(e) Shock or an acute confused state;

(f) Sudden unconsciousness;

(g) Dangerous chemicals in eyes, on skin, or ingested;

(h) Near drowning;

(i) One or more broken bones;

(j) A severe burn requiring professional medical care;

(k) Poisoning; or

(l) An overdose from a chemical substance.

"Shelter in place" means staff and children staying at the licensed premises due to an external threat such as a storm, chemical or gas leak or explosion, or other event that prohibits the occupants from safely leaving the premises.

"Sign" means an individual formally placing their name or legal mark on a document by physical signature or electronic signature.

"Site director" means the person responsible for planning and implementing the services, under the oversight of the program director, of an ONB program that enrolls only school-age children. The site di-

rector is responsible for being on-site during the ONB program's operating hours and providing regular supervision of staff and volunteers.

"Sleeping equipment" means a bed, cot, mattress, or mat.

"Special needs" is a term used for children who require a higher level of care due to learning difficulties, physical or mental disability, or emotional and behavioral difficulties and who have one or more of the following documents that describes a child's condition: A health care provider's diagnosis, an individual educational plan (IEP), individual health plan (IHP), 504 plan, or an individualized family service plan (IFSP).

"Strengthening families program self-assessment" means a research informed approach to increase family strengths, enhance child development, and reduce the likelihood of child abuse and neglect. It is based on engaging families, ONB programs, and communities in building five protective factors:

- (a) Parental resilience;
- (b) Social connections;
- (c) Knowledge of parenting and child development;
- (d) Concrete support in times of need; and
- (e) Social and emotional competence of children.

"Supervise" or **"supervision"** means an ONB provider must:

- (a) Be able to see or hear the children they are responsible for at all times;
- (b) Use their knowledge of each child's development and behavior to anticipate what may occur to prevent unsafe or unhealthy events or conduct, or to intervene in such circumstances as soon as possible;
- (c) Reposition themselves or the children to be aware of where children are and what they are doing during care; and
- (d) Reassess and adjust their supervision each time ONB program activities change.

See "active supervision" for a heightened standard of care.

"Suspend" means, for purposes of an ONB provider's licensing status, an enforcement action by the department to temporarily stop a license in order to protect the health, safety, or welfare of enrolled children or the public.

"Swimming pool" means a body of water that has a depth greater than two feet (24 inches).

"Technical assistance" means a service provided to an ONB provider by department staff or a contracted third party. The goal of technical assistance is to offer guidance, information, and resources to help an ONB provider fully comply with the licensing requirements described in this chapter and chapter 43.216 RCW.

"Transition" means the process or period of time to change from one activity, place, grade level, or sleeping arrangement to another.

"Unlicensed space" means the indoor and outdoor areas of the premises not approved by the department as licensed space that the ONB provider must make inaccessible to the children during ONB program hours.

"Unsupervised access" has the same meaning as WAC 110-06-0020.

"Usable space" means the areas that are available at all times for use by children in an ONB program and meets licensing requirements.

"USDA" means the United States Department of Agriculture.

"Vapor product" means any:

- (a) Device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation;

(b) Cartridge or container of a solution or substance intended to be used with or in such device or to refill such device; or

(c) Solution or substance intended for use in such a device including, but not limited to, concentrated nicotine, nonnicotine substances, or supplemental flavorings. This includes any electronic cigarettes, electronic nicotine delivery systems, electronic cigars, electronic cigarillos, electronic pipes, hookahs, steam stones, vape pens, or similar products or devices, as well as any parts that can be used to build such products or devices.

"Vapor product" does not include any drug, device, or combination product approved for sale by the FDA that is marketed and sold for such approved purpose.

"**Variance**" is an official approval by the department to allow an ONB program to achieve an outcome of a rule or rules in these standards in an alternative way than described due to the needs of a unique or specific ONB program approach or methodology. The department may grant a request for variance if the proposed alternative provides clear and convincing evidence that the health, welfare, and safety of all enrolled children will not be jeopardized. An ONB provider does not have the right to appeal the department's disapproval of request for variance under chapter 110-03 WAC. The ONB provider may challenge a variance disapproval on a department form.

"**Volunteer**" includes any person who provides labor or services to an ONB provider but is not compensated with employment pay or benefits. A volunteer must never have unsupervised access to a child unless the volunteer is the parent or guardian of that child or is an authorized person pursuant to WAC 110-302-0345.

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

"**Wading pool**" means a pool that has a water depth of less than two feet, or 24 inches.

"**Waiver**" is an official approval by the department allowing an ONB provider not to meet or satisfy a rule in this chapter due to specific needs of the ONB program or an enrolled child. The department may grant a request for waiver if the proposed waiver provides clear and convincing evidence that the health, welfare, and safety of all enrolled children is not jeopardized. An ONB provider does not have the right to appeal the department's disapproval of a waiver request under chapter 110-03 WAC. The ONB provider may challenge a waiver disapproval on a department form.

"**Walk independently**" means an individual is able to stand and move easily without the aid or assistance of holding onto an object, wall, equipment, or another individual.

"**Water activities**" means ONB program activities in which enrolled children swim or play in a body of water that poses a risk of drowning for children. Water activities do not include using sensory tables, or playing in temporary puddles at an ONB program, standing near, but not entering water, or belly exploration where hands are the only body part accessing water.

"**Weapon**" 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.

"**Written food plan**" is a document designed to give alternative food to a child in care because of a child's medical needs or special diet, or to accommodate a religious, cultural, or family preference. A parent or guardian and the ONB provider must sign a written food plan.

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NEW SECTION

WAC 110-302-0010 License required. (1) Pursuant to RCW 43.216.295 and 43.216.742, individuals or entities that provide ONB child care services for a group of children who are 30 months through 12 years of age must be licensed by the department, unless the individuals or entities are exempt from licensing under RCW 43.216.010(2) and WAC 110-302-0025.

(2) The department must not license department employees or members of employees' households if employees are involved directly, or in an administrative or supervisory capacity in the:

- (a) Licensing process;
- (b) Placement of children in licensed ONB programs; or
- (c) Authorization of payment for children in care.

(3) In addition to the requirements described in chapter 43.216 RCW and the requirements described in this chapter, applicants must comply with the following ONB child care license requirements:

(a) ONB programs must operate and conduct programming with a philosophy, curriculum, and organizational practices that provide developmentally appropriate early childhood education and nature-based education;

(b) ONB programs must occur outdoors for not less than four hours per day or 50 percent of the daily ONB program hours, whichever is less;

(c) ONB programs must comply with the requirements contained in chapters 43.216 RCW and 110-06 WAC background checks, the Child Care Development Fund at 45 C.F.R. Part 98, and this chapter; and

(d) ONB programs must be offered on a regular and ongoing basis for one or more preschool-age or school-age children not related to the licensee. For purposes of this chapter, "not related" means not any of the relatives listed in RCW 43.216.010 (2)(a).

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NEW SECTION

WAC 110-302-0011 License transfers. (1) Pursuant to RCW 43.216.305(1) and subject to this chapter, full licenses issued under chapter 43.216 RCW may be transferred to a new licensee in the event of a transfer of ownership of a child care operation. Current licensees or applicants must apply to transfer a license using forms and methods determined by the department.

(2) A full license will remain valid and may be transferred to a new licensee if:

(a) The new licensee meets the requirements of RCW 43.216.305(2); and

(b) The department determines before the license transfer the new licensee's child care operation is substantially similar to or an improvement of the originally licensed child care operation.

(3) To determine whether the new licensee's child care operation is substantially similar to or an improvement of the original child care operation, the department must assess the following factors of the new child care operation:

- (a) The physical environment and all anticipated changes or updates, including the land use agreement and benefit risk assessments;
- (b) The qualifications and number of all retained and newly hired staff;
- (c) The ONB program operations and all anticipated changes or updates;
- (d) The relation or connection, if any, between the original and new licensee; and
- (e) Whether the new child care operation is able to comply with the licensing requirements described in chapter 43.216 RCW, this chapter, and chapter 110-06 WAC.

(4) The department will determine and disclose to the current licensee and new licensee whether the license is in good standing prior to transferring the license.

(5) At the request of the current licensee or the new licensee, the department will disclose the following license information from the last four years to one or both parties:

- (a) A description of any valid complaints;
- (b) A description of any instances that the department found non-compliance with the requirements contained in chapter 43.216 RCW, this chapter, and chapter 110-06 WAC;
- (c) Safety plans both historical and current;
- (d) Facility licensing compliance agreements both historical and current; and
- (e) Enforcement actions levied or pending against the license.

(6) Current licensees and new licensees have the right to appeal the department's denial of a license transfer application by requesting an adjudicative proceeding pursuant to the hearing rules described in chapter 110-03 WAC.

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NEW SECTION

WAC 110-302-0015 ONB program managers' simultaneous absence.

(1) Licensees must have written plans for when the director, program director, assistant director, site director, and program supervisor will be simultaneously absent but the ONB program remains open for the care of children. If the director, program director, assistant director, site director, and program supervisor are simultaneously absent for more than 10 consecutive operating days, ONB providers must submit written notifications to the department and each child's parent or guardian at least two business days prior to the planned absence.

(2) A written notification under this section must include the following information:

- (a) The time period of the absence;
 - (b) Emergency contact information for the absent ONB provider;
- and
- (c) A written plan for ONB program staff to follow that includes:
 - (i) A staffing plan that meets child-to-staff ratios;

- (ii) Identification of a lead teacher to be present and in charge;
 - (iii) ONB staff roles and responsibilities;
 - (iv) How each child's needs will be met during the absence; and
 - (v) The responsibility for meeting licensing requirements.
- (3) If an ONB provider or staff fails to comply with one or more of the requirements described in this section, during an absence, an ONB provider must:
- (a) Retrain ONB program staff on the standards documented on the inspection report; and
 - (b) Document when the retraining occurred.

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NEW SECTION

- WAC 110-302-0016 Inactive status—Voluntary and temporary closure.** (1) If a licensee plans to temporarily close their ONB program for more than 30 calendar days, and this closure is a departure from the ONB program's regular schedule, the ONB provider must submit a notification to go on inactive status to the department at least two business days prior to the planned closure. Notifications for inactive status must include:
- (a) The date the ONB program will cease operating;
 - (b) The reasons why the licensee is going on inactive status; and
 - (c) A projected date the ONB program will reopen.
- (2) The requirements of this section do not apply to licensed ONB programs that have temporary closures beyond 30 calendar days as part of their regular schedule, such as ONB programs based on the school year or seasonal occupations.
- (3) The department will not place an ONB provider on inactive status during their first initial six month licensing period unless for an emergency.
- (4) An ONB provider must inform parents and guardians that the ONB program will temporarily close.
- (5) An ONB provider is responsible for notifying the department of changes to ONB program status including voluntary closures, new staff, or other ONB program changes. ONB program status updates must also be completed in the department's electronic system.
- (6) Background check rules in chapter 110-06 WAC, including allegations of child abuse or neglect, will remain in effect during inactive status.
- (7) After receiving a notice of inactive status, the department will:
- (a) Place the license on inactive status;
 - (b) Inform the licensee that the license is inactive; and
 - (c) Notify the following ONB programs of the inactive status:
 - (i) The department's child care subsidy programs;
 - (ii) CACFP; and
 - (iii) Early achievers, ECEAP, Head Start Grantee, and child care aware of Washington.
- (8) A licensee is still responsible for maintaining annual compliance requirements during inactive status pursuant to RCW 43.216.305.

(9) If inactive status exceeds six months within a 12-month period, the department must close the license. The licensee must reapply for licensing pursuant to RCW 43.216.305(3).

(10) During the inactive status period, the department may pursue enforcement actions after three failed attempts to monitor an ONB program if:

(a) An ONB provider has not been available to permit the monitoring visits;

(b) Monitoring visits were attempted within a three-month time period; and

(c) The department attempted to contact the ONB provider by phone during the third attempted visit while still on the ONB program premises.

(11) When a licensee is ready to reopen after a temporary closure, the licensee must notify the department in writing. After receiving notice of the intent to reopen, the department will in the following order:

(a) Activate the license and inform the licensee that the license is active;

(b) Notify the following programs of the active status:

(i) The department's child care subsidy programs;

(ii) CACFP; and

(iii) Early achievers, ECEAP, Head Start Grantee, and child care aware of Washington; and

(c) Conduct a health and safety visit of the ONB program within 10 business days to determine that the ONB provider is in compliance with this chapter.

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NEW SECTION

WAC 110-302-0020 Unlicensed programs. (1) If the department suspects that individuals or agencies are operating an unlicensed ONB program, the department must follow the requirements described in RCW 43.216.360.

(2) If an individual or agency decides to obtain a license, within 30 calendar days from the date of the department's required notice described in RCW 43.216.360 and subsection (1) of this section, the individual or agency must submit a written agreement on a department form stating they agree to:

(a) Attend and participate in the next available department ONB licensing orientation; and

(b) Submit a licensing application after completing the orientation.

(3) The department's written notice under subsection (1) of this section must inform the individual or agency operating an unlicensed ONB program:

(a) That an ONB program license is required and why it is required;

(b) That the individual or agency is suspected of providing care without a license;

(c) That pursuant to RCW 43.216.360, the individual or agency must immediately stop operating an ONB program;

- (d) That the department may issue a penalty of \$250 for each day an ONB child care provider provided care without being licensed;
 - (e) How the individual must respond to the department;
 - (f) How the individual may apply for a license;
 - (g) How a fine, if issued, may be suspended or withdrawn if the individual applies for a license;
 - (h) That the individual has a right to request an adjudicative proceeding if a fine is assessed;
 - (i) How to ask for a hearing, under chapter 34.05 RCW Administrative Procedure Act, chapters 43.216 RCW and 110-03 WAC DCYF's administrative hearing rules; and
 - (j) That if the agency does not initiate the licensing process within 30 days of the date of the notice, the department will post on its website that the individual is operating an ONB program without a license.
- (4) An individual or agency operating an unlicensed ONB program:
- (a) Will be guilty of a misdemeanor pursuant to RCW 43.216.365;
- and
- (b) May be subject to an injunction pursuant to RCW 43.216.355.

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NEW SECTION

WAC 110-302-0025 Certified and exempt ONB programs. (1) Pursuant to RCW 43.216.010(2), the department must not license ONB programs that are legally exempt from licensing pursuant. However, if ONB programs request to become certified by the department, the department must apply all licensing rules to the otherwise exempt programs. In such a case, the department must apply licensing rules equally to licensed and certified ONB programs.

(2) The department may certify for subsidy payment only, an otherwise exempt ONB programs without further inspection if the ONB programs are:

- (a) A part of a tribal program that is subject to health and safety oversight as approved by the United States Department of Health and Human Services under the tribal program's Child Care Development Fund (CCDF) Plan and the tribal program is licensed or monitored by an Indian tribe, band, nation, or other organized community of Indians, including an Alaska native village as defined in 43 U.S.C. Sec. 1602(c), recognized as eligible for services by the United States Secretary of the Interior;

- (b) Certified by the DOD; or

- (c) Approved by the OSPI.

(3) ONB programs exempt from licensing pursuant to RCW 43.216.010(2) must use the department's form to submit their exempt status.

(4) ONB programs requesting certification must be located on the premises over which the tribe, DOD, or OSPI has jurisdiction.

(5) ONB programs regulated by a tribe, the DOD, or OSPI may request certification:

- (a) For subsidy payment only; or

- (b) As meeting the requirements otherwise detailed in this chapter.

(6) The department must not certify a department employee or a member of their household when the employee is involved directly, or in an administrative or supervisory capacity, in the:

- (a) Certification process;
- (b) Placement of a child in a certified ONB program; or
- (c) Authorization of payment for the child in care.

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NEW SECTION

WAC 110-302-0030 Nondiscrimination. (1) ONB programs are defined by state law as places of public accommodation that must:

(a) Not discriminate in employment practices or client services based on race, creed, color, national origin, sex, honorably discharged veteran or military status, marital status, gender, sexual orientation, age, religion, or ability; and

(b) Comply with the requirements of the Washington law against discrimination (chapter 49.60 RCW) and the ADA.

(2) ONB programs must have written nondiscrimination policies addressing at least the factors listed in subsection (1) of this section.

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NEW SECTION

WAC 110-302-0035 Department access to agency premises, records, ONB programs, and staff. (1) Pursuant to RCW 43.216.250(8), applicants and ONB programs must grant reasonable access to the department during their hours of operation for the purpose of announced or unannounced inspections.

(a) Applicants, licensees, and ONB program staff must allow the department's authorized staff to inspect the indoor and outdoor licensed space and any adjacent enclosures, areas, spaces, substances, machinery, or devices that may directly impact the health, safety, or well-being of enrolled children to verify compliance with the requirements of this chapter and chapter 43.216 RCW.

(b) For purposes of this chapter, "hours of operation" means the hours of the day that a licensee offers ONB program services as reported to the department on the license application or modification paperwork, or as indicated in the parent or guardian handbook.

(2) The department may deny, suspend, revoke, or not continue a license when an applicant, licensee, or ONB program staff refuses to allow the department's authorized staff access to any of the following:

- (a) Information relevant to the ONB program;
- (b) The agency's premises pursuant to subsection (1) of this section;
- (c) Child, staff, or ONB program records or files;
- (d) Staff; or
- (e) Children in care.

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CHILD OUTCOMESNEW SECTION

WAC 110-302-0055 Developmental screening and communication to parents or guardians. (1) ONB providers must inform parents or guardians of preschool-age children about the importance of developmental screenings.

(2) If not conducted on-site, ONB providers must share information with parents or guardians of preschool-age children about organizations that conduct developmental screenings such as a local business, school district, health care provider, specialist, or resources listed on the department website.

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NEW SECTION

WAC 110-302-0065 School readiness and family engagement activities. (1) At least once per calendar year, ONB providers must supply kindergarten or school readiness materials to the parents or guardians of preschool-age children.

(2) Kindergarten or school readiness materials must be the same or similar to resources posted online by OSPI, the department, or other equivalent organizations. These materials may address:

(a) Kindergarten transition activities, if applicable; and

(b) Developmentally appropriate local school and school district activities designed to engage families.

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FAMILY ENGAGEMENT AND PARTNERSHIPS

NEW SECTION

WAC 110-302-0080 Family support self-assessment. ONB providers who serve and enroll preschool-age children must assess their ONB program within one year of being licensed to identify ways to support the families of enrolled children. ONB providers must complete the strengthening families ONB program self-assessment, or an equivalent assessment.

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NEW SECTION

WAC 110-302-0085 Family partnerships and communication. (1) ONB providers must communicate with families to identify individual children's developmental goals for each preschool-age child enrolled in the ONB program.

(2) ONB providers must attempt to obtain information from each child's family about that child's developmental, behavioral, health, linguistic, cultural, social, and other relevant information. ONB providers must make this attempt upon that child's enrollment and annually thereafter.

(3) ONB providers must determine how the ONB program can best accommodate each child's individual characteristics, strengths, and needs. ONB providers must utilize the information in subsection (2) of this section and seek input from family members and staff familiar with a child's behavior, developmental, and learning patterns.

(4) ONB providers must:

(a) Attempt to discuss with parents or guardians information including, but not limited to:

(i) A child's strength in areas of development, health issues, special needs, and other concerns;

(ii) Family routines or events, approaches to parenting, family beliefs, culture, language, and child rearing practices;

(iii) Internal transitions within the ONB program and transitions to external services or ONB programs, as necessary;

(iv) Collaboration between the ONB provider and the parent or guardian in behavior management; and

(v) A child's progress, at least two times per year, for preschool-age children;

(b) Communicate the importance of regular attendance for the preschool-age child;

(c) Give parents or guardians the ONB program's contact information for questions or concerns;

(d) Give families opportunities to share their language and culture in the ONB program;

(e) Arrange a confidential time and space for individual conversations regarding children, as needed;

(f) Allow parents or guardians access to their child during normal hours of operation, except as excluded by a court order; and

(g) Communicate verbally or in writing:

(i) Changes in drop-off and pickup arrangements as needed; and

(ii) Daily activities.

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PROFESSIONAL DEVELOPMENT, TRAINING, AND REQUIREMENTSNEW SECTION**WAC 110-302-0100 General staff qualifications for ONB programs.**

All ONB providers must meet the applicable requirements detailed in this section prior to working at a licensed or certified ONB program.

(1) Prior to being granted an initial license, **licensees** must:

- (a) Meet the requirements of the director listed in subsection (2) of this section;
- (b) Meet the requirements of the program director listed in subsection (5) of this section; or
- (c) Hire a director or program director who meets the qualifications.

(2) **Directors or assistant directors** for ONB programs that enroll preschool-age and school-age children, or only preschool-age children, manage the ONB program and set appropriate ONB program, and staff expectations.

(a) A **director** must meet the following qualifications:

- (i) Be at least 18 years old;
- (ii) Have an ECE state certificate or equivalent and nature-based education training or equivalent as approved and verified in the electronic workforce registry by the department as follows:
 - (A) Have 30 hours or three credits of nature-based education training at the time of initial licensure or hire; and
 - (B) Complete an ECE state certificate or equivalent by August 1, 2026, or within five years of being hired or promoted into the position, whichever occurs later;
- (iii) Have two years of experience as a teacher of children in any age group enrolled in an ONB program and at least six months of experience in administration or management, or a department approved plan;
- (iv) Unless otherwise stated in this chapter, complete the applicable preservice training, in-service, and ONB program policy requirements, pursuant to WAC 110-302-0105, 110-302-0106, 110-302-0107, and 110-302-0110;

(v) If a director does not meet the minimum qualification requirements, the ONB program must employ an assistant director or program supervisor who meets the minimum qualifications of these positions; and

(vi) Have their continued professional development progress documented annually.

(b) An **assistant director** must meet the following qualifications:

- (i) Be at least 18 years old;
- (ii) Have an ECE state certificate or equivalent and nature-based education training or equivalent as approved and verified in the electronic workforce registry by the department as follows:
 - (A) Have 30 hours or three credits of nature-based education training at the time of initial licensure or hire; and

(B) Complete an ECE state certificate or equivalent by August 1, 2026, or within five years of licensure or being hired or promoted into the position, whichever occurs later.

(iii) Have two years of experience as a teacher of children in any age group enrolled in an ONB program or two years of experience in administration or management, or a department approved plan;

(iv) Unless otherwise stated in this chapter, complete the applicable preservice training, in-service, and ONB program policy requirements, pursuant to WAC 110-302-0105, 110-302-0106, 110-302-0107, and 110-302-0110; and

(v) Have their continued professional development progress documented annually.

(c) A **director** or an **assistant director** or the equivalent staff position must provide the following services:

(i) Be on-site for the daily operation of the ONB program 50 percent or more of the weekly operating hours up to 40 hours per week, or designate a person with the qualifications of an assistant director, program supervisor or equivalent. On-site duties may include, but are not limited to, providing oversight, as-needed support for children and staff, and providing family engagement services. For the other 50 percent, the director must designate a staff person who meets at least the qualifications of a lead teacher to be on-site and in charge. The director may act as a substitute teacher if acting as a substitute does not interfere with management or supervisory responsibilities;

(ii) Be available to provide in-person support to the ONB program within 30 minutes of a request for support;

(iii) Comply with the requirements of this chapter;

(iv) Develop a curriculum philosophy, communicate the philosophy to all ONB program staff and parents, and train staff to ensure the philosophy serves all children in the ONB program or designate a program supervisor with this responsibility;

(v) Lead the development of benefit-risk assessments, and associated risk management policies and procedures, pursuant to WAC 110-302-0471;

(vi) Have knowledge of community resources available to families, including resources for children with special needs and be able to share these resources with families; and

(vii) Oversee professional development plans for ONB program staff including, but not limited to:

(A) Providing support to staff for creating and maintaining staff records;

(B) Setting educational goals with staff and locating or coordinating state-approved training opportunities for staff; and

(C) Observing and mentoring staff.

(3) **Program supervisors** for programs that enroll preschool-age and school-age children, or only preschool-age children, plan the ONB program services under the oversight of a director or assistant director.

(a) A **program supervisor** must meet the following qualifications:

(i) Be at least 18 years old;

(ii) Have an ECE state certificate or equivalent and nature-based education training or equivalent as approved and verified in the electronic workforce registry by the department as follows:

(A) Have 30 hours or three credits of nature-based education training at the time of initial licensure or hire; and

(B) Complete an ECE state certificate or equivalent by August 1, 2026, or within five years of being hired or promoted into the posi-

tion, whichever occurs later. If the director or assistant director does not have an ECE state certificate or equivalent as required by this section, the program supervisor must have an ECE state certificate at the time of initial licensing of the ONB child care program or from the time of hire or promotion;

(iii) Have two years of experience as a teacher of preschool-age or school-age children in an ONB program;

(iv) Unless otherwise stated in this chapter, complete the applicable preservice training, in-service, and ONB program policy requirements, pursuant to WAC 110-302-0105, 110-302-0106, 110-302-0107, and 110-302-0110; and

(v) Have their continued professional development progress documented annually.

(b) A program supervisor performs the following duties:

(i) Guide the planning of curriculum philosophy, implementation, and environmental design of the ONB program;

(ii) Comply with the requirements described in this chapter;

(iii) Act as a teacher or director as long as it does not interfere with the program supervisor's primary responsibilities; and

(iv) Manage the professional development plans and requirements for staff as needed.

(c) One person may be the director, assistant director, and the program supervisor when qualified for all positions, provided that all requirements of subsection (2)(a) and (b) of this section are met.

(4) Any individual hired or promoted into a position detailed in subsections (2) and (3) of this section who does not have an ECE state certificate or equivalent as required in this section must instead meet the requirements of this subsection. These requirements must be approved and verified in the electronic workforce registry by the department:

If an ONB program is licensed for this number of children:	Then the director, assistant director, or program supervisor must have completed at least this number of college quarter credits in early childhood education core competencies:
12 or fewer	10
13 to 24	25
25 or more	45

(5) **Program directors** for programs that enroll only school-age children manage the overall ONB program operations and facilities and set ONB program and staff expectations. The program director is not responsible for being on-site at the ONB program, unless the program director is filling in for an on-site role.

(a) A **program director** must meet the following qualifications:

(i) Be at least 18 years old;

(ii) Have 45 college credits in any 100-level or above college coursework or equivalent or nature-based education training or equivalent as approved and verified in the electronic workforce registry by the department as follows:

(A) Have 30 hours or three credits of nature-based education training at the time of initial licensure or hire; and

(B) Have at least 12 college credits in any 100-level or above college coursework or equivalent at the time of initial licensure or

being hired or promoted into the position, and complete an additional 33 college credits in any 100-level or above college coursework or equivalent within five years of initial licensure or being hired or promoted into the position;

(iii) Have two years of experience as a teacher of preschool-age or school-age children enrolled in an ONB program;

(iv) Have at least six months of experience in administration or management, or a department approved plan;

(v) Unless otherwise stated in this chapter, complete the applicable preservice training, in-service, and ONB program policy requirements, pursuant to WAC 110-302-0105, 110-302-0106, 110-302-0107, and 110-302-0110; and

(vi) Have their continued professional development progress documented annually.

(b) A program director must provide the following services:

(i) Comply with the requirements described in this chapter;

(ii) Be available to provide in-person support to the ONB program within 30 minutes of a request for support. On-site duties may include, but are not limited to, providing oversight, as-needed support for children and staff, and providing family engagement services;

(iii) Develop a curriculum philosophy, communicate the philosophy to all ONB program staff and parents, and train staff to ensure the philosophy serves all children in the ONB program (or designate a site director with this responsibility);

(iv) Lead the development of benefit-risk assessments and associated risk management policies and procedures pursuant to WAC 110-302-0471, or designate a site director to perform this duty;

(v) Have knowledge of community resources available to families, including resources for children with special needs and be able to share these resources with families, or designate a site director with this responsibility; and

(vi) Oversee professional development plans for ONB program staff including, but not limited to:

(A) Providing support to staff for creating and maintaining staff records;

(B) Setting educational goals with staff and locating or coordinating state-approved training opportunities for staff; and

(C) Mentoring the site director.

(6) **Site directors** (for programs that enroll only school-age children) plan and implement the ONB program services under the oversight of the program director. The site director is responsible for being on-site during the ONB program's operating hours.

(a) A site director must meet the following qualifications:

(i) Be at least 18 years old;

(ii) Have 30 college credits in any 100-level or above college coursework or equivalent and nature-based education training or equivalent as approved and verified in the electronic workforce registry by the department as follows:

(A) Have 30 hours or three credits of nature-based education training at the time of initial licensure or hire; and

(B) Have at least 12 college credits in any 100-level or above college coursework or equivalent at the time of initial licensure or being hired or promoted into the position, and complete an additional 18 college credits in any 100-level or above college coursework or equivalent within five years of initial licensure or being hired or promoted into the position;

- (iii) Have two years of experience as a teacher of preschool-age or school-age children in any ONB program;
 - (iv) Unless otherwise stated in this chapter, complete the applicable preservice training, in-service, and ONB program policy requirements, pursuant to WAC 110-302-0105, 110-302-0106, 110-302-0107, and 110-302-0110; and
 - (v) Have their continued professional development progress documented annually.
- (b) A site director performs the following duties:
- (i) Plan and implement curriculum and environmental design of the ONB program;
 - (ii) Providing regular on-site supervision of staff and volunteers;
 - (iii) Complies with the requirements of this chapter;
 - (iv) Act as a teacher as long as it does not interfere with the site director's primary responsibilities; and
 - (v) Observe and mentor staff.
- (7) One person may be the program director and the site director when qualified for both positions, provided that all requirements of subsection (5)(a) of this section are met.
- (8) **Lead teachers** are responsible for implementing the ONB program. Lead teachers develop and provide a nurturing and responsive learning environment that meets the needs of enrolled children.
- (a) A lead teacher must meet the following qualifications:
- (i) Be at least 18 years old;
 - (ii) Have a high school diploma or equivalent as approved and verified in the electronic workforce registry by the department;
 - (iii) Unless otherwise stated in this chapter, complete the applicable preservice, training, in-service, and ONB program policy requirements, pursuant to WAC 110-302-0105, 110-302-0106, 110-302-0107, and 110-302-0110; and
 - (iv) Have their professional development progress documented annually.
- (b) Lead teachers for programs that enroll preschool-age and school-age children, or only preschool-age children, must meet the following requirements:
- (i) Have an ECE short certificate or equivalent and nature-based education training or equivalent as approved and verified in the electronic workforce registry by the department as follows:
 - (A) Have 10 hours or one credit of nature-based education training at the time of hire;
 - (B) Have an ECE initial certificate or equivalent by August 1, 2026, or within five years of being hired or promoted into the position, whichever occurs later; and
 - (C) Have an ECE short certificate or equivalent by August 1, 2028, or within two years of receiving an ECE initial certificate;
 - (ii) During all operating hours when children are present and the director, assistant director, or program supervisor are not on-site, a lead teacher must meet the following additional requirements:
 - (A) Have two years of experience as a teacher in an ONB program; and
 - (B) Have completed a department orientation for ONB programs.
 - (c) Lead teachers for programs that enroll only school-age children must meet the following requirements:
 - (i) Have 12 college credits in any 100-level or above college coursework or equivalent and nature-based education training or equiv-

alent as approved and verified in the electronic workforce registry by the department as follows:

(A) Have 10 hours or one credit of nature-based education training at the time of hire; and

(B) Have 12 college credits in any 100-level or above college coursework or equivalent within five years of being hired or promoted into this position.

(ii) During all operating hours when children are present and the program director or site director are not on-site, a lead teacher must meet the following additional requirements:

(A) Have two years of experience as a teacher in an ONB program; and

(B) Have completed a department orientation for ONB programs.

(9) **Assistant teachers** help a lead teacher provide instructional support to children and implement developmentally appropriate programming.

(a) An assistant teacher must meet the following qualifications:

(i) Be at least 18 years old;

(ii) Have a high school diploma or equivalent as approved and verified in the electronic workforce registry by the department; and

(iii) Unless otherwise stated in this chapter, complete the applicable preservice training, in-service, and ONB program policy requirements, pursuant to WAC 110-302-0105, 110-302-0106, 110-302-0107, and 110-302-0110.

(b) Assistant teachers for programs that enroll preschool-age and school-age children, or only preschool-age children must meet the following requirements:

(i) Have an ECE initial certificate or equivalent by August 1, 2026, or within five years of being hired or promoted into this position, whichever occurs later;

(ii) Beginning August 1, 2026, an assistant teacher must have an ECE initial certificate or equivalent within five years of being hired or promoted into the position;

(iii) The ECE certificate or equivalent must be approved and verified in the electronic workforce registry by the department; and

(iv) Have their professional development progress documented annually.

(c) Assistant teachers may work alone with children with regular, scheduled, and documented oversight and on-the-job classroom training from the classroom's assigned lead teacher who is primarily responsible for the care of the same group of children for the majority of their day.

(10) **Aides** provide support to an assistant teacher, lead teacher, program supervisor, site director, assistant director, program director, or director.

(a) Aides must:

(i) Be at least 14 years old;

(ii) Have a high school diploma or equivalent as approved and verified in the electronic workforce registry by the department, or be currently enrolled in high school or an equivalent education ONB program;

(iii) Unless otherwise stated in this chapter, complete the applicable preservice training, in-service, and ONB program policy requirements, pursuant to WAC 110-302-0105, 110-302-0106, 110-302-0107, and 110-302-0110; and

(iv) Have their professional development progress documented annually.

(b) Aides may be counted in the staff-to-child ratio if they are working under the continuous oversight of a lead teacher, program supervisor, site director, assistant director, program director, or director.

(11) **Other personnel** who do not directly care for children and are not listed in subsections (1) through (10) of this section must meet the following qualifications:

(a) Complete and pass a background check, pursuant to chapter 110-06 WAC;

(b) Have a negative TB test, pursuant to WAC 110-302-0105; and

(c) Complete ONB program based staff policies and training, pursuant to WAC 110-302-0110.

(12) **Volunteers** help at ONB programs. Volunteers must meet the following qualifications:

(a) Be at least 14 years old and have written permission to volunteer from their parent or guardian if they are under 18 years old; and

(b) Work under the continuous oversight of a director, program director, assistant director, site director, program supervisor, lead teacher, or assistant teacher;

(c) Regular, ongoing volunteers may count in staff-to-child ratio if they meet the following qualifications:

(i) Be at least 18 years old;

(ii) Complete and pass a background check, pursuant to chapter 110-06 WAC;

(iii) Complete a TB test, pursuant to WAC 110-302-0105;

(iv) Unless otherwise stated in this chapter, complete the training requirements, pursuant to WAC 110-302-0106; and

(v) Complete ONB program based staff policies and training, pursuant to WAC 110-302-0110.

(d) Occasional volunteers must comply with (a) and (b) of this subsection and cannot count in staff-to-child ratio. Occasional volunteers may include, but are not limited to, a parent or guardian helping on a field trip, special guest presenters, or a parent or guardian, family member, or community member helping with a cultural celebration.

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NEW SECTION

WAC 110-302-0105 Preservice requirements. (1) A department provided ONB program orientation must be completed by:

(a) Applicants, coapplicants, licensees, directors, program directors, assistant directors, site directors, and program supervisors;

(b) Lead teachers who work without any of the individuals listed in (a) of this subsection on-site; and

(c) Prior to being in charge of the ONB program 50 percent of the time or more, ONB providers who are newly promoted or assuming one of the roles listed in (a) of this subsection.

(2) ONB providers must complete a department background check, pursuant to chapter 110-06 WAC.

(3) ONB providers, including volunteers, must provide documentation signed within the last 12 months by a licensed health care professional of tuberculosis (TB) testing or treatment consisting of:

- (a) A negative TB symptom screen and negative TB risk assessment;
- (b) A previous positive FDA-approved TB test and a current negative chest radiograph and documentation of clearance to safely work in an ONB program; or
- (c) A positive symptom screening or a positive risk assessment with documentation of:
 - (i) A current negative FDA-approved TB test;
 - (ii) A previous or current positive FDA-approved TB test; and
 - (iii) A current negative chest radiograph and documentation of clearance to safely work in an ONB program.
- (4) Upon notification of TB exposure, ONB providers may be required to be retested for TB as directed by the local health jurisdiction.

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NEW SECTION

- WAC 110-302-0106 Training requirements.** (1) ONB providers must complete the child care basics or the otherwise applicable training requirements contained in subsections (4) through (7) of this section. These trainings must be completed within three months of the date of initial licensure or the date of hire and prior to working in an unsupervised capacity with children. State or federal rules may require health and safety training described in this chapter be renewed annually.
- (2) License applicants and ONB providers must register with the electronic workforce registry prior to being granted an initial license or working with children in an unsupervised capacity.
- (3) License applicants, directors, program directors, assistant directors, site directors, program supervisors, lead teachers, assistant teachers, and aides must complete the ONB child care basics training or equivalent as approved or offered by the department:
- (a) Prior to being granted a license;
 - (b) Prior to working unsupervised with children; or
 - (c) Within three months of the date the ONB child care basics training becomes available if already licensed or employed.
- (4) ONB providers must complete the recognizing and reporting suspected child abuse, neglect, and exploitation training as approved or offered by the department according to subsection (1) of this section. Training must include the prevention of child abuse or neglect as defined in RCW 26.44.020 and the mandatory reporting requirements under RCW 26.44.030.
- (5) ONB providers must complete the emergency preparedness training as approved or offered by the department according to subsection (1) of this section.
- (6) ONB providers must complete the serving children experiencing homelessness training as approved or offered by the department according to subsection (1) of this section.
- (7) Directors, program directors, assistant directors, site directors, program supervisors, and lead teachers must complete the medication management and administration training as approved or offered by the department prior to giving medication to an enrolled child, or as indicated in subsection (1) of this section.

(8) ONB providers who directly care for children must complete the prevention of exposure to blood and body fluids training that meets Washington state department of labor and industries' requirements prior to being granted a license or working with children. This training must be repeated pursuant to Washington state department of labor and industries regulations.

(9) Directors, program directors, assistant directors, site directors, program supervisors, lead teachers, assistant teachers, and any other ONB provider counted in staff-to-child ratio, or who could potentially be counted in ratio, must be trained in first aid and cardiopulmonary resuscitation (CPR). This training must be renewed prior to expiring. Additionally, if an ONB program is operating more than 30 minutes from emergency medical care, including the time it would take an adult to walk from the trailhead to a potential location, there must be at least one staff person trained in wilderness first aid and CPR present with each group of children.

(a) Proof of training may be shown with a certification card, certificate, or instructor letter.

(b) The first-aid and CPR training and certification must:

(i) Be delivered in person and include a hands-on component for first aid and CPR demonstrated in front of an instructor certified by the American Red Cross, American Heart Association, American Safety and Health Institute, or other nationally recognized certification ONB program;

(ii) Include child and adult first aid and CPR; and

(iii) Be renewed prior to expiring.

(10) ONB providers who prepare or serve food to children at an ONB program must obtain a current food worker card prior to preparing or serving food. Food worker cards must:

(a) Be obtained through the local health jurisdiction, in-person or online; and

(b) Be renewed prior to expiring.

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NEW SECTION

WAC 110-302-0107 In-service training. (1) Directors, program directors, assistant directors, site directors, program supervisors, lead teachers, and assistant teachers must complete 10 hours of annual in-service training after 12 months of cumulative employment.

(a) Directors, assistant directors, program supervisors, lead teachers, and assistant teachers for ONB programs that enroll pre-school-age children must complete the department enhancing quality of early learning (EQEL) in-service training within 36 months of being hired, unless the ONB provider has completed a department approved alternative training. EQEL hours may count towards the 10 hours of annual in-service training.

(b) Every 36 months following the completion of EQEL training, directors, assistant directors, and program supervisors must complete a minimum of 10 hours of in-service training on "child development" and a minimum of 10 hours of in-service training on "leadership practices."

(c) Every 36 months, program directors and site directors must complete a minimum of 10 hours of in-service training in leadership practices.

(d) Child development training includes the following Washington core competencies: Child growth and development, curriculum and learning environment, ongoing measurements of child progress, family and community partnerships, health, safety, nutrition, and interactions.

(e) Leadership practices training includes the following Washington core competencies: Program planning and development, professional development, and leadership.

(2) In-service training requirements under this section may be met by completing college courses that align with the Washington state core competencies. These courses must be delivered by a postsecondary institution and approved by the department.

(3) Only five in-service training hours that exceed the requirements of subsection (1) of this section may be carried over from one fiscal year to the next fiscal year.

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NEW SECTION

WAC 110-302-0110 ONB program-based staff policies and training.

(1) An ONB provider must have and follow written policies for ONB program staff. Staff policies must include those listed in subsections (2) and (3) of this section and must be reviewed and approved by the department prior to issuing an ONB provider's initial license. ONB providers must notify the department when substantial changes are made.

(2) Staff policies must include, but are not limited to:

(a) All of the information in the parent or guardian handbook except fees;

(b) Job descriptions, pay dates, and benefits;

(c) Professional development expectations and plans;

(d) Expectations for attendance and conduct;

(e) ONB program staff responsibilities for:

(i) Child supervision requirements, including preventing children's access to unlicensed space;

(ii) Child growth and development;

(iii) Developmentally appropriate curriculum and activities;

(iv) Teacher-child interaction;

(v) Child protection, guidance, and discipline techniques;

(vi) Food service practices;

(vii) Off-site field trips, if applicable;

(viii) Transporting children, if applicable;

(ix) Health, safety, and sanitization procedures;

(x) Medication management procedures;

(xi) Medical emergencies, fire, disaster evacuation, and emergency preparedness plans;

(xii) Mandatory reporting of suspected child abuse, neglect, and exploitation, per RCW 26.44.020 and 26.44.030 and all other reporting requirements;

(xiii) Implementation of child's individual health care or special needs plan;

- (xiv) Following nonsmoking, vaping, alcohol, and drug regulations;
- (xv) Religious, equity, and cultural responsiveness;
- (xvi) Partnering with the local Native American tribe(s);
- (xvii) Nondiscrimination;
- (xviii) Planned daily activities and routines;
- (xix) ONB benefit-risk assessment, policies, and procedures, if applicable; and
- (xx) ONB program toileting options, as applicable;
- (f) Staff responsibilities if the director, assistant director, program director, site director, or program supervisor is absent from the ONB program;
- (g) A plan that includes how both administrative and child care-taking duties are met when a job requires such dual responsibilities; and
- (h) Observation, evaluation, and feedback policies.
- (3) An ONB provider must have and follow written policies requiring staff working, transitioning, or covering breaks with the same classroom or group of children to share applicable information with each other on a daily basis regarding:
 - (a) A child's health needs, allergies, and medication;
 - (b) Any change in a child's daily schedule;
 - (c) Significant educational or developmental information;
 - (d) Any communications from the family; and
 - (e) Information to be shared with the family.
- (4) An ONB provider must develop, deliver, and document the delivery of staff training specific to the ONB program and premises.
 - (a) Training topics must include:
 - (i) Staff policies listed in subsections (2) and (3) of this section;
 - (ii) Chapter 43.216 RCW;
 - (iii) Chapter 110-302 WAC; and
 - (iv) Chapter 110-06 WAC.
 - (b) Training must be updated with changes in ONB program policies and state or federal regulations.

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NEW SECTION

- WAC 110-302-0111 Staff oversight.** (1) ONB providers who oversee staff must:
- (a) Establish a work plan with clear expectations;
 - (b) Be aware of what staff are doing; and
 - (c) Be available and able to respond to an emergency to protect the health and safety of children in care.
- (2) When the director, program director, assistant director, site director, program supervisor, lead teacher, or assistant teacher is the only staff supervising an aide or volunteer, the aide or volunteer may be out of the supervisor's visual and auditory range only when the aide, volunteer, or supervisor is attending to personal needs.

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NEW SECTION

WAC 110-302-0115 Staff records. (1) ONB providers must establish a records system for themselves, staff, and volunteers that complies with the requirements described in this chapter. Staff records must be:

(a) Confirmed by the licensee, director, program director, assistant director, site director, or program supervisor;

(b) Entered and maintained in the electronic workforce registry, if applicable. Paper records may be discarded once entered into the electronic workforce registry and verified by the department;

(c) Updated to delete staff names from the electronic workforce registry when no longer employed at the ONB program; and

(d) Kept on-site or in the ONB program's administrative office in a manner that allows the department to review the records.

(2) Records for ONB providers and staff must include:

(a) First and last name;

(b) Date of birth;

(c) Job title;

(d) First and last day of employment, if applicable;

(e) Proof of professional credentials, requirements, and training for staff, pursuant to WAC 110-302-0100 through 110-302-0110.

(3) A licensee, director, program director, assistant director, site director, or program supervisor must maintain the following records for each ONB provider and ONB program staff in a confidential manner. These records must be reviewable by the department and must include at a minimum:

(a) A copy of current government issued photo identification;

(b) Emergency contact information;

(c) Completed employment application or resume;

(d) Annual observation, evaluation, and feedback information;

(e) The licensee's Social Security number, federal EIN, or a written document stating the licensee does not possess either; and

(f) Immunization records including exemption document, pursuant to WAC 110-302-0120 (3) (a).

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NEW SECTION

WAC 110-302-0120 Providing for the personal, professional, and health needs of staff. (1) Licensees must provide for the personal and professional needs of staff by:

(a) Having a secure place to store personal belongings that is inaccessible to children;

(b) Having a readily accessible, working telephone to use for emergency calls or to contact the parents of enrolled children;

(c) Providing file and storage space for professional materials; and

(d) Providing for the toileting needs of ONB program staff pursuant to the ONB programs' toileting options policy.

(2) ONB providers must be excluded from the ONB program premises when their illness or condition poses a risk of spreading a harmful disease or compromising the health and safety of others. The illnesses

and conditions that require staff to be excluded are pursuant to WAC 110-302-0205.

(3) Staff and volunteers who have not been vaccinated, or have not shown documented immunity to a vaccine preventable disease, may be required by the local health jurisdiction or the department to remain off-site during an outbreak of a contagious disease described in WAC 246-110-010. ONB staff or volunteers who have not been vaccinated against measles, mumps, and rubella or shown proof of immunity from measles must not be allowed on the ONB program premises except as provided in (a) and (b) of this subsection.

(a) ONB programs may allow persons to be employed or volunteer on the ONB program premises for up to 30 calendar days if the person signs a written attestation that they received the measles, mumps, and rubella vaccine, or is immune from measles, but require additional time to obtain and provide their immunization records. The required records must include immunization records indicating the employee or volunteer has received the measles, mumps, and rubella vaccine; or records that show proof of immunity from measles through documentation of laboratory evidence of antibody titer or a health care provider's attestation of the person's history of measles sufficient to provide immunity against measles.

(b) ONB programs may allow persons to be employed or volunteer on the ONB program premises if they provide the ONB program with a written certification signed by a health care practitioner, as defined in RCW 28A.210.090(3), that the measles, mumps, and rubella vaccine is, in the practitioner's judgment, not advisable for the person. This subsection (3)(b) does not apply if a person's health care practitioner determines that the measles, mumps, and rubella vaccine is no longer contraindicated.

(4) ONB programs' health policies, pursuant to WAC 110-302-0500, must include provisions for excluding or separating ONB program staff with a contagious disease described in WAC 246-110-010.

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NEW SECTION

WAC 110-302-0125 Character, competence, and suitability to serve children in care—Professional evaluations. (1) ONB providers must have the personal characteristics, competencies, and suitability described in this section to operate, oversee, or work in a licensed ONB program.

(a) The understanding, ability, physical health, emotional stability, good judgment, and personality suited to meet the physical, intellectual, mental, emotional, and social needs of children in care;

(b) Be authorized by the department to care for or have unsupervised access to children in care pursuant to chapter 110-06 WAC; and

(c) Be able to furnish children in care with a healthy, safe, nurturing, respectful, supportive, and responsive environment.

(2) To further assess a person's character, competence, or suitability to serve children in care, the department at its discretion may require ONB providers who have or may have access to children in care, to undergo one or more of the following:

(a) Sexual deviancy evaluations;

- (b) Substance abuse evaluations;
- (c) Psychiatric evaluations;
- (d) Psychological evaluations; or
- (e) Medical evaluations.

(3) Any evaluation required under subsection (2) of this section will be conducted at the expense of the person being evaluated or the ONB provider with which that person is associated.

(4) The person being evaluated under subsection (2) of this section must give the department permission to speak with the evaluator(s) who conducts or conducted an evaluation both prior to and after the evaluation.

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ENVIRONMENT SPACE AND FURNISHINGS

NEW SECTION

WAC 110-302-0130 Indoor and permanently located outdoor classroom ONB program space. (1) ONB programs utilizing indoor space or structure only to meet the biological needs of children must comply with WAC 110-302-0356 and 110-302-0415, and all other applicable requirements of this chapter.

(2) ONB providers utilizing indoor space or structure for educational activity must apply for the relevant child care center or family home child care license, pursuant to chapter 110-300 WAC, or school-age program license pursuant to chapter 110-301 WAC.

(3) Any licensed indoor space, used as part of the ONB program, must be accessible to the ONB provider and children during ONB program operating hours.

(4) ONB program space, ramps, and handrails must comply with, be accessible to, and accommodate children and adults with disabilities as required by the Washington Law Against Discrimination (chapter 49.60 RCW) and the ADA.

(5) Indoor space and permanently located outdoor classroom space must allow children to move between areas without disrupting another child's work or play.

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NEW SECTION

WAC 110-302-0135 Routine care, play, learning, relaxation, and comfort. (1) ONB programs operating with a permanently located outdoor classroom must have accessible and child-size furniture and equipment in sufficient quantity for the number of children in care. ONB programs may use picnic benches in sufficient quantity for the

number of children in care, with adaptations to support children as needed, or provide alternative seating and surface options, such as blankets or logs.

(2) If utilized by an ONB program, furniture and equipment must be:

(a) Maintained in a safe working condition;

(b) Developmentally and age appropriate;

(c) Visually inspected at least weekly for hazards, broken parts, or damage. All equipment with hazardous, broken parts or damage must be repaired as soon as possible and must be inaccessible to children until repairs are made according to the manufacturer's instructions, if available. Natural materials of an ONB program, such as logs and trees, must be inspected and any hazards that are not a result of the natural quality of the material must be mitigated, such as the removal of broken limbs from climbing trees;

(d) Arranged in a way that does not interfere with other play equipment;

(e) Installed and assembled according to manufacturer's specifications;

(f) Stored in a manner to prevent injury; and

(g) Accessible to the child's height so that children can find, use, and return materials independently.

(3) Subsection (2)(a) through (g) of this section may not apply to ONB programs operating in public areas where the equipment is not the property of the ONB provider and not intended for the use of the children.

(4) ONB programs must provide and maintain a space that is suitable for comfort and relaxation, pursuant to WAC 110-302-0140 (2) and (5).

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NEW SECTION

WAC 110-302-0140 Space arrangement, child-related displays, private space, and belongings. (1) ONB program materials and equipment must be visible and accessible to children in care, and arranged to promote and encourage independent access by children. The outdoor natural environment must provide age and developmentally appropriate materials for children, consistent with the ONB program's curriculum philosophy.

(2) ONB providers must offer or allow a child to create a place for privacy. Such a space must:

(a) Still enable the ONB provider to supervise children; and

(b) Include an area accessible to children who seek or need time alone or in small groups.

(3) ONB providers must have extra clothing available for children who wet, soil, or have a need to change clothes. Pursuant to WAC 110-302-0147, the ONB program must ensure that children have the appropriate clothing for the weather and must have extra clothing available for children whose parent or guardian did not provide the appropriate clothing.

(4) ONB providers must designate storage space for each child's belongings while the child is in attendance. At a minimum, the space must be:

- (a) Accessible to the child; and
- (b) Large enough and spaced sufficiently apart from other storage space to:
 - (i) Store the child's personal articles and clothing; and
 - (ii) Promote or encourage children to organize their possessions.
- (5) Child usable and accessible areas must be arranged, or selected by an ONB program, to provide sufficient space for routine care, child play, and learning activities. These areas must be designed or selected by ONB programs to:
 - (a) Allow ONB providers to supervise or actively supervise the children, depending on the nature of the activities;
 - (b) Allow children to move freely; and
 - (c) Allow for different types of activities at the same time, such as gross motor activity, natural sciences, dramatic play, music and movement, language and literacy learning, manipulatives and loose parts, and environmental literacy opportunities.

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NEW SECTION

WAC 110-302-0145 ONB program space and active play. (1) ONB program staff must visually inspect meeting spaces and permanently located outdoor classrooms or other commonly used spaces prior to children arriving. ONB providers must have a method of removing or mitigating any hazard on ONB licensed space such as, but not limited to, loose overhead branches, hazardous materials or devices left in public spaces, wildlife, or wildlife droppings.

(2) Pursuant to WAC 110-302-0356, ONB program space must promote a variety of age and developmentally appropriate active play areas for children in care. Activities must encourage and promote both moderate and vigorous physical activity such as running, jumping, skipping, throwing, pedaling, pushing, pulling, kicking, and climbing.

(3) ONB programs must have access to at least 4,000 square feet of natural space per child to support a nature-based curriculum, unless otherwise approved by a park's director and the department.

(a) Within the 4,000 square feet of natural space, the ONB provider must identify at least 75 square feet per child accessing the play space, at any given time that is suitable for vigorous and active play and gross motor activity.

(b) ONB providers must encourage children to engage in active play for at least 30 minutes of gross motor activity for every three hours the children are in attendance or 10 minutes for each hour of programming at the ONB program operating less than three hours, pursuant to WAC 110-302-0360.

(4) ONB programs must have shaded areas in outdoor play space provided by trees, buildings, or shade structures. ONB providers engaging children in unshaded areas must notice and respond to the children's comfort and safety in all temperatures, pursuant to WAC 110-302-0147.

(5) When moving between areas in the ONB program space, or when moving to and from a licensed indoor program space to outdoor program space, ONB providers must identify and use safe routes and active supervision.

(6) ONB programs must meet the following requirements when using natural play spaces not enclosed by a fence, wall, or similar barrier:

(a) Establish boundaries with children in unenclosed spaces by using visual aids, such as webbing or tying ribbons on trees, in addition to the intentional teaching of boundaries to children required pursuant to WAC 110-302-0310. These visual aids must not create a tripping, confinement, or choking hazard.

(b) ONB programs with permanently located outdoor classroom space must create guardrails, barriers, or boundaries between that space and any immediately adjacent hazardous features, such as a ravine, cliff, or body of water more than two feet deep and six feet in diameter. These guardrails or barriers may be made by natural materials and must be at least 29 inches tall for ONB programs enrolling only preschool-age children and 38 inches tall for ONB programs that enroll school-age children. All other boundaries need approved supervision plans documented in benefit-risk assessments. If public parks property used by ONB programs do not meet these requirements, ONB providers must submit and follow supervision plans to be reviewed and approved by the department.

(c) ONB providers utilizing enclosed or designated outdoor play structures must follow the relevant CPSC playground safety guidelines and the applicable child care center or family home child care license, pursuant to chapter 110-300 WAC, or school-age program license pursuant to chapter 110-301 WAC.

(7) Except for ONB programs that enroll only school-age children and operate on public or private school premises, ONB providers must not install any wooden fence, barrier, playground structure, or furniture if it contains chromated copper arsenate (CCA), creosote or pentachlorophenol. If wooden fences, structures, and furniture are suspected of having CCA, they must be tested. If CCA is present, fences, structures, and furniture must be removed or sealed with an oil-based outdoor sealant annually or as needed.

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NEW SECTION

WAC 110-302-0146 Equipment and surfaces in outdoor space. (1)

Except for ONB programs that enroll only school-age children and operate on public or private school premises, ONB programs must not use or install manufactured playground equipment that does not comply with the following:

(a) (i) Playground equipment used by ONB providers must comply with applicable CPSC guidelines including, but not limited to, guidelines related to the installation, arrangement, design, construction, and maintenance of the outdoor play equipment and surface.

(ii) Climbing play equipment must not be placed on or above concrete, asphalt, packed soil, lumber, or similar hard surfaces;

(b) The ground under swings and play equipment must be covered by a shock absorbing material (grass alone is not acceptable) such as:

(i) Pea gravel at least nine inches deep;

(ii) Playground wood chips at least nine inches deep;

(iii) Shredded recycled rubber at least six inches deep; or

(iv) Any material that has a certificate of compliance, label, or documentation stating it meets ASTM standard F1292.

(2) Permanently anchored outdoor play equipment must not be placed over septic tank areas or drain fields, and must be installed according to the manufacturer's directions.

(3) Handmade playground equipment must be maintained for safety or removed when no longer safe. Prior to construction of new handmade playground equipment, the ONB provider must notify the department and have plans and a materials list available upon request.

(4) Bouncing equipment including, but not limited to, trampolines, rebounders, and inflatable equipment must be inaccessible and locked. This requirement does not apply to bounce balls designed to be used by individual children.

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NEW SECTION

WAC 110-302-0147 Weather conditions and outdoor hazards. (1) ONB providers must observe weather conditions and other possible hazards to take appropriate action to protect and promote child health, safety, and well-being. Conditions that pose a health or safety risk may include, but are not limited to:

(a) Heat in excess of 100 degrees Fahrenheit or pursuant to advice of the local authority;

(b) Cold less than 20 degrees Fahrenheit, or pursuant to advice of the local authority;

(c) Lightning storm, tornado, hurricane, or flooding if there is immediate or likely danger;

(d) Earthquake;

(e) Strong winds, including gusts over 25 mph;

(f) Air quality emergency ordered by a local or state authority on air quality or public health;

(g) Lockdown notification ordered by a public safety authority; and

(h) Other similar incidents.

(2) ONB providers must ensure children are dressed for weather conditions during outdoor program time. ONB programs must ensure all children have appropriate clothing for the time spent outdoors and have extra clothing to meet children's comfort and safety needs throughout the day, as needed. This must include rainy or cold weather clothing such as waterproof boots, rain pants, rain jacket, a moisture-wicking layer, two sets of gloves, and a hat to keep the child's head dry and warm.

(3) ONB programs must have a required clothing policy or ONB program to loan the appropriate clothing and other necessary equipment to children, which must be included in the parent or guardian handbook pursuant to WAC 110-302-0450. ONB providers must work with families that require assistance in meeting their child's clothing needs.

(4) ONB providers must remain aware of the children's verbal and nonverbal cues regarding their warmth and comfort and respond appropriately to ensure the children's health and safety. These responses may include, but are not limited to:

(a) Keeping children active and moving in cold weather;

(b) Resting in shaded areas to cool off; and

(c) Assisting children to remove or add layers of clothing, while supporting their development of self-regulation skills.

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NEW SECTION

WAC 110-302-0148 Gardens in ONB program space. (1) A garden in ONB program space must:

(a) Have safeguards in place to minimize risk of cross-contamination by animals;

(b) Use soil free from agricultural or industrial contaminants such as lead or arsenic if gardening directly in the ground;

(c) If gardening in raised beds, use:

(i) New soil that is labeled "organic" or "safe for children" and was obtained from a gardening supply or other retail store; or

(ii) Composted soil made from material that is safe according to the Washington State University's extension master gardener composting guidelines; and

(iii) Use water that comes from a private well approved by the local health jurisdiction or from a public water system. ONB providers must make water for gardens inaccessible to children if irrigation water is used.

(2) Garden beds must be made of materials that will not leach chemicals into the soil including, but not limited to, wood treated with CCA, creosote or pentachlorophenol, reclaimed railroad ties, or tires.

(3) Any herbicide or pesticide must be applied pursuant to the product manufacturer's directions. The product must not be applied while children are present. Children must not apply the product or have access to the garden during the manufacturer's prescribed waiting period following application.

(4) Commonplace toxic plants or plants with poisonous leaves such as tomato, potato, or rhubarb may be grown in the garden. An ONB provider must actively supervise children who are able to access a garden where commonplace toxic plants or plants with poisonous leaves are growing.

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ACTIVITIESNEW SECTION

WAC 110-302-0150 ONB program and activities. (1) ONB providers must supply children in care with materials that are age and developmentally appropriate. For each age group of children in care, ONB providers must supply a variety of materials that satisfy individual, developmental, and cultural needs. ONB programs that choose to supple-

ment abundant natural resources with additional manufactured materials in the outdoors must ensure those materials comply with the rules of this section. Materials must be:

- (a) Clean;
- (b) Washable or disposable;
- (c) Accommodating to a range of abilities of children in care;
- (d) Available to children in care appropriate to a child's age and developmental level;
- (e) Nonpoisonous and free of toxins. If an ONB provider is using prepackaged art materials, the material packaging must be labeled "non-toxic" by the manufacturer and meet ASTM standard D-4236 as described in 16 C.F.R. Part 1500.14(b)(8)(i);
- (f) In good and safe working condition;
- (g) Accommodating to special needs of children in care;
- (h) Removed from the ONB program space once an item has been recalled by CPSC; and
- (i) ONB programs may provide natural materials to children to support the nature-based curriculum that, as organic matter, may not be able to meet the requirements described in (a) or (b) of this subsection, for example decomposing logs, leaves, or items in a mud kitchen. Such materials must be nonpoisonous and free of toxins; and when being used by the children, the children must be actively supervised.

(2) ONB providers must ensure a sufficient quantity and variety of materials to engage children in the ONB program such as arts and crafts supplies, various textured materials, construction materials, manipulative materials, music and sound devices, and books. ONB providers may choose to use natural materials for these purposes if sufficient in quantity and variety to engage children in the ONB program. Materials must:

- (a) Encourage both active physical play and quiet play activities;
- (b) Promote imagination and creativity;
- (c) Promote language development, communication, and literacy skills;
- (d) Encourage social skill development;
- (e) Promote numeracy, math, and spatial ability;
- (f) Encourage discovery, exploration, and reasoning; and
- (g) Promote learning skills.

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NEW SECTION

WAC 110-302-0155 Use of television, video, and computers. (1)

If ONB providers offer screen time to children in care:

- (a) The screen time available for each child:
 - (i) Must be educational, developmentally and age appropriate, nonviolent, and culturally sensitive; and
 - (ii) Should be interactive with staff for preschool-age children.
- (2) Children must not be required to participate in screen time activities. Alternative activities must be provided to children in care when screen time is offered.
- (3) Screen time must not occur during scheduled meals or snacks.

(4) For preschool-age children, the total screen time must not exceed two and one-half hours per week for children in full-day care or one and one-quarter hours for children in half-day care.

(5) For school-age children, screen time must be limited to two and one-half hours per week for each child unless computer use is required for homework or a part of curriculum.

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NEW SECTION

WAC 110-302-0160 Promoting diversity and belonging. (1) ONB providers must provide culturally and racially diverse learning opportunities. Diverse learning opportunities must be demonstrated by the ONB provider's curriculum, activities, and materials that represent all children, families, staff, and the local Native American tribes, such as:

(a) Diverse dolls, books, pictures, games, or materials that do not reinforce stereotypes;

(b) Diverse music from many cultures in children's primary languages; and

(c) A balance of different ethnic and cultural groups, ages, abilities, family styles, and genders.

(2) An ONB provider must contact the local Native American tribes to begin a partnership, recognizing tribal sovereignty and incorporating cultural materials or practices, as appropriate.

(3) ONB programs must provide supplemental learning opportunities that incorporate elements of tribally approved curriculum such as, but not limited to, Washington's Since Time Immemorial early learning curriculum (<https://www.dcyf.wa.gov/tribal-relations/since-time-immemorial>) or school-age curriculum (<https://www.k12.wa.us/student-success/resources-subject-area/time-immemorial-tribal-sovereignty-washington-state/elementary-curriculum>).

(4) ONB providers must appropriately intervene to stop biased behavior displayed by children or adults. Such intervention may include, but is not limited to:

(a) Redirecting an inappropriate conversation or behavior;

(b) Being aware of situations that may involve bias and responding appropriately; and

(c) Refusing to ignore bias.

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SAFETY

NEW SECTION

WAC 110-302-0165 Safety requirements. (1) ONB providers must keep ONB program space, materials, and equipment free from hazards and in safe working condition.

(2) Hazards inherent to the natural features of the outdoors must be removed or mitigated according to the requirements described in this chapter including, but not limited to, WAC 110-302-0471.

(3) Equipment and toys used by the ONB program must be compliant with the CPSC guidelines or the ASTM standards.

(4) Except for ONB programs that enroll only school-age children and operate on public or private school premises, playground equipment and surfaces must comply with the requirements described in WAC 110-302-0146.

(5) ONB providers must take steps to prevent hazards to children including, but not limited to:

(a) Except for ONB programs that enroll only school-age children and operate on public or private school premises, eliminating and not using in the licensed space, pursuant to RCW 43.216.380, any window blinds or other window coverings with pull cords or inner cords capable of forming a loop and posing a risk of strangulation to children.

(i) Window blinds and other window coverings that have been manufactured or properly retrofitted in a manner that eliminates the formation of loops posing a risk of strangulation are allowed; and

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

(b) Making inaccessible to preschool-age children straps, strings, cords, wires, or similar items capable of forming a loop around a child's neck when not being used during actively supervised ONB program activities;

(c) Making inaccessible to preschool-age children plastic bags and other suffocation hazards;

(d) Ensuring firearms, guns, weapons, and ammunition are not on the premises of an ONB program;

(e) Preventing preschool-age children from walking into or through a glass door, window, or other glass barrier, by placing stickers or art work at the children's eye level on the glass; and

(f) Climbing structures must not be placed next to windows, to prevent harm from shattered glass, unless the window is made of safety glass.

(6) ONB providers must take steps to prevent hazards to children in care, including hazards inherent to the natural physical features of the outdoors. Pursuant to WAC 110-302-0471, such inherent hazards must be mitigated or lessened by active supervision, and the implementation of benefit-risk assessments and risk management plans. In addition, the ONB provider must take the following measures to prevent hazards to children in care:

(a) **Cuts, abrasions, and punctures.** Equipment, materials, and other objects on the premises that have sharp edges, protruding nails, bolts, or other dangers, excluding approved tools during supervised use pursuant to WAC 110-302-0352, must be repaired, removed, or made inaccessible to children. ONB programs utilizing natural wooden materials in furniture or learning resources must utilize appropriate supervision or adequate maintenance of materials, such as sanding sharp edges;

(b) **Burns.** Equipment, materials, or products that may be hot enough to injure a child must be made inaccessible to children. Children in ONB programs may have access to campfires, pursuant to WAC 110-302-0351;

(c) **Sheering, crushing, or pinching.** Broken or cracked equipment, materials, and objects must be repaired, removed, or made inaccessible to children;

(d) **Confinement.** Washers, dryers, large compost bins, spare or secondary freezers or refrigerators, and other entrapment dangers must be inaccessible to children unless being actively supervised;

(e) **Tripping.** Tripping hazards must be eliminated. Except for ONB programs that enroll only school-age children and operate on public or private school premises, uneven walkways, damaged flooring or carpeting must be removed or repaired;

(f) **Falling objects.** Large objects that pose a risk of falling or tipping must be securely anchored. Large objects include, but are not limited to, televisions, dressers, bookshelves, wall cabinets, sideboards or hutches, and wall units; and

(g) **Equipment in poor condition.** Equipment in poor condition, meaning rusty parts, flaking paint, or other dangers, must be repaired, removed, or made inaccessible to children.

(7) To ensure a safe environment for children in care, ONB providers must comply with the following requirements:

(a) **Indoor temperatures for the premises.** The temperature of indoor spaces used for eating, sleep, or rest must be between 65 and 82 degrees Fahrenheit. If such indoor licensed space is colder than 65 degrees Fahrenheit or hotter than 82 degrees Fahrenheit, an ONB provider must use climate control devices that are inaccessible to children to bring the temperature within the required range;

(b) **Window openings.** Except for ONB programs that enroll only school-age children and operate on public or private school premises, windows within the reach of children in the licensed indoor spaces used for children's biological needs must only open up to three and one-half inches or have some barrier or preventive measure to discourage children from exiting through the window;

(c) **Licensed space lighting.** Indoor and outdoor licensed space must have natural or artificial light that provides appropriate illumination for ONB program activities and active supervision. Except for ONB programs that operate on public park land, or enroll only school-age children and operate on private school premises, an ONB program must comply with all light fixture manufacturers' installation and use requirements, and must ensure compliance with the following requirements:

(i) Light fixtures must have shatter-resistant light bulbs, covers, or both;

(ii) Lights or light fixtures used indoors must be designed for indoor use only;

(iii) Lights or light fixtures used outdoors must be designed for outdoor use only;

(iv) Free standing lamps must be attached or secured to prevent tipping; and

(v) Halogen lamps and bulbs are prohibited;

(d) **Safe noise levels.** Noise levels must be maintained at a level in which a normal conversation may occur except when children are engaged in gross motor activities;

(e) **Safe water temperature.** Except for ONB programs that enroll only school-age children and operate on public or private school prem-

ises, all water accessible to enrolled children must not be hotter than 120 degrees Fahrenheit;

(f) **Stairway safety.**

(i) There must not be clutter or obstructions in the stairway;

(ii) Except for ONB programs that enroll only school-age children and operate on public or private school premises, all stairways (indoor and outdoor), not including play structures, must meet local building codes, pursuant to RCW 43.216.340.

(A) Open stairways with no walls on either side must have handrails with slats (balusters) that prevent a child from falling off either side of the stairway.

(B) Stairways with a wall on only one side must have a handrail with slats (balusters) on the side without the wall that prevents a child from falling off the stairway.

(C) Stairways with a wall on both sides must have a handrail no higher than 38 inches on at least one side of the stairway;

(iii) For ONB programs operating in public parks where park features are preestablished, ONB providers must use benefit-risk assessments for using stair structures that do not meet the following requirements:

(A) Open stairways with no walls on either side must have handrails with slats (balusters) that prevent a child from falling off either side of the stairway.

(B) Stairways with a wall on only one side must have a handrail with slats (balusters) on the side without the wall that prevents a child from falling off the stairway.

(C) Stairways with a wall on both sides must have a handrail no higher than 38 inches on at least one side of the stairway;

(iv) Openings between slats on gates must not be large enough to allow a sphere that is three and one-half inches wide to pass through;

(g) **Platforms and decks.** Except for ONB programs that enroll only school-age children and operate on public or private school premises, pursuant to chapter 19.27 RCW, all platforms and decks used for ONB program activities must comply with all building codes. All platforms and decks with a drop zone of more than 18 inches must have guardrails in sections without steps;

(h) **Electrical requirements.** To ensure a safe environment for children in care, an ONB provider must comply with the following electrical requirements:

(i) Except for ONB programs that enroll only school-age children and operate on public or private school premises, outlets near sinks, tubs, toilets, or other water sources must be inaccessible to children or be tamper-resistant and equipped with a ground fault circuit interrupter (GFCI) outlet type;

(ii) For ONB programs that enroll only preschool-age children or both preschool-age and school-age children, electrical outlets in areas accessible to children must have automatic shutters that only allow electrical plugs to be inserted or that are covered by blank plates or other tamper-resistant covers appropriate to the electrical outlet;

(iii) For ONB programs that enroll only preschool-age children or both preschool-age and school-age children, power strips must have surge protectors and be inaccessible to children in care;

(iv) Electrical cords must be plugged directly into a wall outlet or a power strip with surge protector;

(v) Electrical cords must be in good working condition, not torn or frayed, and not have any exposed wires;

(vi) Extension cords may only be used for a brief, temporary purpose and must not replace direct wiring;

(vii) Electrical devices accessible to children must not be plugged into an electrical outlet near a water source such as a sink, tub, water table, or swimming pool; and

(viii) For ONB programs operating in public parks where park features are preestablished, ONB providers must use benefit-risk assessments for using areas with access to electricity.

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NEW SECTION

WAC 110-302-0166 Emergency preparation and exiting. (1) To be properly prepared for an emergency, ONB programs must have an emergency preparedness plan pursuant to WAC 110-302-0470.

(2) One or more ONB providers must have the following in case of an emergency:

(a) A working flashlight or other emergency lighting device that is available for use as an emergency light source. Battery powered flashlights must have an extra set of batteries easily available; and

(b) A working telephone that is available for use and has sufficient backup power to function in an emergency.

(3) To ensure a safe exit from indoor premises during an emergency, ONB programs must comply with the following requirements:

(a) Except for ONB programs that enroll only school-age children and operate on public or private school premises, indoor locks for emergency exit doors must remain unlocked from the inside, but may be locked from the outside while the ONB program is open. The door handle must be of the type that can be opened from the inside without the use of a key, tools, or special knowledge, and must automatically unlock when the knob or handle is turned;

(b) Exit doors not designated as an emergency exit door may be locked during operating hours. Except for ONB programs that enroll only school-age children and operate on public or private school premises, locking interior doors in ONB program space must be designed to be unlocked from either side. An unlocking device must be readily available; and

(c) Exit doors must not be partially or entirely blocked.

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NEW SECTION

WAC 110-302-0170 Fire safety. (1) Except for ONB programs that enroll only school-age children and operate on public or private school premises, ONB providers and programs must comply with the state building code, pursuant to RCW 19.27.031.

(2) Except for ONB programs that enroll only school-age children and operate on public or private school premises, ONB providers must arrange for an annual fire safety inspection for any facility or structure approved for use.

(a) The annual fire safety inspection must be arranged with the local government agency that has the authority to conduct fire safety inspections. If the appropriate local government agency is not available to conduct a fire safety inspection, ONB providers must inspect for fire safety by using and implementing the state fire marshal form.

(b) ONB programs operating on public park land must communicate with the park director regarding fire safety or building inspections of any buildings in use by the ONB program, and ensure that fire inspections occur annually or submit a report to the department.

(3) To ensure a safe environment for children in care, an ONB provider must comply with all applicable fire safety requirements. ONB programs must also comply with the following:

(a) **Combustible materials.** Except for ONB programs that enroll only school-age children and operate on public or private school premises, combustible materials:

(i) Must be properly discarded pursuant to local jurisdictions removed from the premises, or properly stored in closed plastic or metal containers specifically designed to hold such combustible materials;

(ii) Stored in a closed plastic or metal container must not be accessible to children in care; and

(iii) Include, but are not limited to, lint, gasoline, natural gas, diesel, fuel, propane, rags soaked in combustible materials, oils, chemicals, or solvents.

(b) **Furnaces and other heating devices.**

(i) Except for ONB programs that enroll only school-age children and operate on public or private school premises, paper, rubbish, or other combustible materials must be at least three feet from furnaces, fireplaces, campfires, or other heating devices;

(ii) An appliance or heating device that has a surface capable of burning a child or reaching 110 degrees Fahrenheit must be inaccessible to children in care unless ONB program activities involve such appliances or devices and children are being actively supervised.

(iii) For ONB programs not operating on public or private school premises, furnaces and other heating devices must be inaccessible to children in care.

(c) **Open flame devices, candles, matches, and lighters.**

(i) Open flame devices must not be used in or on ONB program premises or any other space accessible to children in care during operating hours. This prohibition does not apply to the use of a gas kitchen range, a camp stove that is in compliance with the requirements described in WAC 110-302-0195, or a campfire that is in compliance with the requirements described in WAC 110-302-0351;

(ii) Candles must not be used during operating hours;

(iii) Matches and lighters must be inaccessible to children.

(d) **Portable heaters and generators.** Portable heaters or fuel-powered generators must not be used inside ONB program premises during operating hours.

(i) In case of an emergency, a generator may be used but must be placed at least 20 feet from buildings, windows, doors, ventilation intakes, or other places where exhaust fumes may be vented into the premises or ONB program space; and

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

(iii) When necessary, portable heaters may be used by ONB programs for the purposes of keeping children warm in cold weather. If

the heating device reaches over 110 degrees Fahrenheit, children must be actively supervised, and children must remain out of reach of the heater to avoid accidental burns.

(e) **Fireplaces, woodstoves, or similar wood burning heating devices.** Chimneys, fireplaces, gas burning fireplaces, wood stoves or similar wood-burning devices and fire pits must be inspected annually by a state or locally certified inspector, unless the ONB provider submits to the department a written statement that the chimney, fireplace, wood stove or similar wood-burning device or fire pit will not be used at any time. ONB programs operating on public land do not have to provide inspection certificates for publicly provided fire pits or wood burning barbecues.

(f) **Fire alarms and smoke and carbon monoxide detectors.** ONB providers must comply with the requirements described in this subsection.

(i) Properly maintain at least one smoke detector for each indoor licensed sleeping area and one for each floor, unless exempt under WAC 51-50-0907.

(ii) Properly maintain carbon monoxide detectors for indoor space, unless exempt under WAC 51-50-0915.

(iii) At least once per month, ONB providers must inspect and test the smoke and carbon monoxide detectors. For each monthly inspection, ONB providers must document the following information in a written record:

(A) Who conducted the monthly inspection;

(B) The date the monthly inspection was conducted;

(C) A description of whether any smoke or carbon monoxide detectors were not working; and

(D) The corrective actions that were taken to replace or repair any smoke or carbon monoxide detector that was not working.

(g) **Extinguishers.** ONB providers operating with an applicable indoor ONB program or engaging in campfire or outdoor cooking activity must have and maintain working fire extinguishers that are marked with a minimum rating of 2A:10 BC.

(i) Fire extinguishers must be readily available for use in case of an emergency; and

(ii) For ONB programs operating in a public park location that do not allow the use of fire extinguishers, alternative fire suppression equipment, such as buckets of water must be available.

(h) **Monthly inspections.** ONB providers must involve staff responsible for different groups of children during monthly inspections. At least once per month, ONB providers must inspect fire extinguishers, and the premises to identify possible fire hazards and eliminate any hazards found including, but not limited to, emergency lighting. For each monthly inspection, the ONB provider must document the following information in a written record:

(i) Who conducted the monthly inspection;

(ii) The date the monthly inspection was conducted;

(iii) A description of any fire hazards that were identified; and

(iv) The corrective actions that were taken to eliminate identified fire hazards.

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NEW SECTION

WAC 110-302-0175 Water hazards and swimming pools. To prevent injury or drowning and ensure the health and safety of children, ONB providers must comply with the requirements described in this section.

(1) Except for ONB programs that enroll only school-age children and operate on public or private school premises, the following bodies of water must be inaccessible to children in care by using a physical barrier at least five feet tall with a locking mechanism:

(a) Swimming pools when not being used as part of the ONB program;

(b) Uncovered wells, septic tanks, wastewater, wastewater tanks, below grade storage tanks, farm manure ponds, or other similar hazards.

(2) Hot tubs and similar equipment must be made inaccessible to children by using a physical barrier with a locking mechanism.

(3) An ONB program operating near a natural body of water must provide a physical barrier or physical boundary to adjacent bodies of water pursuant to WAC 110-302-0145, and must provide active supervision pursuant to WAC 110-302-0350.

(4) An ONB provider must comply with the supervision requirements of WAC 110-302-0350 when using a swimming pool as part of the ONB program.

(5) Except for ONB programs that enroll only school-age children and operate on public or private school premises, ONB providers must comply with the following requirements when using a swimming pool as part of the ONB program:

(a) Audible alarms must be on all doors, screens, and gates in licensed areas that lead to a swimming pool. The alarm must be sufficient to warn staff when children enter the outdoor area and could access the swimming pool;

(b) Swimming pools must be maintained according to manufacturer specifications;

(c) Swimming pools must be cleaned and sanitized according to manufacturer instructions, chapter 246-260 WAC, and the DOH or local health jurisdiction guidelines;

(d) A swimming pool must not be used if the main drain cover is missing; and

(e) Children in diapers or toilet training must wear swim pants to lower the risk of contaminating the water.

(6) Filtered wading pools must be inaccessible to children when not in use. Wading pools that do not have a filtering system are not permitted in the ONB program space.

(7) If ONB providers use water tables or similar containers, the tables or containers must be emptied and sanitized daily, or more often if necessary.

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FOOD AND NUTRITION

NEW SECTION

WAC 110-302-0180 Meal and snack schedule. (1) ONB providers must serve meals and snacks to children in care as follows:

(a) Meals and snacks must be served not less than two hours apart, unless vigorous activity or weather conditions require more frequent serving, and not more than three hours apart unless the child is asleep;

(b) Children in care for five to nine hours:

(i) At least one meal and two snacks; or

(ii) Two meals and one snack;

(c) Children in care for more than nine hours:

(i) Two meals and two snacks; or

(ii) Three snacks and one meal;

(d) A snack or meal must be provided to a child who arrives to the ONB program after school.

(2) For ONB programs that enroll only preschool-age children or both preschool-age and school-age children, ONB providers must offer children the opportunity for developmentally appropriate tooth brushing activities at least once per day.

(a) Tooth brushing activities must be safe, sanitary, and educational.

(b) Toothbrushes used in an ONB program must be stored in a manner that prevents cross contamination.

(c) The parent or guardian of a child may opt out of the daily tooth brushing activities by signing a written form.

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NEW SECTION

WAC 110-302-0185 Menus, milk, and food. To ensure proper nutrition of children in care, ONB providers must comply with the child nutrition requirements described in this section.

(1) Meals, snack foods, and beverages provided to children in care must comply with the requirements contained in the most current edition of CACFP standards, or the *USDA National School Lunch and School Breakfast Program* standards.

(a) ONB providers must have dated menus.

(b) Food and beverage substitutions to a scheduled menu must be of equal nutritional value.

(c) ONB providers must only serve water, unflavored milk, 100 percent fruit, or vegetable juice.

(d) ONB providers must limit the consumption of 100 percent fruit juice to no more than four to six ounces per day for children between 30 months and six years old, and eight to 12 ounces per day for children seven through 12 years old.

(2) ONB providers must serve a fruit or vegetable during at least one snack per day. The fruit or vegetable serving may count as one of the two required snack components or be a third snack component.

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NEW SECTION

WAC 110-302-0186 Food allergies and special dietary needs. (1) ONB providers must obtain written instructions, known as an individual care plan, from the child's health care provider and parent or guardian when caring for a child with a known food allergy or special dietary requirement due to a health condition. The individual care plan, pursuant to WAC 110-302-0300, must:

(a) Identify foods that must not be consumed by the child and steps to take in the case of an unintended allergic reaction;

(b) Identify foods that can substitute for allergenic foods; and

(c) Provide a specific treatment plan for the ONB provider to follow in response to an allergic reaction. The specific treatment plan must include the:

(i) Names of all medication to be administered;

(ii) Directions for how to administer the medication;

(iii) Directions related to medication dosage amounts; and

(iv) Description of allergic reactions and symptoms associated with the child's particular allergies.

(2) ONB providers must arrange with the parents or guardians of a child in care to ensure the ONB program has the necessary medication, training, and equipment to properly manage a child's food allergies.

(3) If a child suffers from an allergic reaction, the ONB provider must immediately:

(a) Administer medication pursuant to the instructions in that child's individual care plan;

(b) Contact 911 whenever epinephrine or other lifesaving medication has been administered; and

(c) Notify the parents or guardians of a child if it is suspected or appears that any of the following occurred, or is occurring:

(i) The child is having an allergic reaction; or

(ii) The child consumed or came into contact with a food identified by the parents or guardians that must not be consumed by the child, even if the child is not having or did not have an allergic reaction.

(4) ONB providers must review each child's individual care plan information for food allergies prior to serving food to children.

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NEW SECTION

WAC 110-302-0190 Parent- or guardian-provided food and written food plans. (1) Written food plans must be developed by ONB providers and a child's parent or guardian, signed by all parties, and followed when accommodating a child's:

(a) Special feeding needs;

- (b) Special diets;
- (c) Religious or cultural preferences;
- (d) Family preference; or
- (e) Other needs.

(2) ONB providers may allow or require parents or guardians to bring food for their child.

(3) If a parent or guardian provides meals for their child, ONB providers must:

(a) Notify the parent or guardian in writing of the USDA CACFP requirements for each meal; and

(b) Supplement a child's meal that does not comply with USDA CACFP requirements, if necessary.

(4) On special occasions, such as birthdays, ONB providers may allow parents or guardians to bring in snacks that may not satisfy the nutritional requirements for all children. The snacks provided must be limited to:

(a) Store purchased, uncut fruits and vegetables;

(b) Foods prepackaged in the original manufacturer containers; or

(c) Snacks prepared, cooked, or baked at home by parents or guardians of a child in care. Prior to serving, ONB providers must receive written permission from each child's parent or guardian stating their child may consume food prepared, cooked, or baked by another child's parent or guardian.

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NEW SECTION

WAC 110-302-0195 Food service, equipment, and practices. (1)

ONB providers preparing or serving food must comply with the current DOH *Washington State Food and Beverage Workers' Manual* and supervise services that prepare or deliver food to the ONB program.

(2) Snacks and meals must be prepared and served by ONB providers that possess a valid and current food worker card pursuant to WAC 110-302-0106.

(3) ONB providers must:

(a) Supply durable and developmentally appropriate individual eating and drinking equipment, or developmentally appropriate single use disposable items;

(b) Clean and sanitize eating and drinking equipment after each use. Water cups or bottles must be cleaned and sanitized daily if designated for a single child;

(c) Ensure plastic eating and drinking equipment does not contain BPA, a chemical used in hard plastic bottles and as a protective lining in food and beverage cans, or have cracks or chips;

(d) Use gloves, utensils, or tongs to serve food;

(e) Serve meals or snacks on plates, dishware, containers, trays, or napkins or paper towels, if appropriate. Food should not be served directly on the eating surface; and

(f) Be respectful of each child's cultural food practices.

(4) ONB providers must:

(a) Serve each child individually or serve family style dining, allowing each child the opportunity to practice skills such as passing shared serving bowls and serving themselves; and

(b) Sit with children during meals.

(5) ONB programs may use camp stoves that comply with applicable regulations to heat or cook food for children. Children that are in the cooking area within three feet of the camp stove must be actively supervised. Supervision for any child engaged in a cooking activity must be based on a one-to-one (1:1) staff-to-child ratio; and the staff member must remain within arms' reach of the child at all times.

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NEW SECTION

WAC 110-302-0196 Food sources. (1) Food prepared and served from ONB programs must not be tampered with or spoiled.

(2) Except as otherwise provided in subsection (6) of this section, food prepared and served from ONB programs must be obtained from an approved source licensed and inspected by the local health jurisdiction, the Washington state department of agriculture (WSDA), or the USDA. Food items not approved to be served to children in care include:

(a) Meat, fish, poultry, eggs, or milk that has not been inspected by the USDA or WSDA;

(b) Eggs collected from chickens that are kept as part of an ONB program, but do not comply with the requirements contained in subsection (5) of this section;

(c) Home canned food;

(d) Game meat or other meat that has not been inspected by the WSDA or USDA;

(e) Leftover food that was previously served from outside of the ONB program; or

(f) Food from roadside stands selling food without a permit.

(3) Food not prepared on-site by an ONB provider, pursuant to WAC 110-302-0195(2), must be provided by a:

(a) Licensed food service establishment, kitchen, or catering business that is in compliance with DOH food service requirements (chapter 246-215 WAC) and is regularly inspected by a local health jurisdiction;

(b) A licensed child care facility;

(c) Parent or guardian for their own children; or

(d) Manufacturer of prepackaged food.

(4) Fruits and vegetables grown on-site in a garden as part of ONB programs may be served to children in care as part of a meal or snack. Prior to preparing and serving:

(a) The produce must be thoroughly washed and scrubbed in cold running water to remove soil and other contaminants;

(b) Damaged or bruised areas on the produce must be removed; and

(c) Produce that shows signs of rotting must be discarded.

(5) Eggs that have been laid on-site in a coop as part of ONB programs, such as farm-based programs, may only be served to children in care if:

(a) The eggs have been laid in a coop that is inaccessible to the public.

(b) The eggs are gathered once a day or more frequently based on weather temperatures.

(c) The coop and the eggs must be kept under 80 degrees Fahrenheit. Coops must have their temperatures monitored daily, and when the

coop temperature or egg temperature is above 80 degrees Fahrenheit, the eggs cannot be served to children.

(d) The eggs must be washed according to the facilities and handling guidelines of the WSDA Shell Egg Producer Guidelines for Off-Farm Sales.

(e) Once eggs are collected and cleaned, they must be stored at 41 degrees Fahrenheit or less.

(f) Written permission from the child's parent must be obtained before the child may consume the eggs or participate in the collection activities.

(6) (a) Certified ONB programs operated by tribes or tribal organizations that primarily enroll Indian children may serve donated or prepared traditional foods as part of their child care programs. For the purposes of this section, "traditional foods" means foods that have traditionally been prepared and consumed by an Indian tribe and includes, but is not limited to, wild game meat, fish, seafood, marine animals, plants, and berries.

(b) To comply with subsection (6) (a) of this section, certified tribes or tribal organizations must comply with all requirements detailed in USDA Memo SP 42-2015 CACFP 19-2015 SFSP 21-2015.

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NEW SECTION

WAC 110-302-0197 Safe food practices. (1) ONB providers must wash their hands, pursuant to WAC 110-302-0200.

(2) For all foods offered by ONB providers or given to an enrolled child by a parent or guardian, ONB providers must:

(a) Provide appropriate refrigeration to preserve foods from spoiling. Foods that may be subject to spoiling include, but are not limited to, meats, cooked potatoes, cooked legumes, cooked rice, sprouts, cut melons, cut cantaloupes, milk, and cheese; and

(b) Refrigerate foods requiring refrigeration at 41 degrees Fahrenheit or less, and freeze foods required to be frozen at 10 degrees Fahrenheit or less.

(3) Food must be stored as follows:

(a) In original containers or in clean, labeled, dated, and airtight food grade containers, if appropriate;

(b) Food not required to be refrigerated or frozen must not be stored directly on the floor;

(c) In a manner that prevents contamination;

(d) Food and food service items, such as utensils, napkins, and dishes, must not be stored in an area with toxic materials, such as cleaning supplies, paint, or pesticides;

(e) Raw meat must be stored in the refrigerator or freezer below cooked or ready to eat foods; and

(f) To keep food below a temperature of 41 degrees Fahrenheit, an ONB program may store food in a cooler using ice or icepacks.

(4) For food requiring temperature control, ONB programs must maintain a food temperature log by using a calibrated and working metal stem-type or digital food thermometer.

(5) Prior to storing leftover food in a refrigerator or freezer, ONB providers must label the food with the date the leftover food was opened or cooked.

(6) ONB providers may serve leftover food that originated from the ONB program if the leftover food was not previously served and complies with the following:

(a) Refrigerated leftover food must be stored and then served again within 48 hours of originally being prepared; or

(b) Frozen leftover food must be promptly served after thawing and being cooked.

(7) Frozen food must be thawed by one of the following methods:

(a) In a refrigerator;

(b) Under cool running water inside a pan placed in a sink with the drain plug removed; or

(c) In a microwave if the food is to be cooked as part of the continuous cooking process.

(8) Food that is past the manufacturer's expiration or "best served by" date must not be served to enrolled children.

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NEW SECTION

WAC 110-302-0198 Food preparation areas. (1) ONB providers or staff must clean and sanitize food preparation areas and eating surfaces before and after each use, pursuant to WAC 110-302-0241(1).

(2) Except for ONB programs that enroll only school-age children and operate on public or private school premises, an ONB provider must comply with all licensing requirements described in chapter 110-300 WAC that pertain to indoor early learning program food preparation areas.

(3) If storing, preparing, and serving food outdoors without an outdoor kitchen area, ONB providers must:

(a) Use a cooler with ice or ice packs as needed to store food according to the current DOH *Washington State Food and Beverage Workers' Manual*; and

(b) Use temporary food preparation surfaces, such as a cutting board on a clean tarp, that are:

(i) Maintained in good repair including, but not limited to, being properly sealed without chips, cracks, or tears; and

(ii) Moisture resistant.

(4) An outdoor kitchen area may be used to prepare and serve food. The outdoor kitchen area must:

(a) Be maintained in good repair including, but not limited to, ensuring that the surfaces are moisture resistant, and are properly sealed without chips, cracks, or tears;

(b) Have at least eight feet between the food preparation area and any diaper changing tables or counters and sinks used for diaper changing;

(c) Have a clean and sanitized sink immediately before using it to prepare food to be served to children in care;

(d) Have a colander or other method that is used to prevent food and kitchen utensils from touching the sink basin; and

(e) Include clean dishes, pans, and kitchen utensils.

(5) ONB providers that prepares or serves food must have a method to clean and sanitize dishes, pans, kitchen utensils, and equipment. At a minimum, dishes, pans, utensils, and kitchen equipment must be:

(a) Washed and rinsed by hand to sanitize and dried with a clean, unused towel or allowed to air dry;

(b) Washed and rinsed in a two-compartment sink and dried with a clean, unused towel or allowed to air dry;

(c) Washed and rinsed using the three-compartment sink method (sink one is used to wash, sink two is used to rinse, sink three contains a sanitizer, and dried with a clean, unused towel or allowed to air dry; or

(d) Washed and rinsed using an automatic dishwasher that sanitizes with heat or chemicals and dried with a clean, unused towel or allowed to air dry.

(6) If ONB programs have a practice that allows staff to store and wash food at their private residence, there must be a policy to ensure staff are aware of and follow the requirements of this section. This practice must be included in the parent handbook.

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HEALTH PRACTICES

NEW SECTION

WAC 110-302-0200 Handwashing and hand sanitizer. (1) ONB providers must comply with the following handwashing procedures or those defined by the United States Centers for Disease Control and Prevention, and children should strongly be encouraged to:

(a) Wet hands with warm water;

(b) Apply soap to the hands;

(c) Rub hands together to wash for at least 20 seconds;

(d) Thoroughly rinse hands with water;

(e) Dry hands with a paper towel, single-use cloth towel, or air hand dryer. ONB programs may use cotton roll towels, or otherwise ensure that children do not use the same part of reusable cloth towels;

(f) Turn water faucet off using a paper towel or single-use cloth towel unless it turns off automatically;

(g) Properly discard paper single-use cloth towels after each use; and

(h) ONB programs with a permanently located outdoor classroom must provide children with an opportunity to wash hands and rinse using running water after toileting and before eating, and warm water is encouraged. Hand sanitizer may be used only after soil and dirt have been cleaned from the hands.

(2) ONB providers must wash and sanitize cloth towels after a single use. Soiled and used towels must be inaccessible to children.

(3) Except for ONB programs that enroll only school-age children and operate on public or private school premises, air hand dryers must have a heat guard (barrier that prevents user from touching heating element) and be equipped to turn off automatically to prevent children from being burned.

(4) ONB providers must wash their hands following the handwashing procedures listed above:

- (a) When arriving at work;
- (b) After toileting a child;
- (c) Before and after diapering a child using a wet wipe in place of handwashing during the middle of diapering, if needed;
- (d) After personal toileting;
- (e) After attending to an ill child;
- (f) Before and after preparing, serving, or eating food;
- (g) After handling raw or undercooked meat, poultry, or fish;
- (h) After egg gathering;
- (i) Before and after giving medication or applying topical ointment;
- (j) After handling or feeding animals, handling an animal's toys or equipment, or cleaning up after animals;
- (k) After handling bodily fluids;
- (l) After using tobacco or vapor products;
- (m) After gardening activities;
- (n) After handling garbage and garbage receptacles; and
- (o) As needed or required by the circumstances.

(5) ONB providers must direct, assist, teach, and coach children to wash their hands using the steps listed above:

- (a) When arriving at the ONB program;
- (b) After using the toilet;
- (c) After diapering;
- (d) Upon entering a licensed indoor early learning or school-age space;
- (e) After gardening activities;
- (f) After playing with animals;
- (g) After egg gathering;
- (h) After touching body fluids such as blood or after nose blowing or sneezing;
- (i) Before and after eating or participating in food activities including table setting; and
- (j) As needed or required by the circumstances.

(6) Hand sanitizers or hand wipes with alcohol may be used for adults and children under the following conditions:

- (a) When proper handwashing facilities are not available; and
 - (b) Hands are not visibly soiled or dirty.
- (7) Children must be actively supervised when using hand sanitizers to avoid ingestion or contact with eyes, nose, or mouth.
- (a) Hand sanitizer must not be used in place of proper handwashing.
 - (b) An alcohol-based hand sanitizer must contain 60 to 90 percent alcohol to be effective.

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NEW SECTION

WAC 110-302-0205 Child and staff illness. (1) ONB providers must observe all children for signs of illness when they arrive at the ONB program and throughout the day. Parents or guardians of a child should be notified, as soon as possible, if the child develops signs

or symptoms of illness. When appropriate, ONB programs must also check for the presence of ticks.

(2) If ONB providers become ill, a director, program director, assistant director, site director, or program supervisor must determine whether they should be required to leave the licensed ONB program space.

(3) When children become ill, ONB providers, or school nurses when applicable, must determine whether children should be sent home or separated from others. An ONB provider must supervise the child to reasonably prevent contact between the ill child and healthy children.

(4) Ill children must be sent home or reasonably separated from other children if:

(a) The illness or condition prevents the child from participating in normal activities;

(b) The illness or condition requires more care and attention than ONB providers can give;

(c) The required amount of care for the ill child compromises or places at risk the health and safety of other children in care; or

(d) There is a risk that the child's illness or condition will spread to other children or individuals.

(5) Unless covered by an individual care plan or protected by the ADA, ill children, staff members, or other individuals must be sent home or isolated from children in care if the ill individuals have:

(a) A fever 101 degrees Fahrenheit by any method and behavior change or other signs and symptoms of illness, including sore throat, earache, headache, rash, vomiting, diarrhea;

(b) Vomited two or more times in the previous 24 hours;

(c) Diarrhea where stool frequency exceeds two stools above normal per 24 hours for that individual or whose stool contains more than a drop of blood or mucus;

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

(e) Open sores or wounds discharging bodily fluids that cannot be adequately covered with a waterproof dressing or mouth sores with drooling;

(f) Lice, ringworm, or scabies. Individuals with head lice, ringworm, or scabies must be excluded from ONB program premises beginning from the end of the day the head lice, ringworm, or scabies was discovered. ONB providers may allow an individual with head lice, ringworm, or scabies to return to the premises after receiving the first treatment; or

(g) A child who appears severely ill, which may include lethargy, persistent crying, difficulty breathing, or a significant change in behavior or activity level indicative of illness.

(6) At the first opportunity, but in no case longer than 24 hours of learning that an enrolled child, staff member, or volunteer has been diagnosed by a health care professional with a contagious disease pursuant to WAC 246-110-010(3), ONB providers must provide written notice to the parents or guardians of the enrolled children, and notify the department and the local health jurisdiction pursuant to WAC 110-302-0475.

(7) ONB providers must not take ear or rectal temperatures to determine a child's body temperature.

(a) Oral temperatures may be taken for children if single-use covers are used to prevent cross contamination; and

(b) Glass thermometers containing mercury must not be used.

(8) ONB providers may readmit a child, staff member, or volunteer into the ONB program area with written permission of a health care provider or health jurisdiction stating the individual may safely return after being diagnosed with a contagious disease pursuant to WAC 246-110-010(3).

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NEW SECTION

WAC 110-302-0210 Immunizations and exempt children. (1) On or before their children's first day of attending ONB programs, the parents or guardians of enrolled children must give the ONB provider proof of vaccination or acquired immunity for the vaccine-preventable disease, required under chapter 246-105 WAC. ONB providers may accept children without proof of vaccinations or immunity as otherwise indicated in this section.

(2) ONB providers must receive for each enrolled child, as required under WAC 246-105-050:

(a) A current and complete DOH certificate of immunization status (CIS) or an alternative in lieu of CIS required under WAC 246-105-050(3);

(b) A Washington state department of health approved certificate of exemption (COE) form, if applicable; or

(c) A current immunization record from the Washington state immunization information system (WA IIS).

(3) To accept children who are not current with their immunizations, ONB providers must give written notice to parents or guardians stating their child may be accepted if the immunizations are completed consistent with chapter 246-105 WAC and:

(a) Prior to enrollment the parent or guardian provides written proof the child is scheduled to be immunized; or

(b) The parent or guardian provides a signed and dated statement detailing when the child's immunizations will be brought up to date.

(4) ONB providers must maintain and update children's records relating to immunizations or exemptions, or plans to bring immunizations current. These records must be available in licensed space or easily accessible for review by department licensors, health specialists, and health consultants.

(5) ONB providers may accept into care a child who is living in foster care or experiencing homelessness without the records listed in this section if their parent or guardian, case worker, or health care provider offers written proof that they are in the process of obtaining the child's immunization records.

(6) ONB providers may exclude a child from care according to the criteria listed in WAC 246-105-080.

(7) If an outbreak of a vaccine-preventable disease occurs within an ONB program, an ONB provider must notify the parents or guardians of children exempt from immunization for that disease and children without vaccination documents. An ONB provider may exclude the child from the ONB program premises for the duration of the outbreak of that vaccine-preventable disease.

(8) ONB providers may have a written policy stating children exempted from immunization by their parent or guardian will not be accepted into care unless that exemption is due to an illness protected

by the ADA or an illness or condition protected by Washington's Law Against Discrimination (chapter 49.60 RCW).

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NEW SECTION

WAC 110-302-0215 Medication. (1) **Managing medication.** A medication management policy must include, but is not limited to, safe medication storage, reasonable accommodations for giving medication, mandatory medication documentation and forms, pursuant to WAC 110-302-0500.

(2) **Medication training.** ONB providers must not give medication to children if the ONB providers have not successfully completed:

(a) An orientation about the ONB program's medication policies and procedures;

(b) The department standardized training course in medication administration that includes a competency assessment, pursuant to WAC 110-302-0106(7) or equivalent training; and

(c) If applicable, training from a child's parent, guardian, or an appointed designee for special medical procedures that are part of a child's individual care plan. This training must be documented and signed by the ONB provider and the child's parent, guardian, or designee.

(3) **Medication administration.** ONB providers must not give medication to any child without the written and signed consent from that child's parent or guardian, must administer medication pursuant to directions on the medication label, and must use appropriate cleaned and sanitized medication measuring devices.

(a) ONB providers must administer medication to children in care as follows:

(i) **Prescription medication.** Prescription medication must be given only to the child named on the prescription. Prescription medication must be prescribed by a health care professional with prescriptive authority for a specific child. Prescription medication must be accompanied with a medication authorization form that has the medical need and the possible side effects of the medication. Prescription medication must be labeled with:

(A) The child's first and last name;

(B) The date the prescription was filled;

(C) The name and contact information of the prescribing health professional;

(D) The expiration date, dosage amount, and length of time to give the medication; and

(E) Instructions for administration and storage.

(ii) **Nonprescription oral medication.** Nonprescription over-the-counter oral medication brought to ONB programs by a parent or guardian must be in the original packaging.

(A) Nonprescription over-the-counter medication must be labeled with the child's first and last name and accompanied with a medication authorization form that has the expiration date, medical need, dosage amount, age, and length of time to give the medication. An ONB provider must follow the instructions on the label or the parent or guardian must provide a medical professional's note; and

(B) Nonprescription medication must be given only to the child named on the label provided by the parent or guardian.

(iii) **Other nonprescription medication.** An ONB provider must receive written authorization from a child's parent or guardian and health care provider with prescriptive authority prior to administering if the item does not include age, expiration date, dosage amount, and length of time to give the medication:

- (A) Vitamins;
- (B) Herbal supplements;
- (C) Fluoride supplements; and
- (D) Homeopathic or naturopathic medication.

(iv) **Other items.** A parent or guardian must annually authorize an ONB provider to administer the following nonmedical items:

(A) Diaper ointments that are used as needed and according to manufacturer's instructions;

- (B) Sunscreen that is not an aerosol;
- (C) Hand sanitizers or hand wipes with alcohol;

(D) For ONB programs that enroll only preschool-age children or both preschool-age and school-age children:

- (I) Lip balm or lotion; and
- (II) Fluoride toothpaste.

(v) For ONB programs that enroll only school-age children, ONB providers may allow children to take their own medication, including nonmedical items, with parent or guardian authorization. The ONB provider must observe and document that the child took the medication, excluding other items listed in (a)(iv) of this subsection.

(A) A school-age child with a valid prescription from a health care provider may be allowed to carry and self-administer asthma medication and inhaler, anaphylaxis medication otherwise known as an epinephrine auto-injector, or insulin and pump with signed authorization from the child's parent or guardian and health care provider. The authorization form must attest that the child has the skill level and knowledge necessary to use the medication and device as prescribed.

(B) ONB programs must have individual care plans on-site for each child who self-carries asthma, anaphylaxis medication, or insulin in the event of an asthma, anaphylaxis, or diabetes emergency.

(C) ONB program staff must intervene if they observe a child misusing asthma or anaphylaxis medication or insulin, or if a child possesses another child's medication.

(vi) ONB providers must not give or permit another to give any medication to a child for the purpose of sedating the child unless the medication has been prescribed for a specific child for that particular purpose by a qualified health care professional.

(b) **Medication documentation.** Excluding "other items" detailed in (a)(iv) of this subsection, ONB providers must keep a current written medication log that includes:

- (i) A child's first and last name;
- (ii) The name of the medication that was given to the child;
- (iii) The dose amount that was given to the child;
- (iv) Notes about any side effects exhibited by the child;

(v) The date and time of each medication given or reasons that a particular medication was not given; and

(vi) The name and signature of the person that gave the medication.

(c) Medication must be stored and maintained as directed on the packaging or prescription label, including applicable refrigeration requirements. ONB programs may use approved coolers and reusable wa-

ter-activated cooling packs for medication storage if the medication's manufacturer directions require the medication to be stored at a temperature below the indoor or outdoor temperature. An ONB provider must comply with the following additional medication storage requirements:

- (i) Medication must be inaccessible to children except as provided for in (a)(v)(A) of this subsection;
 - (ii) Controlled substances must be locked in a container or cabinet which is inaccessible to children;
 - (iii) Medication must be kept away from food in a separate, sealed container; and
 - (iv) External medication designed to be applied to the outside of the body must be stored to provide separation from internal medication that is designed to be swallowed or injected to prevent cross contamination.
- (d) ONB providers must return a child's unused medication to that child's parent or guardian. If this is not possible, ONB providers must follow the FDA recommendations for medication disposal.
- (e) ONB providers must not accept or give to a child homemade medication, such as diaper cream or sunscreen.

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NEW SECTION

WAC 110-302-0220 Bathroom space and toileting. (1) ONB providers must provide at least one of the following bathroom options, and may use a combination of toileting options to ensure children and staff are able to meet their toileting needs:

- (a) An indoor bathroom in a licensed family home, center, or school-age facility.
- (b) A portable chemical toilet designated for use by the ONB program. The portable chemical toilet must be nontoxic and formaldehyde-free, and emptied regularly and as needed. The portable chemical toilet surfaces must be cleaned at least once each day and more often if needed, pursuant to WAC 110-302-0241. The waste container for the portable chemical toilet must be:
 - (i) Fabricated from impervious materials, such as plastic, steel, fiberglass, or other equivalent material;
 - (ii) Water tight and capable of containing the chemical waste in a sanitary manner; and
 - (iii) Sufficient in size for the number of persons that will be using the toilet and consistent with the manufacturer's recommended use requirements. At a minimum, the portable chemical toilet must be of sufficient size that the container will normally be at half of its volume capacity immediately before each regularly scheduled emptying of the waste.
- (c) The use of toileting facilities in a public park or nature center if:
 - (i) ONB providers check the bathrooms for cleanliness and safety prior to the children's use; and
 - (ii) The toilet seats, sinks, or other surfaces that children touch are cleaned and disinfected daily.
- (d) A portable toilet, with individual liners that allow for sanitary disposal after each use, and with surfaces cleaned at least once each day and more often if needed, pursuant to WAC 110-302-0241.

(e) A water conserving toilet, such as a composting or pit toilet, and greywater system that meets the requirements for health and sanitation as described in the Washington State Department of Health Water Conserving On-Site Wastewater Treatment Systems- Recommended Standards and Guidance (<https://www.doh.wa.gov/Portals/1/Documents/Pubs/337-016.pdf>).

(f) If no other toileting options are available, backcountry toileting options that comply with the rules of the landowner and the "Leave-No-Trace" standards described at <https://lnt.org/learn/principle-3>.

(i) Unless approved by the department, children must not be allowed to play or eat within 200 feet of areas that have been used or are designated as backcountry toileting spaces; and

(ii) ONB providers must use gloves to assist children and to ensure the sanitary disposal of toilet paper. Both children and adults must wash their hands pursuant to WAC 110-302-0200.

(g) For the toileting options described in (b) through (f) of this subsection:

(i) To ensure successful toileting and handwashing practices, ONB providers must ensure children have independent access to sufficient toilets, urinals, toilet paper, handwashing equipment, and staff support;

(ii) ONB programs must include:

(A) An ONB toileting policy in the parent handbook pursuant to WAC 110-302-0450; and

(B) A risk waiver must be included in the parent enrollment packet;

(iii) ONB staff must be trained in the proper use of alternative toileting options, and the ONB program's policies and procedures for supporting children, pursuant to WAC 110-302-0110;

(iv) Staff must be supported to meet their own toileting needs.

(2) Toilet plungers and toilet brushes must be inaccessible to children.

(3) ONB providers must discuss toilet training procedures with a child's parent or guardian when that child is ready for training. An ONB provider must facilitate the toilet training process by encouraging the child with:

(a) Positive reinforcement that does not include food items;

(b) Culturally sensitive methods;

(c) Developmentally appropriate methods; and

(d) A toilet training routine developed in agreement with the parent or guardian.

(4) An ONB provider may use a modified toilet seat if it is cleaned and disinfected using a disinfectant at least daily or more often if soiled.

(5) Toilet training equipment must be cleaned in a sink not used for food preparation or handwashing.

(6) If a child is developmentally ready, and an ONB provider uses a stand-up diapering procedure, it must be done in the bathroom or a diaper changing area.

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NEW SECTION

WAC 110-302-0221 Diaper changing areas and disposal. (1) An ONB provider must have a designated diaper changing area, including stand-up diapering, for every child or group of children who require diapering.

- (a) A diaper changing area must:
 - (i) Be separate from areas where food is stored, prepared, or served;
 - (ii) Be separate from where children play or eat;
 - (iii) Have an approved handwashing method readily available, pursuant to WAC 110-302-0200;
 - (iv) Have a sturdy surface or mat that:
 - (A) Is not torn or repaired with tape;
 - (B) Is washable;
 - (C) Has a moisture resistant surface that is cleanable; and
 - (D) Is large enough to prevent the area underneath the diaper changing area from being contaminated with bodily fluids; and
 - (b) ONB providers must not leave children unattended on diaper changing surfaces or mats during the diaper changing process.
 - (c) ONB providers must not use safety belts on diaper changing tables because they are neither cleanable nor safe.
 - (d) ONB providers must have and follow each step described in a diaper changing procedure to ensure diaper changing and disposal practices prevent cross-contamination.
 - (e) ONB providers must prevent the viewing of a partially or fully undressed child during diaper changes by members of the public. For the purpose of this subsection, "members of the public" means anyone not affiliated with the providers' ONB program.
- (2) If ONB providers use a diaper changing station, the station must:
- (a) Be a stand alone or vertically mounted diaper changing station that meets manufacturer guidelines and specifications;
 - (b) Be large enough to accommodate the length of the child; and
 - (c) Have a protective barrier at least three and one-half inches high on all sides from the surface where the child lays.
- (3) If ONB providers use reusable or cloth diapers, the diapers must:
- (a) Not be rinsed;
 - (b) Be placed in a securely sealed moisture impervious bag;
 - (c) Be stored in a separate disposal container; and
 - (d) Be delivered to a commercial laundry service or given to the child's parent or guardian at least daily.
- (4) ONB providers must provide a container designated for disposing of soiled diapers and diapering supplies only. The diaper disposal container must be:
- (a) Inaccessible to children;
 - (b) Hands-free and covered with a lid to prevent cross contamination;
 - (c) Lined with a disposable plastic trash bag; and
 - (d) Within arm's length of the diaper changing area.

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NEW SECTION

WAC 110-302-0225 Pets and animals. (1) ONB providers may have pets or other animals on the ONB program premises. If an ONB provider keeps pets or animals on the ONB program premises:

(a) ONB providers must have and follow a pet and animal policy that:

- (i) Describes how children will access and interact with pets or animals;
- (ii) Describes how children will be kept safe around the pets or animals;
- (iii) Track pet immunizations; and
- (iv) Gives instructions for handling pet waste or avoiding animal waste, if applicable.

(b) ONB providers must provide written notice of the potential presence of pets or animals to all enrolled children's parents or guardians.

(2) Pets or other animals controlled by ONB programs that have or may have contact with children must:

(a) Have all required vaccinations, pursuant to local and county regulations;

(b) Show no signs of illness, disease, worms, or parasites. If these symptoms appear, the pet or animal must be removed from the licensed space until appropriately treated for the condition; and

(c) Be nonaggressive.

(3) ONB providers must:

(a) Require that chickens, ducks, turkeys, doves, pigeons, or other birds that are provided by ONB programs:

(i) Are caged, cooped, or penned when they are not a part of a supervised ONB program activity so that they are inaccessible to children; and

(ii) Are kept at a distance that prevents children from having direct access to the animal's enclosures or waste when they are not a part of a supervised ONB program activity.

(b) Prevent debris from spilling out of a container or cage used for pets and animals;

(c) Not allow pets and animals in the kitchen during food preparation and ensure pets and animals do not come into contact with food, food preparation, or serving areas while food is served;

(d) Not use a sink that is used for cleaning food or utensils to clean pet supplies; and

(e) Store pet and animal medication separate from human medication.

(4) ONB providers must require:

(a) Animals and pets to go to the bathroom outdoors if the animals do not have designated indoor litter areas. The designated outdoor areas must be inaccessible to children in care, unless part of a sustainable farming practice approved by the department for an ONB program;

(b) Pet containers and cages to be cleaned and disinfected at least weekly, or more often if needed;

(c) Litter boxes to be kept inaccessible to children and cleaned daily;

(d) Animal waste and litter be disposed of as soon as possible and the area disinfected. ONB providers must prevent children from handling animal waste, and must ensure children wash their hands and change clothing if they come into contact with animal waste;

(e) Animal waste be inaccessible to children, unless part of a sustainable farming practice approved by the department;

(f) Animal waste to be disposed of in a manner that prevents children from coming into contact with the waste material;

(g) Animal waste, including fish tank water, to be disposed of in unlicensed space or toilets or custodial sinks. Toilets and custodial sink areas must be washed, rinsed, and disinfected after disposal; and

(h) Indoor and outdoor play space to be cleaned and disinfected where animal or bird waste or vomit is present, not including natural outdoor spaces utilized by ONB programs. This must be done as soon as possible or prior to access by children.

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NEW SECTION

WAC 110-302-0230 First-aid and CPR certification and supplies.

(1) Directors, program directors, assistant directors, site directors, program supervisors, lead teachers, assistant teachers, and any other ONB providers counted in staff-to-child ratio, or who could potentially be counted in ratio, must have a current pediatric and adult first-aid and CPR certificate, pursuant to WAC 110-302-0106.

(2) ONB providers must keep a complete first-aid kit where children are present, such as in the licensed space, on any off-site trip, and in vehicles used to transport children in care. A first-aid kit must:

- (a) Be stored in a location that is easily accessible to staff;
 - (b) Be inaccessible to children;
 - (c) Be separate from food or chemicals;
 - (d) Be kept clean and sanitary;
 - (e) Be stored in a manner that prevents contamination; and
 - (f) Have sufficient supplies for the number of enrolled children and staff consistent with the ONB program's licensed capacity, or sufficient supplies for each room in the licensed space.
- (3) First-aid kits must include:
- (a) Disposable nonporous protective nonlatex 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) A disposable or mercury free thermometer that uses disposable sleeves, or is cleaned and sanitized after each use;
 - (i) A sling, or a large triangular bandage;
 - (j) Adhesive tape;
 - (k) A CPR barrier with a one-way valve or both, and an adult and pediatric CPR mask with a one-way valve;
 - (l) Sterile, nonadhesive bandages of various sizes;
 - (m) A fire suppression blanket for ONB programs that engage in campfire activities;
 - (n) Hand-warmers and a method to prevent direct skin contact for hand-warmers that reach temperatures above 120 degrees Fahrenheit;
 - (o) Emergency thermal blanket;
 - (p) A current first-aid manual; and

(q) Hand sanitizer (for adult use only unless otherwise approved for a child's use by that child's parent or guardian pursuant to WAC 110-302-0215).

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NEW SECTION

WAC 110-302-0235 Safe water sources. (1) ONB programs without access to hot or cold running water must provide sufficient potable water for drinking, food preparation, handwashing, dishwashing, and sanitizing.

(2) Except for ONB programs that enroll only school-age children and operate on public or private school premises, ONB providers must use a Washington state certified water laboratory accredited by the department of ecology to test for lead and copper in water from fixtures that supply the ONB program either on-site or remotely. This requirement does not apply to portable, bottled, or packaged water transported to and used by the ONB program.

(a) All fixtures used to obtain water for preparing food, drinking, or cooking must be tested prior to licensing approval and at least once every six years.

(b) Testing must be done pursuant to current environmental protection agency standards.

(c) A copy of the water testing results must be kept on the licensed premises or in the ONB programs' administrative offices.

(d) ONB programs operating entirely on public land may use public records of water testing for their location instead of using a department of ecology accredited laboratory to conduct the testing described in this subsection.

(3) If test results are at or above the current EPA lead and copper action level, ONB providers must do the following within 24 hours:

(a) Consult with DOH for technical assistance;

(b) Close the ONB program to prevent children from using or consuming water, or supply bottled or packaged water to meet the requirements of these standards;

(c) Notify all parents and guardians of enrolled children of the test results;

(d) Notify the department of the water test results and steps taken to protect enrolled children; and

(e) Notify the department once lead and copper levels are below the current EPA action level.

(4) If ONB programs' space receives water from a private well, the well must comply with chapter 173-160 WAC, Minimum standards for construction and maintenance of wells.

(a) Well water must be tested within six months of the date this section becomes effective and at least once every 12 months thereafter for *E. coli* bacteria and nitrates by a Washington state certified laboratory accredited by the department of ecology to analyze drinking water. To achieve desirable results, the test must indicate:

(i) No presence of *E. coli* bacteria; and

(ii) The presence of less than 10 parts per million (ppm) for nitrates. If test results for nitrates are greater than five but less than 10 ppm, the water must be retested within six months.

(b) If well water tests positive for *E. coli* bacteria, or greater than 10 ppm for nitrates, the ONB provider must:

(i) Stop using the well water in the ONB premises within 24 hours;

(ii) Inform the local health jurisdiction, DOH, and the department of the positive test results; and

(iii) If directed to do so by the department, discontinue ONB program operations until repairs are made to the water system and water tests indicate desirable results pursuant to (a) of this subsection.

(c) If the department determines that ONB program operations may continue while an unsafe water system is being repaired or while the ONB provider installs treatment, the ONB provider must:

(i) Provide an alternate source of water, approved by the department; and

(ii) Retest until water tests indicate desirable results pursuant to (a) of this subsection.

(5) ONB providers must notify the department within four hours of when the water connection to ONB program space is interrupted for more than one hour, or the water source becomes contaminated.

(a) The department may require ONB programs to temporarily close until the water connection is restored or the water source is no longer contaminated; or

(b) ONB providers must obtain an alternative source of potable water such as bottled or packaged water. The amount of the alternative source of potable water must be sufficient to ensure compliance with the requirements of this chapter for safe drinking water, handwashing, sanitizing, dishwashing, and cooking.

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NEW SECTION

WAC 110-302-0236 Safe drinking water. (1) ONB programs' drinking water must:

(a) Be offered multiple times throughout the day and be readily available to children at all times;

(b) Be served in a manner that prevents contamination;

(c) Not be obtained from a handwashing sink used with toileting or diapering; and

(d) Be served fresh daily or more often as needed.

(2) Except for ONB programs that enroll only school-age children and operate on public or private school premises, drinking fountains used by ONB programs must:

(a) Not be attached to handwashing sinks or must be disabled;

(b) Not be located in bathrooms;

(c) Not be a "bubble type" fountain (the water flow must form an arch); and

(d) Cleaned and sanitized daily, or more often as needed.

(3) ONB programs may require that parents or guardians provide drinking water in water bottles for their children, and these must be labeled with the children's first and last names. An ONB program must provide water to children in accordance with this section whenever necessary, such as when a water bottle is forgotten or empty.

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CLEANING AND SANITATIONNEW SECTION

WAC 110-302-0240 Clean and healthy environment. (1) The indoor licensed space and equipment must be clean and sanitary.

(2) Hard surfaces in the indoor or approved space including, but not limited to, floors excluding carpet, walls, counters, shelves, and tables must be smooth and easily cleanable.

(a) A cleanable surface must be:

(i) Designed to be cleaned frequently and made of sealed wood, linoleum, tile, plastic, or other solid surface materials;

(ii) Moisture resistant; and

(iii) Free of chips, cracks, and tears.

(b) ONB providers must have at least 24 inches of moisture resistant and cleanable material or barrier around sinks, drinking fountains, and toilets located in indoor facilities.

(c) ONB providers or their designee must clean all surfaces before sanitizing or disinfecting. Surfaces must be cleaned with a soap and water solution or spray cleaner and rinsed. If using a spray cleaner, directions on the label must be followed.

(d) Aerosol sprays and air fresheners must not be used during ONB program hours.

(3) ONB programs must protect children from toxic or infectious agents by cleaning or sanitizing any contaminated area prior to children's use. For the purposes of this section, "toxic or infectious agents" include, but are not limited to, animal or human waste and trash or other debris that may pose a health risk to ONB providers, enrolled children, or anyone affiliated with ONB programs.

(a) If a bleach solution is used for sanitizing or disinfecting, ONB providers or their designees must use one that is fragrance-free and follow the DOH's current *Guidelines for Mixing Bleach Solutions for Child Care and Similar Environments*.

(b) If ONB providers or their designees use a product other than bleach, including wipes, to sanitize or disinfect, the product must be:

(i) Approved by the department prior to use;

(ii) Used by trained staff only;

(iii) Registered with the EPA and have safety data sheets (SDS) available;

(iv) Used in accordance with the manufacturer's label, which must include:

(A) Directions for use;

(B) A description of the safety precautions and procedures, and if applicable, a description of the equipment that must be used for mixing the substitute product concentration;

(C) A description of the safety precautions and procedures if the substitute product contacts skin or is inhaled; and

(D) A description of the procedures and safety precautions for rinsing cleaned areas and cleaning equipment.

(v) Labeled as safe to use on food surfaces if the product will be used to sanitize:

(A) Food contact surfaces; or

(B) Items such as eating utensils or toys used by the child or put into the child's mouth; and

(vi) Fragrance-free.

(c) Any spot, portion, or section of an ONB premises that contains a toxic or infectious agent but cannot be cleaned or sanitized must be made inaccessible to children.

(d) ONB programs operating on public park land may not be able to use bleach or other chemicals due to environmental impact. ONB programs must work with park directors or their designees to determine the appropriate way to sanitize the area or remove contaminated materials from ONB program space.

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NEW SECTION

WAC 110-302-0241 Cleaning schedules. (1) ONB providers must develop and follow a cleaning schedule that includes cleaning:

(a) Food preparation areas, tables and chairs, high chairs, and food service counters, which must be cleaned and sanitized before and after each meal and snack with single use paper towels or one-time use wiping cloths;

(b) Eating utensils, drinking equipment, and dishes, which must be cleaned and sanitized after each use;

(c) Except for ONB programs that enroll only school-age children and operate on public or private school premises, appliances used to prepare food, which must be cleaned after each use and sanitized daily or more often as needed;

(d) Except for ONB programs that enroll only school-age children and operate on public or private school premises, refrigerators and freezers, which must be cleaned and sanitized monthly or more often as needed;

(e) Toys, which must be cleaned and sanitized as follows:

(i) When a toy comes into contact with a child's mouth or bodily fluids it must be removed from use until it can be cleaned and sanitized prior to reuse;

(ii) All other toys must be cleaned and sanitized weekly or more often as needed; and

(iii) Collected natural materials, such as sticks, leaves, or pinecones used as toys may not be able to be sanitized but must be checked to confirm they do not contain toxins or animal droppings prior to use in ONB programs.

(f) Furniture and equipment, which must be cleaned monthly or more often as needed.

(2) Machine washable clothes provided by ONB programs must be laundered as needed.

(3) Sleeping equipment must be:

- (a) Cleaned and sanitized after each use if used by more than one child; or
- (b) Cleaned and sanitized weekly or more often as needed if assigned to only one child.
- (4) Bedding must be:
 - (a) Laundered and sanitized after each use if used by more than one child; or
 - (b) Laundered and sanitized weekly or more often as needed if assigned to only one child.
- (5) Sleeping bags must be:
 - (a) Laundered and sanitized after each use if used by more than one child; or
 - (b) Laundered and sanitized after 10 uses or more often as needed if assigned to only one child.
- (6) Outdoor sinks used for gardening should be cleaned and sanitized as needed.
- (7) Toileting and diaper changing areas including, but not limited to, toilets, counters, sinks, and floors must be cleaned and disinfected daily or more often as needed.
- (8) Diaper changing tables and changing pads must be cleaned and disinfected between children, even if using a nonabsorbent covering that is discarded after each use.
- (9) Garbage cans and receptacles must be emptied on a daily basis and cleaned and disinfected as needed.
- (10) Diaper receptacles must be emptied, cleaned, and disinfected daily or as needed. Contents of a diaper receptacle must be removed from the licensed space, and replaced with a new liner.
- (11) ONB programs providing or utilizing a portable chemical toilet must ensure that:
 - (a) Toilets are serviced on a regular schedule. Servicing must include the use of a disinfectant for cleaning urinals and seats, removing waste from containers, recharging containers with an odor controlling chemical and installing an adequate supply of toilet tissue;
 - (b) Toilet maintenance and service must be performed in accordance with city, county, and state laws by approved servicing organizations;
 - (c) The storage of toilet waste while on the ONB premises and removal of toilet waste from the ONB premises, must be handled and performed in accordance with city, county, and state laws by approved servicing organizations. The removal must be done in a clean and sanitary manner by means of a vacuum hose and received by a leak-proof tank truck; and
 - (d) Service trucks have a clear approach and convenient access to the toilets to be serviced.
- (12) Floors in licensed or approved indoor spaces must be cleaned by either sweeping or vacuuming at least once per day or more often as needed.
- (13) Carpets or area rugs soiled with bodily fluids must be cleaned and disinfected with high heat or an EPA registered product. ONB providers must limit exposure to blood and body fluids during cleanup.
- (14) Children must not:
 - (a) Be present when carpets are cleaned or vacuumed unless ONB providers are spot vacuuming, the vacuum has a HEPA filter, and children are not within the immediate area; or
 - (b) Use or play on or near carpet areas until dry.

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NEW SECTION

WAC 110-302-0245 Laundry and equipment. (1) ONB programs that do not have an indoor facility but are required to launder hand-towels, clothing, bedding, or other items must comply with the following:

(a) Laundry and laundry equipment used by an ONB program must be inaccessible to children and separated from areas where food is prepared to prevent cross contamination.

(b) Dirty or soiled laundry must be:

(i) Kept separate from clean laundry;

(ii) Cleaned with laundry soap, detergent or other department approved product or process including, but not limited to, the cleaning of water-resistant rain suits or down-filled sleeping bags.

(iii) Rinsed; and

(iv) Sanitized:

(A) With bleach or a similar sanitizer registered by the EPA; or

(B) By using a "sanitize" setting on a washing machine or dryer that reaches at least 140 degrees Fahrenheit or other department approved product or process including, but not limited to, the sanitizing of, water-resistant rain suits or down-filled sleeping bags.

(2) If ONB programs allow parents or staff to share laundering responsibilities by laundering at their private residence, the ONB programs must:

(a) Have a policy to ensure parents or staff are aware of and follow the requirements of this section; and

(b) Include the requirements of the shared laundering practice in the parent handbook.

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NEW SECTION

WAC 110-302-0250 Private septic systems. (1) Except for ONB programs that enroll only school-age children and operate on public or private school premises, ONB programs that are served by private septic systems must ensure that the septic systems are designed, constructed, and maintained in accordance with state and local health jurisdiction requirements.

(a) Private septic systems must be inspected by a septic system maintenance service providers approved by the local health jurisdiction and monitored on a routine basis. Any deficiencies noted in an inspection report must be corrected with the necessary permits and inspections.

(b) The most recent private septic system pumping and inspection records must be kept on the licensed premises or in the ONB programs' administrative offices.

(c) If ONB providers do not have the documentation described in (b) of this subsection, ONB providers must obtain such documentation from the state, local health jurisdiction, or a department approved

private company within six months of the date the ONB provider is approved by DCYF to operate an ONB program.

(d) ONB providers must notify the department and local health jurisdiction if there is a problem, concern, or malfunction with their private septic system.

(e) If a private septic system problem, concern, or malfunction interferes with the proper care of children and an approved alternative is not available, the state, local health jurisdiction, or department may require ONB programs to close until the system is inspected, repaired, and approved by the local health jurisdiction.

(2) Except for ONB programs that enroll only school-age children and operate on public or private school premises, pursuant to WAC 110-302-0146, playground design must not:

(a) Interfere with access to or the operation of a private septic system, including a private septic system's drain field and tanks; or

(b) Be located or placed in a way that impacts the private septic system's drain field or tanks as determined by local officials.

(3) ONB programs that utilizes a water-conserving toilet and greywater system pursuant to WAC 110-302-0220 must ensure that children do not play in areas contaminated by greywater.

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NEW SECTION

WAC 110-302-0255 Pest control. (1) Except for ONB programs that enroll only school-age children and operate on public or private school premises, ONB programs operating in natural environments must prevent and manage the children's exposure to toxic or infectious agents, such as potentially toxic animal waste, bee stings, and potentially toxic plants or fungi. ONB programs must notify staff, parents and guardians if pesticides are applied on or near the ONB program space, pursuant to WAC 110-302-0225, 110-302-0240, and 110-302-0505.

(2) ONB school-age only providers that operate on public or private school premises must have a pest control policy that emphasizes prevention and natural, nonchemical, low-toxicity methods where pesticides or herbicides are used as a last resort, also known as "integrated pest management." In areas where local pest control policies are already in place, such as a school district, school-age ONB programs may adopt or amend such policies to develop its own policy.

(3) ONB programs operating on private or public park land must work with the owners or park directors or their designees to comply with the following:

(a) **Prevention.** ONB providers must take steps to prevent attracting pests including, but not limited to, identifying and removing food and water sources that attract pests.

(b) **Inspection.** Indoor and outdoor areas in and around the licensed space must be inspected for evidence of pests. ONB providers must document the date and location if evidence is found.

(c) **Notification.** If pesticides are used, except in the case of an emergency such as the discovery of a wasp nest, ONB providers must notify the parents or guardians of enrolled children at least 48 hours before application what pesticide will be applied and where it will be applied.

(d) **Application.** Pesticides must not be applied to ONB program space when children are present.

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NEW SECTION

WAC 110-302-0260 Storage of hazardous and maintenance supplies.

(1) ONB providers must ensure all poisonous or dangerous substances including, but not limited to, fuels, solvents, oils, laundry, dishwasher, other detergents, sanitizing products, and disinfectants are stored as follows:

(a) In a location that is inaccessible to children;

(b) Separate and apart from food preparation areas, food items, and food supplies;

(c) In their original containers or clearly labeled with the name of the product if not in the original container;

(d) In compliance with the manufacturer's directions, including, not storing products near heat sources; and

(e) ONB providers who operate ONB programs on public land must implement appropriate planning, supervision, and intervention to ensure that children do not have access to poisonous or dangerous substances.

(2) Storage areas and storage rooms must be inaccessible to children.

(3) For ONB programs that do not operate on public or private school premises, storage areas and rooms that contain chemicals, utility sinks, or wet mops must be ventilated to the outdoors with an exterior window or mechanical ventilation to prevent the buildup of odors, fumes, or other hazards.

(4) Except for ONB programs that enroll only school-age children and operate on public or private school premises, storage areas and rooms must:

(a) Have locking doors or other methods to prevent child access;

(b) Have moisture resistant and easily cleanable floors;

(c) Have a designated maintenance or janitorial utility sink, or another method excluding kitchen sinks to dispose of wastewater; and

(d) Be kept clean and sanitary.

(5) Saws, power tools, lawn mowers, and other maintenance and janitorial equipment must be inaccessible to children.

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SLEEP AND REST

NEW SECTION

WAC 110-302-0265 Sleep, rest, and equipment. ONB programs that enroll only preschool-age children or both preschool-age and school-age children must comply with the requirements in this section.

(1) ONB providers must offer a supervised daily rest period to preschool-age children who remain in care for more than six hours per day, or who show a need for rest.

(2) ONB providers must provide quiet activities for children who do not require rest. Quiet activities must be minimally disruptive to sleeping children.

(3) ONB providers must communicate children's sleep needs and patterns with their parents or guardians.

(4) ONB providers must not place children directly on the floor or ground to rest or sleep.

(5) ONB providers must provide developmentally appropriate mats, cots, or other sleep equipment made of water resistant material that can be cleaned and sanitized.

(6) Mats, cots, and other sleep equipment used in ONB programs must be:

(a) In good condition, have no tears or holes, and have no repairs with tape;

(b) Cleaned, sanitized, and air dried at least once per week or more often as needed if used by only one child, or after each use if used by more than one child; and

(c) Stored so sleeping surfaces are not touching each other unless cleaned and sanitized after each use.

(7) Floor mats designed for sleeping and mattresses must be at least one inch thick. Inflatable sleeping pads must be suitable for the outdoor temperature according to the manufacturer's label. Inflatable sleeping pads less than one inch thick must be approved by the department.

(8) When in use, sleep equipment must be spaced apart from other sleep equipment to reduce germ exposure and allow ONB providers' access to each child during sleep time as follows:

(a) There must be at least 18 inches on each side between mats, cots, or other sleep equipment; and

(b) Mats, cots, and other sleep equipment must be arranged so children are head to toe, or toe to toe.

(9) Each child's bedding must:

(a) Have a clean sheet or blanket to cover the sleeping surface and a clean blanket for the child that is suitable given the child's size and room or outdoor temperature. Children may use sleeping bags suitable for the outdoor temperature;

(b) Be laundered at least weekly or more often, such as between uses by different children or if soiled; and

(c) Be stored separately from bedding used by another child, unless it is cleaned and sanitized after each use.

(10) ONB providers must not allow children less than six years of age to use loft style beds or the upper bunk of bunk beds.

(11) Napping or resting children must be protected from the sun, rain, and extreme weather, such as by the use of tarps or tents.

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INTERACTIONS AND CURRICULUM LEARNING SUPPORTSNEW SECTION

WAC 110-302-0300 Individual care plan. (1) ONB providers must develop an individual care plan for each child with identified special needs. Plans and documentation required under this section must:

- (a) Meet the requirements of this section;
- (b) Be available for department review;
- (c) Have written permission from a child's parent or guardian stating that a visiting health professional may provide services to the child at the ONB program, if applicable;
- (d) Have verification that ONB program staff involved with a particular child has been trained on implementing the individual care plan for that child, if applicable;
- (e) Be updated annually or when there is a change in the child's special needs; and
- (f) Be kept in the child's file.

(2) Individual care plans must be signed by the parent or guardian and may be developed using a department provided template.

- (a) Individual care plans must contain:
 - (i) The child's diagnosis, if known;
 - (ii) Contact information for the primary health care provider or other relevant specialist;
 - (iii) A list of medications to be administered at scheduled times, or during an emergency along with descriptions of symptoms that would trigger emergency medication;
 - (iv) Directions on how to administer medication;
 - (v) Allergies;
 - (vi) Food allergy and dietary needs, pursuant to WAC 110-302-0186;
 - (vii) Activity, behavioral, or environmental modifications for the child;
 - (viii) Known symptoms and triggers;
 - (ix) Emergency response plans and what procedures to perform; and
 - (x) Suggested special skills training, and education for ONB program staff, including specific pediatric first aid and CPR for special health care needs.

(b) ONB providers must have supporting documentation of the child's special needs provided by the child's 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 with a specialization in the individual child's needs; or
- (v) Registered nurse or advanced registered nurse practitioner.

(3) ONB providers' written plans and documentation for accommodations must be informed by any existing:

- (a) Individual education plan (IEP);
- (b) Individual health plan (IHP);
- (c) 504 Plan; or

(d) Individualized family service plan (IFSP).

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NEW SECTION

WAC 110-302-0305 Curriculum philosophy and planning. (1) ONB providers must have a written curriculum philosophy that describes the ONB programs' planned daily activities related to child development.

(2) ONB providers must include in their curriculum philosophy how nature is central to their curriculum, and how learning and being outdoors in a nature-based setting impacts the ONB program of daily activities and will benefit children.

(3) The curriculum philosophy must address all age groups being served. The curriculum philosophy may include, but is not limited to:

(a) How children develop emotionally, socially, cognitively, and physically in nature and through nature-based experiences and reasonable risky play;

(b) What ONB programming looks like or areas of focus for each age group being served;

(c) How the ONB provider will meet cultural, dual language learner, and special needs of children in care;

(d) How to guide learning and social interactions; and

(e) The importance of play to a child's learning process.

(4) Staff must be trained on ONB programs' curriculum philosophy.

(5) ONB program staff responsible for ONB program and activity planning must be given regularly scheduled time to plan and develop curriculum and activities. Planning may be done during rest time but all supervision requirements pursuant to WAC 110-302-0345 must be met. Planning time for ONB staff implementing emergent curriculum may be spent on activities such as documenting children's learning, making plans for individualized learning goals, and gaining knowledge of subject matter relevant to the children's learning goals, interests, seasons, and the environment.

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NEW SECTION

WAC 110-302-0310 Concept development and feedback quality. (1) ONB providers must facilitate activities to support child learning and understanding.

(2) ONB providers may facilitate child learning and understanding through a variety of techniques such as:

(a) Using a variety of teaching strategies such as different techniques, curricula, or styles and natural materials to address different learning styles, abilities, developmental levels, and temperament;

(b) Helping children enter into and sustain play;

(c) Encouraging children to participate by asking questions and providing guidance;

(d) Providing opportunities for children's creativity;

- (e) Linking concepts and activities to one another and to the children's lives and interests;
 - (f) Noticing and responding to teachable moments;
 - (g) Clarifying and expanding children's understanding;
 - (h) Describing and discussing children's learning processes;
 - (i) Encouraging children's efforts and persistence;
 - (j) Showing tolerance for mistakes;
 - (k) Using diverse vocabulary;
 - (l) Leading discussions and activities;
 - (m) Providing materials during the day, including daily routines such as meals and transitions, to encourage communication in English and children's home languages when possible; and
 - (n) Using scaffolding methods to gradually move children toward stronger understanding and greater independence in the learning process.
- (3) ONB programs must emphasize children's exploration of the natural world. This must be accomplished by implementing the techniques described in subsection (2)(a) through (n) of this section, and providing modeling and teaching that encourages:
- (a) Opportunities for child-directed inquiry;
 - (b) The children's curiosity through open-ended experiences and questioning;
 - (c) Respectful, reciprocal, and sustainable interactions with nature, including the local fauna, flora, and delicate ecosystems; and
 - (d) Engaging children in diverse environments.
- (4) ONB programs, as operating primarily outside and potentially in unenclosed spaces, must prioritize behavior management and children's development of habits that keep them safe in such environments. This must be accomplished by:
- (a) Establishing boundaries through visual cues, such as cones or rope;
 - (b) Teaching children to stop and return, such as through words or the use of other calls;
 - (c) The appropriate use of consequence for unsafe behaviors;
 - (d) Engaging children in developmentally appropriate assessment of risky play, pursuant to WAC 110-302-0315.
 - (e) Ensuring children are engaged in areas that suit the developmental level of their behaviors; and
 - (f) Positioning ONB staff at locations within the ONB program space to ensure the ONB provider has the ability to respond to dangerous situations.

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NEW SECTION

- WAC 110-302-0315 Language and communication modeling and reasoning.**
- (1) ONB providers must be aware of and responsive to children's developmental, linguistic, cultural, and learning needs.
 - (2) ONB providers must be aware of and responsive to children's needs by engaging in activities such as:
 - (a) Asking developmentally appropriate questions for the age group and allow children to answer without interruption from the ONB provider;

- (b) Circulating among the children during free choice activities and talking with children about what they are doing;
- (c) ONB providers must use language to develop and encourage reasoning skills by using techniques such as:
- (i) Talking about logical relationships or concepts during the day including, but not limited to, the daily schedule, the differences and similarities between objects, or people in the ONB program;
 - (ii) Introducing concepts using guiding questions that encourage children to figure out cause and effect relationships;
 - (iii) Providing opportunities for reading and writing activities; and
 - (iv) Asking open ended questions to help children improve skills and acquire knowledge.
- (d) ONB providers working with non-English speaking children must encourage language development and acquisition by using techniques such as:
- (i) Using words in various languages to talk about the ONB program routines;
 - (ii) Reading books out loud or using audio books; and
 - (iii) Playing games in different languages.
- (3) ONB providers, in addition to carrying out benefit-risk assessments, pursuant to WAC 110-302-0471, must engage children in a developmentally appropriate assessment of risky play. This must be accomplished by:
- (a) Providing greater supervision when children engage in new levels of risky play;
 - (b) Using questioning and scaffolding techniques to help children determine risks and identify ways to mitigate risk;
 - (c) Prohibiting staff from physically placing children into risky situations, such as in trees or on top of boulders; and
 - (d) Encouraging children to accept their current levels of ability as they work towards goals.

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NEW SECTION

- WAC 110-302-0320 Facilitating child interests, learning, perspective, and productivity.** (1) ONB providers must work to maximize children's interests, engagement with developmentally and culturally responsive activities, and ability to learn from play.
- (2) ONB providers must maximize children's interests, engagement, and abilities by using techniques such as:
- (a) Maximizing learning time with natural learning materials and products, limiting disruptions during activities, and offering additional choices when activities are completed;
 - (b) Giving clear instructions and directions; and
 - (c) Making opportunities for children to learn during transitions by clearly communicating expectations and keeping transitions to a duration that is developmentally appropriate.
- (3) ONB providers must offer developmentally and culturally responsive activities that offer a range of auditory, visual, and movement opportunities by using techniques such as:
- (a) Encouraging child engagement;
 - (b) Promoting each child's self-help and social skills;

- (c) Organizing around child interests and ideas;
- (d) Allowing choice, exploration, and experimentation;
- (e) Promoting active and play-based learning experiences;
- (f) Allowing children freedom to move during activities;
- (g) Ensuring child expression;
- (h) Utilizing interesting and creative materials;
- (i) Offering hands-on opportunities for children;
- (j) Providing opportunities for children to direct their own learning and problem solving rather than teacher-directed activities; and
- (k) Orienting and guiding children toward learning objectives.

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EMOTIONAL SUPPORT AND CLASSROOM ORGANIZATION

NEW SECTION

- WAC 110-302-0325 Creating a climate for healthy child development.** (1) When communicating or interacting with children, ONB providers must maintain a climate for healthy, culturally responsive, child development such as:
- (a) Using a calm and respectful tone of voice;
 - (b) Using positive language to explain what children can do and give descriptive feedback;
 - (c) Having relaxed conversations with children by listening and responding to what they say. Adult conversations must not dominate the overall sound of the group;
 - (d) Greeting children upon arrival and departure at the ONB program;
 - (e) Using facial expressions such as smiling, laughing, and enthusiasm to match a child's mood;
 - (f) Using physical proximity in a culturally responsive way to speak to children at their eye level and with warm physical contact including, but not limited to, gently touching a hand or shoulder, sitting next to a child, appropriately holding younger children close while communicating;
 - (g) Validating children's feelings and showing tolerance for mistakes;
 - (h) Being responsive and listening to children's requests and questions, encouraging children to share experiences, ideas, and feelings;
 - (i) Observing children in order to learn about their families, cultures, individual interests, ideas, questions, and theories;
 - (j) Modeling and teaching emotional skills such as recognizing feelings, expressing them appropriately, accepting others' feelings, and controlling impulses to act out feelings;
 - (k) Representing the diversity found in the ONB program and society, including gender, age, language, and abilities, while being re-

spectful of cultural traditions, values, religion and beliefs of enrolled families;

(1) Interacting with staff and other adults in a positive, respectful manner; and

(m) Encouraging the development of a caring relationship with the environment.

(2) ONB providers must encourage positive interactions between and among children with techniques such as:

(a) Giving children several chances a day to interact with each other while playing or completing routine tasks;

(b) Modeling social skills;

(c) Encouraging socially isolated children to find friends;

(d) Helping children understand feelings of others; and

(e) Including children with special needs to play with others.

(3) Weather permitting, ONB providers must offer daily access to unobstructed natural light, including access to direct sunshine, to promote:

(a) The body's natural absorption of Vitamin D; and

(b) Healthy mental well-being and emotional development.

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NEW SECTION

WAC 110-302-0330 Positive relationships and child guidance. (1)

ONB providers must work to maintain positive relationships with children by using consistent guidance techniques to help children learn. Guidance techniques must adapt ONB programs' environment, routines, and activities to a child's strengths, age and developmental level, abilities, culture, community, and relate to the child's behavior.

(2) Guidance techniques may include:

(a) Coaching behavior;

(b) Modeling and teaching social skills such as taking turns, cooperation, waiting, self-control, respect for the rights of others, treating others kindly, and conflict resolution;

(c) Offering choices;

(d) Distracting;

(e) Redirecting or helping a child change their focus to something appropriate to achieve their goal;

(f) Planning ahead to prevent problems and letting children know what events will happen next;

(g) Explaining consistent, clear rules and involving children in defining simple, clear classroom limits;

(h) Involving children in solving problems; and

(i) Explaining to children, the natural and logical consequence related to the child's behavior in a reasonable and developmentally appropriate manner.

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NEW SECTION

WAC 110-302-0331 Prohibited behavior, discipline, and physical removal of children. (1) ONB providers must take steps to prevent and, once aware of, must not tolerate:

- (a) Profanity, obscene language, "put downs," or cultural or racial slurs;
- (b) Angry or hostile interactions;
- (c) Threats of physical harm or inappropriate discipline such as, but not limited to, spanking, biting, jerking, kicking, hitting, slapping, grabbing, shaking, pulling hair, pushing, shoving, throwing a child, or inflicting pain or humiliation as a punishment;
- (d) Intimidation, gestures, or verbal abuse including sarcasm, name calling, shaming, humiliation, teasing, derogatory remarks about a child or the child's family;
- (e) Emotional abuse including victimizing, bullying, rejecting, terrorizing, extensive ignoring, or corrupting a child;
- (f) Prevent a child from or punish a child for exercising religious rights; or
- (g) Anyone to:
 - (i) Restrict a child's breathing;
 - (ii) Bind or restrict a child's movement unless permitted under WAC 110-302-0335;
 - (iii) Tape a child's nose, mouth, or other body part;
 - (iv) Deprive a child of sleep, food, clothing, shelter, physical activity, first aid, or regular or emergency medical or dental care;
 - (v) Force a child to ingest something as punishment such as hot sauce or soap;
 - (vi) Interfere with a child's ability to take care of their own hygiene and toileting needs;
 - (vii) Use toilet learning or training methods that punish, demean, or humiliate a child;
 - (viii) Withhold hygiene care, toileting care, or diaper changing from any child unable to provide such care for themselves;
 - (ix) Expose a child to extreme temperatures as punishment;
 - (x) Demand excessive physical exercise or strenuous postures. Excessive physical exercise includes, but is not limited to, running laps around the yard until overly tired, an extensive number of push-ups, having a child rest more than the child's development requires, standing on one foot for an uncomfortable amount of time, or holding out one's arms until tired or painful;
 - (xi) Place the separated child in a closet, bathroom, locked room, out of visual range in an approved tent, cabin, yurt or other structure; or in an unlicensed space; and
 - (xii) Use confining space or equipment to punish a child or restrict movement.

(2) ONB providers must supervise to protect children from the harmful acts of other children. ONB providers must immediately intervene when they become aware that a child or children are teasing, fighting, bullying, intimidating, or becoming physically aggressive.

(3) ONB providers may separate a child from other children when that child needs to regain control of themselves.

(a) During separation time, the child must remain under the appropriate level of supervision of a licensee, director, program director, assistant director, site director, program supervisor, lead teacher or an assistant teacher.

(b) Separation time should be minimized and appropriate to the needs of the individual child.

(4) If a child is separated from other children, ONB providers must:

(a) Consider the child's developmental level, language skills, individual and special needs, and ability to understand the consequences of their actions; and

(b) Communicate to the child the reason for being separated from the other children.

(5) If ONB providers follow all strategies in this section, and a child continues to behave in an unsafe manner, only a licensee, director, program director, assistant director, site director, program supervisor, lead teacher, or an assistant teacher may physically remove the child to a less stimulating environment. Staff must remain calm and use a calm voice when directing or removing the child. Physical removal of a child is determined by that child's ability to walk:

(a) If the child is willing and able to walk, staff may hold the child's hand and walk them away from the situation.

(b) If the child is not willing or able to walk, staff may pick the child up and remove them to a quiet place where the child cannot hurt themselves or others.

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NEW SECTION

WAC 110-302-0335 Physical restraint. (1) ONB programs must have written physical restraint policies pursuant to WAC 110-302-0490, and staff must implement such protocols only when appropriate and after complying with all requirements of WAC 110-302-0330 and 110-302-0331.

(2) Physical restraint must only be used if a child's safety or the safety of others is threatened and must be:

(a) Limited to holding a child as gently as possible to accomplish restraint;

(b) Limited to the minimum amount of time necessary to control the situation;

(c) Developmentally appropriate; and

(d) Only performed by ONB providers trained in the ONB program's child restraint policy, pursuant to WAC 110-302-0490.

(3) ONB providers must not use bonds, ties, blankets, straps, car seats, or heavy weights to include an adult sitting on a child to physically restrain children.

(4) Licensees, directors, program directors, assistant directors, site directors, program supervisors, lead teachers or trained staff must remove themselves from a situation if they sense a loss of their own self-control and concern for the child when using a restraint technique if another ONB provider is present. ONB providers must intervene when they observe another staff member or volunteer using inappropriate restraint techniques.

(5) If physical restraint is used, staff must:

(a) Report the use of physical restraint, pursuant to WAC 110-302-0475.

(b) Assess any incident of physical restraint to determine if the decision to use physical restraint and its application was appropriate;

- (c) Document the incident in the child's file, including the date, time, staff involved, duration and what happened before, during, and after the child was restrained;
- (d) Develop a written plan with input from the child's primary care or mental health provider, and the parents or guardians to address underlying issues and to reduce the need for further physical restraint if:
- (i) Physical restraint has been used more than once; and
 - (ii) A plan is not already a part of the child's individual care plan.
- (e) Notify the department when a written plan has been developed.

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NEW SECTION

- WAC 110-302-0340 Expulsion.** (1) To promote consistent care and maximize opportunities for child development and learning, ONB providers must develop and follow expulsion policies and practices, pursuant to WAC 110-302-0486.
- (2) ONB providers may expel a child only if the:
- (a) Child exhibits behavior that presents a serious safety concern for that child or others; and
 - (b) ONB program is unable to reduce or eliminate the safety concern through reasonable modifications.
- (3) When children are expelled, ONB providers must:
- (a) Review the ONB program's expulsion policy with the parent or guardian of the child;
 - (b) Provide a record to the parent or guardian about the expulsion and the steps that were taken to avoid expulsion. The record must include the date, time, staff involved, and details of each incident that led to expulsion; and
 - (c) Provide information to the parent or guardian that includes, but is not limited to, community-based resources that may benefit the child.
- (4) ONB providers must report to the department when children are expelled. The information must include:
- (a) Child demographic data including, but not limited to, the age, race, ethnicity, and gender of the child;
 - (b) The reason the child was expelled; and
 - (c) The resources that were provided to the parent or guardian of the child.

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ONB PROGRAM STRUCTURE AND ORGANIZATION

NEW SECTION

WAC 110-302-0345 Supervising children. (1) ONB providers must allow only the following persons to have unsupervised access to a child in care:

- (a) The child's own parent or guardian;
- (b) Licensees or ONB program staff authorized by the department under chapter 110-06 WAC;
- (c) A government representative including an emergency responder who has specific and verifiable authority for access, supported by documentation; and
- (d) A person authorized in writing or by telephone by the child's parent or guardian such as a family friend or the child's therapist or health care provider.

(2) ONB providers must comply with department approved capacity, group size, and staff-to-child ratios while children are in care. This includes, but is not limited to:

- (a) Indoor and outdoor play activities;
- (b) Off-site activities;
- (c) During transportation;
- (d) Meal times;
- (e) Rest periods; and
- (f) When children are on different floor levels of an indoor space.

(3) ONB providers must supervise children in care by:

- (a) Scanning the environment, looking and listening for both verbal and nonverbal cues to anticipate problems and plan accordingly;
- (b) Positioning themselves to supervise all areas accessible to children;
- (c) Attending to children and being aware of what children are doing at all times;
- (d) Being available and able to promptly assist or redirect a child as necessary; and
- (e) Considering the following when deciding whether increased supervision is needed:
 - (i) The ages of children;
 - (ii) The individual differences and abilities of children;
 - (iii) The layout of the indoor and outdoor licensed space and play area;
 - (iv) The risk associated with the activities children are or may be engaged in; and
 - (v) Whether there are any nearby hazards including those in the licensed or unlicensed space.

(4) ONB providers must ensure that the staff-to-child ratios required by this chapter are followed by program staff and that children are actively supervised.

(5) ONB providers must ensure that program staff are equipped with cell phones or walkie-talkies at all times for the purpose of communicating with other staff.

(6) ONB program staff may undertake other activities for a temporary time period when not required to be providing the active supervision required under subsection (7)(b) of this section, or when following a missing child protocol, pursuant to WAC 110-302-0470(2)(d). Such activities include, but are not limited to, cleaning up after an activity or preparing items for a new activity. The staff member must remain in visual or auditory range, and be available and able to respond to the children's needs.

- (7) ONB providers must:
- (a) Not use devices such as baby monitors, video monitors, or mirrors in place of supervision;
 - (b) Actively supervise children when the children:
 - (i) Interact with pets or animals;
 - (ii) Engage in water or sand play;
 - (iii) Play in an area adjacent to a body of water;
 - (iv) Using a safe route to access an area or activity not immediately adjacent to the ONB program premises;
 - (v) Search for or handle plant life (foraging);
 - (vi) Engage in cooking activities;
 - (vii) Engage in water activities;
 - (viii) Engage in campfire activities;
 - (ix) Engage in climbing activities;
 - (x) Engage in tool use activities;
 - (xi) Ride on public transportation;
 - (xii) Are attending field trips; and
 - (xiii) Are participating in hikes or walks.

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NEW SECTION

WAC 110-302-0346 Plant foraging activities. (1) All plants gathered by children or staff that are intended to be consumed by children must be clean and safe to eat. The requirements described in WAC 110-302-0196 through 110-302-0198 apply to plants gathered by children or staff that are intended to be consumed by children.

(2) ONB program staff must be able to demonstrate they have the level of knowledge necessary to:

- (a) Properly identify the different plant species that are native to the area and region where the ONB program is located;
- (b) Identify and avoid poisonous plants and plants that look similar to poisonous plants; and
- (c) Ensure that plants are harvested during the correct time of year and season.

(3) ONB program staff must ensure the area where plants are being harvested, for example an adjacent road or field, has not been sprayed with pesticides or other pollutants. The ONB program staff must also ensure that plants are not harvested if the ground contains any type of toxins including, but not limited to, toxins associated with the smelter plume areas in the Tacoma and Everett smelter plume areas located in King, Pierce, Snohomish, and Thurston counties.

(4) Mushrooms and other fungi of any variety must not be touched, picked, harvested, or consumed by children.

(5) ONB program staff must ensure that children do not touch, pick, harvest, or consume plants without the permission of program staff. Before a child eats any type of wild vegetation, ONB program staff must ensure the vegetation has been approved for consumption by a staff person who is able to correctly identify the source plant. Prior approval by the appropriate ONB program staff person is required even if a child thinks they can correctly identify the plant.

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NEW SECTION

WAC 110-302-0347 Supervising children who are climbing natural features. (1) ONB providers may allow children to climb natural features, including trees and boulders.

(2) Before allowing children to climb natural features, ONB providers must use and apply the benefit-risk assessments described in WAC 110-302-0315(3) and 110-302-0471 to determine the appropriate methods to remove or mitigate the possibility of injury.

(3) To prevent injury to children, ONB providers must comply with the requirements described in this subsection.

(a) Staff members must remove hazardous objects and mitigate hazards whenever possible from the surrounding area where children might fall. This includes, but is not limited to, removing rocks and covering sharp edges or potentially harmful protrusions including harmful protrusions or branches that may extend from trees or stumps.

(b) Before a child or children climb on trees, ONB providers must inspect the trees for weak or loose branches or other potential hazards.

(c) ONB staff members must provide active supervision and be able to provide immediate assistance to any climbing child. To ensure adequate supervision and after conducting the risk assessments described in WAC 110-302-0471, it may be necessary for ONB programs to limit the number of children climbing at one time.

(d) At all times, a staff member must be within reach of the midriff of a child who is climbing a natural feature 30 inches above the ground. A climbing child must not be allowed to climb out of reach of staff.

(4) For school-age children and activities that involve climbing natural features or challenge courses 48 inches or higher from the ground, ONB programs must comply with the requirements described in the American National Standard Institute/Association for Challenge Course Technology (ANSI/ACCT) Challenge Course Standards (<https://www.acctinfo.org/page/ANSIACCTStandards>). ONB program staff that provide climbing and challenge course activities must possess a valid and current Association for Challenge Course Technology (ACCT) Practitioner Certification.

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NEW SECTION

WAC 110-302-0350 Supervising children during water activities.

(1) During water activities, ONB providers must comply with the requirements described in this section, WAC 110-302-0175 and 110-302-0345.

(2) In addition to the "risk waiver" described in WAC 110-302-0471:

(a) ONB providers must obtain written permission on a "water activity waiver" from the child's parent or guardian before that parents or guardian's child participates in water activities.

(b) ONB programs located within a quarter mile of an accessible body of water must obtain from the parent or guardian a signed "water hazard waiver."

(3) For water activities that involve a water depth that is more than 24 inches deep, ONB providers must comply with this chapter and the requirements described in this subsection.

(a) A certified lifeguard must be present and on-duty. A staff member or volunteer may be included in the staff-to-child ratio who is also the on-duty certified lifeguard.

(b) All children must wear approved water life jackets or approved water life vests.

(4) ONB providers must have life-saving equipment readily accessible during water activities if the surface area of a pool or body of water is equal to or greater than six feet and the depth of any portion of the surface area is equal to or greater than two feet. Life-saving equipment may include a ring buoy and rope, a rescue tube, or a throwing line and a shepherd's hook that will not conduct electricity.

(5) During water activities, ONB providers must hold or have continuous touch of children with special needs unless that is not developmentally appropriate.

(6) At least one attending staff person must be able to swim when children are within one quarter mile of an accessible body of water such as a park located near a lake or stream regardless of whether or not the children are actively engaging in a water activity.

(7) If children are at or near a moving body of water, an ONB staff member who can swim or a lifeguard must be positioned downstream of where the children are playing or otherwise take into account how water moves and their access to the body of water.

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NEW SECTION

WAC 110-302-0351 ONB program campfire activity supervision and safety. (1) To engage in a campfire activity, ONB providers must comply with this section and have permission from the landowner or park personnel to engage in campfire activities.

(2) ONB providers must have a signed and dated written permission for campfire activities from each child's parent or guardian in the form of a "fire hazard waiver."

(3) ONB staff must receive training on ONB program campfire policies and procedures before the staff may lead any campfire activity. To ensure the staff are able to properly build and extinguish a fire as described in this section, the ONB program must:

(a) Provide training campfire policies and procedures; and

(b) Complete written staff evaluations of each staff member's ability to properly build and extinguish a fire. The storage, preservation, and retention of the written staff evaluations required under this subsection must comply with WAC 110-302-0115 and other applicable requirements of this chapter.

(4) For each campfire activity, ONB providers must prepare and retain a record that the safe campfire practices required under this section were followed. Compliance with this subsection may include the creation of a checklist by the ONB provider that describes the safe campfire practices that were followed before and after each campfire activity.

(5) ONB providers must have and properly maintain a first-aid kit near the campfire that contains first-aid supplies made specifically

to treat fire related injuries including, but not limited to, a fire blanket and sterile, nonadhesive bandages. Staff must be prepared to smother a fire on a child's clothing or hair using equipment including, but not limited to, water, a fire suppression blanket, or fire extinguisher.

(6) ONB providers must create a clearly visible boundary at least three feet away from the outer edge of the fire pit or structure containing the fire. This boundary may be marked by a rope, large rocks, or seating area made of logs or camp chairs. At all times, the area within the three-foot boundary must:

(a) Be clear of tripping hazards such as bags or other materials; and
(b) Have space in between the logs, camp chairs, or other seating so that children and adults may easily move into and out of the seating area.

(7) Prior to any campfire activity, ONB providers must use developmentally appropriate teaching practices to ensure children understand safe behavior around a campfire.

(8) Campfires must be built and extinguished according to safe fire practices provided by the U.S. Forest Service at <https://smokeybear.com/en/prevention-how-tos/campfire-safety>. Campfires:

(a) Must not be built during periods of high fire danger in the area;
(b) Must not be more than two feet in diameter;
(c) Must be in a fire pit or structure that is designed for the express purpose of safely containing a campfire including, when applicable, the fire pit or structure must contain an approved bottom; and
(d) Must not burn materials that release toxic substances, such as chemically treated wood, rubber, or plastics.

(9) Each ONB program class cannot have more than one campfire activity at any time.

(10) Before starting a campfire activity, ONB providers must have the necessary equipment and supplies to safely extinguish a campfire. For purposes of this subsection, equipment and supplies include, but are not limited to, sufficient water and a shovel. Fire extinguishers must be kept on-site and comply with the requirements described in WAC 110-302-0170.

(11) While campfires are burning, ONB providers must remain within the three-foot boundary around the fire to respond to any fire-tending needs and to prevent children from coming into close contact with the fire.

(12) There must be a one-to-one (1:1) staff-to-child ratio for any child within the three-foot boundary around the fire. A staff member must remain within arms' reach of that child and the child may only assist in setting up or tending to the fire in a developmentally appropriate way, such as by placing kindling or small sticks before the fire is started.

(13) Adults and children who tend to the fire must tie back long hair and secure loose clothing to reduce the risk of catching fire.

(14) ONB providers and program staff must prevent children from:

(a) Entering the three-foot boundary around the campfire without one-to-one supervision;
(b) Running and pushing within six feet of the edge of the fire-pit; and
(c) Inhaling campfire smoke.

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NEW SECTION

WAC 110-302-0352 ONB program tool activity supervision and safety. (1) During tool activities, ONB providers must comply with all supervision requirements described in this section and WAC 110-302-0345.

(2) ONB programs using developmentally appropriate tools or equipment, including ropes or sharp objects, as part of their curriculum must make such tools inaccessible to children when not in use or under active supervision.

(3) There must be a one-to-one (1:1) staff-to-child ratio for:

(a) Any preschool-age child who is engaged in a tool activity; and

(b) Any school-age child who is not proficient in using the tool for the activity.

(4) There must be a one-to-three (1:3) staff-to-child ratio for any school-age children who have previously demonstrated proficiency of specific tool use.

(5) Before a child can participate in tool activities, ONB providers must obtain written permission from the children's parents or guardians that allows them to participate in such activities.

(6) Before engaging in and leading a tool activity, staff must be trained about the ONB program's tool use policies and procedures and benefit-risk assessments. Pursuant to the requirements described in WAC 110-302-0110, ONB providers must train, evaluate, and maintain a written record of the staff's ability to carry out any tool activity.

(7) ONB providers must have a first-aid kit near the tool activity that is in compliance with the requirements described in WAC 110-302-0230 and is equipped with first-aid supplies made specifically to treat sharp cuts, punctures, or other injuries related to the use of tools.

(8) Prior to any tool use activity, ONB providers must use developmentally appropriate teaching practices to ensure children understand and can demonstrate safe tool use. Teaching techniques must include, but not be limited to:

(a) Safe whittling practices using a push stroke away from the body and hand holding the piece of wood;

(b) Wearing work or gardening gloves, especially on the hand that is not holding the tool;

(c) Wearing safety goggles, when appropriate;

(d) Children sitting on their knees with their legs tucked under, sitting cross-legged, or at a table;

(e) Holding the piece of wood past one's knees, to the side of one's body, or on the top of a table;

(f) Allowing appropriate space between children using tools; and

(g) Demonstrated understanding and proficiency of less risky tools prior to the use of tools that may pose a greater risk.

(9) Children must not use or have access to motorized tools.

(10) When using tools, the children must remain in an area designated for tool activities.

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NEW SECTION

WAC 110-302-0353 ONB program encountering wildlife supervision and safety. (1) ONB providers must have and follow policies that describe how to safely encounter wildlife. These policies must identify potentially dangerous wildlife in the ONB program area or location and how children and ONB program staff should appropriately respond to both wildlife and potentially dangerous wildlife.

(2) ONB providers must actively supervise children and immediately respond when potentially dangerous wildlife is seen or heard, or other signs are discovered or noticed.

(3) ONB programs must be in contact with local rangers, park officials, or other emergency response agencies if dangerous wildlife is in the area, and follow all state and national agency protocols and requirements.

(4) ONB programs must relocate to an approved location or close while dangerous wildlife is in the area.

(5) ONB programs must manage property and dispose of waste to prevent attracting wildlife.

(6) ONB programs must conduct encountering wildlife drills with children.

(7) ONB programs must always hike with staff in the front and the back of each group.

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NEW SECTION

WAC 110-302-0354 Indoor ONB program space capacity. For each child in attendance at ONB programs, the licensed indoor space must consist of a minimum of 35 square feet per child and comply with all other requirements described in this chapter.

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NEW SECTION**WAC 110-302-0356 ONB program capacity, ratio, and group size.**

(1) The department has the authority to issue initial or nonexpiring ONB program licenses. The department will not issue an ONB license to care for more children than permitted by this chapter. The department may issue a license to care for fewer than the maximum allowable enrolled children. For each ONB program, the ONB license will describe:

(a) The maximum number of children that may be in care at any one time;

(b) The licensed capacity for each space within the natural area licensed for use by children; and

(c) The authorized age range of children who may attend the ONB program.

(2) For each child attending an ONB program, there must be a minimum of 4,000 square feet of natural space per child in attendance to support a nature-based curriculum, unless otherwise approved by a park's director and the department.

(3) For purposes of a permanently located outdoor classroom area, each child in attendance who is receiving instruction within that area must have a minimum of 75 square feet of space in that area per child in attendance, not including bathroom or diaper changing spaces or ground space occupied by shelves, features, or other equipment not intended to be accessible to children.

(4) For purposes of determining capacity, the department will consider the factors and requirements described in this subsection.

(a) The area and maximum occupancy described in the ONB program's use agreement with the landowner or public park;

(b) Unless otherwise approved by the park's director and the department, the licensed space of another ONB program or educational program that regularly operates at the same time will not be considered in the licensed space calculations for the area that is being licensed;

(c) The land's features and diversity must be sufficient to support high quality, developmentally appropriate, early childhood and child development environmental education;

(d) The land's facilities, such as emergency shelters and toilets, must be sufficient to support the health, safety, and biological needs of all enrolled children;

(e) The age range of children requested or approved by the department to attend the ONB program;

(f) If an indoor space will be used to meet the children's biological needs, those spaces:

(i) Must comply with WAC 110-302-0415 and all other applicable laws, regulations, and policies; and

(ii) May be used to provide children with transitional activities while the biological needs of other children are met in order to meet supervision requirements and keep children together;

(g) If an indoor space will be used for scheduled educational activity when the focus of the ONB program is not on meeting the biological needs of children, the program must be licensed pursuant to chapter 110-300 or 110-301 WAC;

(h) An ONB provider's education and on-going training;

(i) An ONB provider's licensing history with the department; and

(j) The number of qualified staff necessary to comply with the required staff-to-child ratios.

(5) The following spaces or areas must not be included in the capacity determination:

(a) Unlicensed space;

(b) Emergency shelter space that will only be used in case of emergency;

(c) Toileting facilities;

(d) Restricted land; and

(e) Roadways through parks.

(6) Except as described in this section, a licensee must not at any time exceed the total capacity or age range stated on the ONB program license.

(a) All children, including children of staff, must be counted in the capacity calculation if those children are:

(i) On the premises and signed in to the ONB program;

(ii) Participating in an off-site trip from the ONB program; or

(iii) Being transported to or from an ONB program activity by ONB staff.

(b) Licensees must comply with WAC 110-302-0300 Individual care plan and receive department approval to care for a child with special

needs or a child who is older than the maximum age described on the license. A child with documented special needs may be in care up to age 19 and must be counted in the capacity and staff-to-child ratio.

(c) A child with special needs who requires individualized supervision pursuant to WAC 110-302-0300 will be included in the count for purposes of capacity.

(d) A child with special needs who requires individualized supervision pursuant to WAC 110-302-0300 will not be included in the staff-to-child ratio calculation.

(e) A child who, after entering the ONB program has a 13th birthday and is authorized to continue to attend the ONB program under chapter 110-15 WAC, must be counted in both the capacity calculation and the staff-to-child ratio calculation.

(7) ONB providers must provide qualified staff to comply with staffing requirements, staff-to-child ratios, and group size during operating hours, including off-site activities or when transporting children in care.

(8) The staff-to-child ratios and group size requirements described in this section apply to each ONB program class that is individually described in this subsection.

(a) For preschool-age children 30 months to six years of age that are not attending kindergarten or elementary school, the maximum group size must not exceed 16 children with a staff-to-child ratio of one staff member to six children.

(b) For school-aged children from five to 13 years of age, the maximum group size must not exceed 20 children with a staff-to-child ratio of one staff member to eight children. Group size may only exceed 20 children for special events such as assemblies or performances.

(c) For school-aged children from nine to 13 years of age, the maximum group size must not exceed 20 children with a staff-to-child ratio of one staff member to 10 children. Group size may only exceed 20 children for special events such as assemblies or performances.

(d) Each group must be staffed by at least two qualified staff members who are not aides or volunteers. Every third staff member counted in the ratio may be an aide or volunteer. Children related to the staff person or licensee must be included in the staff-to-child ratio calculation.

(9) The ONB program class must comply with specific ratio requirements for specific risky activities as described in this subsection.

(a) If children will be participating in water activities, the ONB program must:

(i) Conduct the ONB benefit-risk assessments described in WAC 110-302-0471 (1)(c) and (d) to determine whether increased staffing is necessary for the planned water activities; and

(ii) As described in WAC 110-302-0350, provide staff who are able to swim and provide a certified lifeguard.

(b) The ONB program must provide additional staff after conducting the risk assessment described in WAC 110-302-0471.

(10) As described in WAC 110-302-0436, the ONB program class must comply with any variance from this chapter that is authorized or required by the department.

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NEW SECTION

WAC 110-302-0357 ONB mixed age group capacity, ratio, and group size. (1) ONB programs must do the following to mix age groups of children in care in addition to any other applicable requirements of this section:

(a) Notify the department of the ONB program's plan to mix age groups of children and receive approval from the department prior to implementing this plan;

(b) Meet the square footage and staff-to-child ratio requirements for the youngest child in the approved mixed age group, even when the youngest child is not present; and

(c) Meet the health, safety, and developmental needs for all ages of children in the approved mixed age group.

(2) ONB programs must do the following to mix groups of children between 30 months old to 13 years old with a maximum group size of 16 children:

(a) Have at least two staff present with the group, consisting of one lead teacher and one other staff members qualified under this chapter; and

(b) Keep a staff-to-child ratio of 1:6.

(3) ONB programs must do the following to mix groups of children four and one-half to nine years old with a maximum group size of 18 children:

(a) Have at least three staff present with the group, consisting of one lead teacher and two other staff members qualified under this chapter; and

(b) Keep a staff-to-child ratio of 1:7.

(4) ONB programs must do the following to mix groups of children four and one-half to 13 years old with a maximum group size of 20 children:

(a) Have at least three staff present with the group, consisting of one lead teacher and two other staff members qualified under this chapter; and

(b) Keep a staff-to-child ratio of 1:8.

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NEW SECTION

WAC 110-302-0360 ONB program and daily schedule. (1) ONB providers must have established ONB programs and daily schedules that are familiar to children.

(2) Daily schedules must be designed to meet enrolled children's developmental, cultural, and special needs. Schedules must:

(a) Be specific for each age group of children, when applicable;

(b) Offer a variety of activities to meet the children's needs, pursuant to WAC 110-302-0150;

(c) Provide children access to the outdoors for more than half of their daily ONB program schedule, and for every three hours of programming, pursuant to WAC 110-302-0145, at least 30 minutes of the ONB program must promote a variety of age and developmentally appropriate active play activities for children in care;

(d) Include scheduled and consistent times for meal service;

(e) Include routine transportation times, if applicable; and

(f) Include rest periods, if applicable.

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**ONB PROGRAM ADMINISTRATION AND OVERSIGHT
LICENSING PROCESS**

NEW SECTION

WAC 110-302-0400 Application materials. (1) After completing a department approved ONB program orientation pursuant to chapter 43.216 RCW, applicants must submit complete license application packets as described in this section. The application requirements described in this section also apply to a request for a change of ownership.

(2) Complete license application packets must include the following professional background information about the applicant:

(a) A completed department application form;

(b) A copy of the applicant's ONB orientation certificate that indicates the orientation was completed within 12 months of the license application;

(c) A copy of the applicant's current government issued photo identification;

(d) A copy of the applicant's Social Security card or a sworn declaration stating that the applicant does not have one;

(e) The applicant's employer identification number (EIN) if the applicant plans to hire staff; and

(f) Employment and education verification information that includes, but is not limited to, diplomas, degrees, transcripts, or a sworn declaration stating that the applicant cannot verify education requirements.

(3) Complete license applications must include:

(a) A site plan that:

(i) Describes the proposed use of the licensed and unlicensed space; and

(ii) Provides a diagram with all pertinent measurements of the natural space, licensed space, and unlicensed space;

(b) A description and diagram of any permanently located outdoor classrooms and gross motor active play areas;

(c) A description of any areas or locations that will be used regularly for risky educational or play activities and areas or locations that may involve risky educational or play activities;

(d) For all applicable areas and activities, completed benefit-risk assessments that are in compliance with the requirements described in WAC 110-302-0471;

(e) A description of the proposed shelter that will be used by children and staff during an emergency;

(f) A description of the proposed toileting facilities that will be used by children and staff, including a description of any alternative toileting policies and practices that may be implemented;

(g) A floor plan of any buildings or structures that may or will be used that includes a description and diagram of all emergency exits and emergency exit pathways;

(h) For ONB program spaces that will rely on a private septic system, the applicant must provide documentation that is no more than three years old and is from a licensed inspector, septic designer, or engineer that states the septic system and drain field are maintained and in good working order;

(i) For ONB program spaces that will receive water from a well, the applicant must provide *E. coli* bacteria and nitrate well water testing results that is no more than 12 months old;

(j) For ONB program spaces located in the Tacoma smelter plume areas of King, Pierce, and Thurston counties or the Everett smelter plume area of Snohomish County, the applicant must provide a lead or arsenic evaluation agreement;

(k) Lead and copper test results for drinking water;

(l) ONB program days and hours of operation, including closure dates and holiday observances;

(m) The following information about ONB program staff:

(i) A list of all staff;

(ii) A list of all staff and volunteers who are required to complete the background check process as described in chapter 110-06 WAC; and

(iii) A resume for the applicant, director, program director, assistant director, program supervisor, and site director; and

(n) The following policy documents, which will be reviewed by the department and returned to applicants:

(i) Parent and ONB program policies;

(ii) Staff policies;

(iii) An emergency preparedness plan; and

(iv) Health policies.

(4) In addition to the requirements in subsection (3) of this section, complete license applications must include:

(a) A signed and dated interlocal agreement between a federally recognized tribe and the department, if applicable;

(b) All licenses that are required by the state of Washington, a county, city, or tribe, including a business and occupation license;

(c) Liability insurance;

(d) A certificate of incorporation, partnership agreement, or similar business organization document;

(e) A land-use agreement that is signed by the land owner. If the land-use agreement is between the ONB program and a public park, the official with the designated authority must sign on behalf of the public park. The land-use agreement must describe:

(i) The shared and individual roles and responsibilities of the ONB program, and the land owner or the public park; and

(ii) The agreed-upon space the ONB program will occupy and other agreed-upon space that will be accessible to the ONB program. Land-use agreements are not required for ONB programs operating on private property owned by the licensee;

(f) Proof that the local emergency management system, fire district, or other applicable emergency response agencies have been provided notice of the location of the ONB program. The notice must be provided by the ONB program using a department approved form; and

(g) If required by any local government agency, a certificate of occupancy that approves the ONB program's occupancy of the ONB program licensed and unlicensed space.

(5) Applicants must submit completed application packets at least 90 calendar days before the planned opening of their ONB programs. The department will inspect the ONB program space and all submitted application materials before deciding whether to issue a license to the applicant.

(a) The 90 calendar days will be calculated from the date the department receives a complete application packet.

(b) Incomplete application packets will be returned to applicants for completion.

(c) Applicants that are unable to successfully complete the application and licensing process within 90 days may withdraw their applications and reapply when they are able to meet the licensing requirements. If the applicant has completed the required application process within 90 days but an external barrier out of the applicant's control exists, the reapplication fee will be waived one time.

(d) Pursuant to RCW 43.216.325, applicants who are unable to meet the application requirements and have not withdrawn their applications will be denied a license.

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NEW SECTION

WAC 110-302-0401 Licensing fees. (1) The rules establishing licensing fees within this chapter are adopted pursuant to RCW 43.216.300.

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

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

(b) Annually thereafter, 30 calendar days prior to the anniversary date of the license.

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

(4) The annual licensing fee for an ONB program is \$125 for the first 12 children plus \$12 for each additional child, or as otherwise set by the legislature.

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NEW SECTION

WAC 110-302-0402 Changing ONB program space or location. (1) ONB providers must notify the department prior to making a change to ONB program space or unlicensed space that may impact the health, safety, or welfare of enrolled children. Such changes include, but are not limited to:

(a) Moving an ONB program to a different location or facility, even if the new location is on the same premises;

(b) An ONB program altering a planned use of space including, but not limited to, the use of previously unlicensed areas or new location for a permanently located outdoor classroom;

(c) Modifying facilities in a way that requires a permit under the Washington state building code or by a local jurisdiction, such as remodeling or renovating emergency shelter locations;

(d) Except for ONB programs that enroll only school-age children and operate on public or private school premises, changing outdoor play areas, such as adding or altering the type of surface or altering stationary climbing or play equipment; and

(e) Any substantial modifications to the licensed area planned or implemented by the landowner.

(2) ONB providers must submit to the department the new proposed site map prior to making any of the changes described in subsection (1)(a) through (c) of this section.

(3) ONB providers planning a change under subsection (1)(a) of this section must also:

(a) Submit a complete application, pursuant to WAC 110-302-0400, as soon as the ONB provider plans to move and has an identified address, but not more than 90 calendar days or less than 30 calendar days before moving. Prior to moving, the ONB provider must receive from the department confirmation that the application was correctly submitted and received;

(b) Notwithstanding the requirements described in (a) of this subsection, in the event of a natural disaster, the department may waive the 30 calendar day requirement; and

(c) Not significantly change or move an ONB program until the department has first inspected the new location and determines that it complies with the requirements described in this chapter.

[]

NEW SECTION

WAC 110-302-0410 License and program location. (1) Applicants for a license under this chapter must be at least 18 years old.

(2) "Licensee" means the individual or legal entity:

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

(b) Who is responsible for complying with chapters 43.216 RCW, 110-06 and 110-302 WAC, this chapter, and other applicable laws, rules, and policies; and

(c) Who is responsible for training ONB program staff with regard to the ONB requirements described in this chapter.

(3) ONB program space must be located:

(a) On a site that does not have any known environmental hazards, except for natural hazards that have not been created or caused by humans and are a part of the natural physical features of the outdoors;

(b) In an area that nonemergency services and utilities can serve the ONB program space; and

(c) In an area served by emergency fire, medical, and police during the hours the ONB program provides care to children.

(4) Except for ONB programs that enroll only school-age children and operate on public or private school premises, ONB providers must prevent enrolled children from being exposed to the following known hazards within and around the licensed premises:

(a) Lead based paint;

(b) Plumbing and fixtures containing lead or lead solders;

(c) Asbestos;

(d) Arsenic, lead, or copper in the soil or drinking water;

(e) Toxic mold; and

(f) Other identified toxins or hazards.

(g) Sites undergoing remedial work by the Washington state department of ecology (DOE) must take additional steps to ensure children do not ingest contaminated soil.

(5) ONB programs located on private property are required to place address numbers and signage at the entrance of the private property that contains the ONB program space.

(6) License applicants planning to open an ONB program in the designated Tacoma smelter plume areas of King, Pierce, and Thurston counties or the Everett smelter plume area of Snohomish County must contact the state (DOE) and complete and sign an access agreement with DOE to evaluate the applicant's property for possible arsenic and lead soil contamination.

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NEW SECTION

WAC 110-302-0415 Zoning, codes, and ordinances. (1) The department adopts and incorporates by reference the Washington state building code, chapter 19.27 RCW.

(2) Except for ONB programs that enroll only school-age children and operate on public or private school premises, the indoor licensed space must comply with the Washington state building code and local building code as enacted at the time of licensure.

(3) Facility modifications must comply with WAC 110-302-0402.

(4) Prior to licensing, applicants must contact state, city, and local agencies that regulate ONB programs. An ONB provider must obtain regulations and comply with the direction given by such agencies. These agencies may include, but are not limited to, the Washington state department of labor and industries, the Washington state fire marshal, DOH, local health jurisdictions, public parks directors, and emergency management and response agencies.

(5) Before issuing a license, except for ONB programs that enroll only school-age children and operate on public or private school premises, to ONB providers who plan on using an indoor facility or structure for occupancy, such as a cabin or yurt, to meet the biological needs of children, for part of its ONB program that is not currently licensed, the ONB provider must:

(a) Have a certificate of occupancy issued by the local building, planning, or zoning department, or a local equivalent such as a building permit, if a locality does not have the certificate of occupancy; and

(b) Be inspected and approved by the state fire marshal or local authority as approved by the department; or

(c) If state or local government agencies are not available to conduct a fire safety inspection, ONB providers must inspect for fire safety using the state fire marshal form found at <https://www.dcyf.wa.gov/sites/default/files/pdf/el-license/CTR-Fire-Inspection.pdf>. The certificate of occupancy classification does not have to be E or I-4 occupancy; however, all other considerations of fire safety must comply.

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NEW SECTION

WAC 110-302-0420 Prohibited substances. (1) ONB programs must comply with chapter 70.160 RCW, which prohibits smoking in public places and places of employment.

(2) Pursuant to RCW 70.160.030, ONB providers must comply with the requirements described in this subsection.

(a) Prohibit smoking, vaping, or similar smoking activities in licensed indoor space during business and nonbusiness hours;

(b) Prohibit smoking, vaping, or similar activities in licensed outdoor space unless:

(i) The smoking, vaping, or similar activities occurs during non-business hours; and

(ii) The smoking, vaping, or similar activity occurs in an area reserved for smoking or vaping tobacco products that is not a "public place" or "place of employment" as defined in RCW 70.160.020.

(iii) The ONB program is operated on public land and the law allows members of the public to smoke in the area. If smoking is allowed on the public land, the ONB provider must reasonably protect children from second-hand smoke;

(c) Prohibit smoking, vaping, or similar activities in any motor vehicle that is used to transport ONB program enrolled children;

(d) Prohibit smoking, vaping, or similar activities by any ONB provider who is supervising children, including during field trips;

(e) Prohibit smoking, vaping, or similar activities within 25 feet from entrances, exits, operable windows, and vents, pursuant to RCW 70.160.075; and

(f) Except for ONB programs that enroll only school-age children and operate on public or private school premises, post "no smoking or vaping" signs. Signs must be clearly visible and located at each building entrance wherever possible pursuant to WAC 110-302-0505. For ONB programs operating on private land, it is the landowner's duty to post "no smoking" signs.

(3) ONB providers must:

(a) Prohibit any person from consuming or being under the influence of alcohol on licensed space during business hours;

(b) Prohibit any person from consuming or being under the influence of an illegal drug on licensed space during business hours;

(c) Prohibit any person from consuming prescription drugs to the extent that it interferes with the care of children as required by this chapter;

(d) Prohibit any staff person from consuming smokeless cannabis products in licensed space during business hours;

(e) Store any tobacco or vapor products, packaging of tobacco or vapor products, cannabis or associated paraphernalia, or alcohol (both open and closed containers) in a space that is inaccessible to children;

(f) Prohibit children from accessing cigarette or cigar butts and ashes; and

(g) Protect children from members of the public consuming or under the influence of alcohol, legal drugs, illegal drugs, or misused prescription drugs.

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NEW SECTION

WAC 110-302-0425 Initial, nonexpiring, dual licenses, and license modifications. (1) The department may issue an initial license when ONB program applicants demonstrate compliance with health and safety requirements described in this chapter, but may not be in full compliance with all other requirements, pursuant to RCW 43.216.315.

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

(b) 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.

(c) The department must evaluate the ONB provider's ability to follow requirements contained in this chapter during the initial license period.

(2) The department may issue a nonexpiring license to a licensee operating under an initial license who demonstrates compliance with the requirements described in this chapter during the period of initial license, pursuant to RCW 43.216.305.

(3) Licensees must submit annual compliance documents at least 30 calendar days prior to their anniversary dates. The anniversary date is the date the first initial license was issued. The required annual compliance documents are:

(a) The annual nonrefundable license fee; and

(b) A declaration on the department's form indicating:

(i) The intent to continue operating a licensed ONB program;

(ii) The intent to cease operation as a licensed ONB program;

(iii) A change in the ONB program's operational hours or dates;

and

(iv) The intent to comply with all licensing rules.

(c) Documentation of completed background check applications as determined by the department's established schedule, pursuant to RCW 43.216.270; and

(d) For each individual required to have a background check clearance, ONB providers must verify current background checks or require the individual to submit a background check application at least 30 calendar days prior to the anniversary date.

(4) If a licensee fails to comply with the requirements for continuing a nonexpiring license by their anniversary date, the licensee's current license expires. ONB providers whose licenses have expired must submit new applications for licensure, pursuant to RCW 43.216.305(3).

(5) Nothing about the nonexpiring license process in this section may interfere with the department's established monitoring practices, pursuant to RCW 43.216.305(4)(a).

(6) A licensee does not have a right to an adjudicative proceeding to appeal the expiration, nonrenewal, or noncontinuation of a nonexpiring license if the expiration, nonrenewal, or noncontinuation was caused by the licensee's failure to comply with the requirements of this section.

(7) Licensees must have department approval to hold dual licenses, such as an ONB license and another care giving license, certification, or similar authorization.

(8) If the department determines that a licensee is not in compliance with all the requirements described in this chapter and chapter 43.216 RCW, the licensee may relinquish any license, certification, or authorization they hold. Despite the licensee's agreement to

relinquish one of the licensee's certifications, authorizations, or licenses:

(a) The department and licensee may agree to modify the ONB program license; or

(b) The department may suspend, deny, or revoke the ONB program license.

(9) ONB providers must report the information described in this subsection within 24 hours of when they are aware or should be aware of such information.

(a) To the department and local authorities: A fire or other structural damage to the ONB program space or other parts of the premises, including a natural disaster affecting an ONB program space;

(b) To the department:

(i) A retirement, termination, death, incapacity, or change of the director, program director, assistant director, site director, or program supervisor, or change of ownership or incorporation of an ONB provider;

(ii) When ONB providers become aware of a charge or conviction against themselves or a staff person, pursuant to WAC 110-06-0043;

(iii) When ONB providers become aware of an allegation or finding of abuse, neglect, maltreatment, or exploitation of a child or vulnerable adult made against themselves or a staff person; and

(iv) Any changes in the ONB program hours of operation to include closure dates.

(10) Prior to increasing the capacity of an ONB program, the licensee, director, program director, assistant director, site director, or program supervisor must request and be approved to increase capacity by the department.

(11) The licensee, director, program director, assistant director, site director, or program supervisor must have state fire marshal or department approval, and comply with local building ordinances following a significant change under WAC 110-302-0402 (1)(a) through (c), if applicable.

(12) The licensee, director, program director, assistant director, site director, or program supervisor must notify the department within 30 calendar days when liability insurance coverage under RCW 43.216.700 has lapsed or been terminated.

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NEW SECTION

WAC 110-302-0435 Waiver from department rules. (1) The department cannot waive a requirement that is described or included in a state or federal law.

(2) Pursuant to RCW 43.216.065, the department may approve a waiver from a rule described in this chapter if it does not jeopardize the health, safety, or welfare of the children in care.

(3) ONB providers' requests for a waiver from a rule in this chapter must be:

(a) Submitted in writing to the department;

(b) Approved in writing by the department secretary or the secretary designee prior to the ONB provider implementing the waiver from the rule; and

(c) For a specific ONB program need or child.

(4) A department approved waiver may be time specific or may remain in effect for as long as the ONB provider continues to comply with the conditions of the waiver. If the waiver is time limited, the ONB provider must not exceed the time frame established by the department.

(5) The department may rescind an approved waiver if a licensing rule that was considered in granting the waiver is materially altered or amended.

(6) The department may rescind an approved waiver at any time if it determines that such waiver is or may negatively impact the health, safety, or well-being of any enrolled child.

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NEW SECTION

WAC 110-302-0436 Variance from department rules. (1) The department cannot provide a variance from a requirement in state or federal law.

(2) Upon written request of an applicant, licensee, director, program director, assistant director, site director, or program supervisor, the department may grant a variance from a rule in this chapter if the proposed variance does not jeopardize the health, safety, or welfare of the children in care.

(3) Requests for a variance from these standards must be:

(a) Submitted in writing to the department;

(b) Approved in writing by the department secretary or the secretary's designee prior to the ONB provider implementing the variance from the rule; and

(c) For a specific ONB program approach or methodology.

(4) A granted variance may be time specific or may remain in effect for as long as the ONB provider continues to comply with the conditions of the variance. If the variance from the rule is time limited, the ONB provider must not exceed the time frame established by the department.

(5) The department may rescind a granted variance if a licensing rule which was considered in granting the variance is materially altered or amended.

(6) The department may rescind a granted variance at any time if it determines that such variance is or may negatively impact the health, safety, or well-being of any enrolled child.

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NEW SECTION

WAC 110-302-0440 Facility licensing compliance agreements, non-referral status, probationary license, and ONB provider rights. (1) At the department's discretion, when an ONB provider is in violation of chapter 43.216 RCW or this chapter, a facility licensing compliance agreement (FLCA) may be issued in lieu of the department taking enforcement action. The FLCA must contain:

- (a) A description of the violation and the law or rule that was violated;
 - (b) A proposed plan from the ONB provider or a designee to comply with the law or rule;
 - (c) The date the violation must be corrected, determined by:
 - (i) The seriousness of the violation;
 - (ii) The potential threat to the health, safety, and well-being to the children in care; and
 - (iii) The number of times the ONB program has violated this chapter or chapter 43.216 RCW;
 - (d) Information regarding other licensing action that may be imposed if compliance does not occur by the required date; and
 - (e) The signature of the department licenser and the licensee.
- (2) ONB providers must return a copy of the completed FLCA to the department after corrective action has been completed and by the date indicated.
- (3) ONB providers may request an internal review process regarding the violation of the department rules pursuant to RCW 43.216.395.
- (4) In an enforcement action against an ONB program or an ONB provider, ONB providers have the right to refuse to:
- (a) Accept or sign a FLCA.
 - (b) Agree to a probationary license.
- (5) If a provider refuses a FLCA or probationary license, this may result in any of the following enforcement actions:
- (a) Modification of the license;
 - (b) Noncontinuation of a nonexpiring license;
 - (c) Suspension of the license;
 - (d) Revocation of the license; or
 - (e) Civil penalties.
- (6) The department may place a provider on nonreferral status, pursuant to RCW 43.216.325(4), in addition to or in lieu of an enforcement action.
- (7) A probationary license may be issued to ONB programs or ONB providers operating under a nonexpiring license as part of a corrective action plan. Prior to issuing a probationary license, the department must refer the ONB program or ONB provider for technical assistance, pursuant to RCW 43.216.320(2).
- (8) A department decision to issue a probationary license is based on an ONB program or ONB provider's:
- (a) Negligent or intentional noncompliance with this chapter or chapter 43.216 RCW;
 - (b) History of noncompliance with this chapter or chapter 43.216 RCW;
 - (c) Current noncompliance with this chapter or chapter 43.216 RCW;
 - (d) Fire safety inspection or health and sanitation inspection report that failed to gain approval;
 - (e) Use of unauthorized space for the ONB program;
 - (f) Inadequate supervision of children;
 - (g) Understaffing for the number of children in care;
 - (h) Noncompliance with requirements addressing children's health, proper nutrition, discipline, emergency medical plan, sanitation or personal hygiene practices; and
 - (i) Any other factors relevant to the specific situation and consistent with the intent or purpose of this chapter or chapter 43.216 RCW.

(9) The department must not issue a probationary license if the noncompliance by the ONB provider or program presents an immediate threat to the health and well-being of the children.

(10) When the department issues a probationary license, the provider must:

(a) Provide notice of the probationary license and a copy of the department's probationary licensing agreement to the parents or guardians of enrolled children within five business days of receiving the probationary license;

(b) Provide documentation to the department that parents or guardians of enrolled children have been notified within 10 business days of receiving the probationary license;

(c) Inform new parents or guardians of the probationary status before enrolling new children into care;

(d) Return the ONB program's nonexpiring license to the department; and

(e) Post documentation of the approved written probationary license as required by RCW 43.216.687.

(11) Pursuant to RCW 43.216.689, ONB providers must have inspection reports and notices of enforcement actions for the past three years readily available for review by the department, parents, guardians, and the public.

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NEW SECTION

WAC 110-302-0443 Enforcement actions—Notice and appeal. (1)

Pursuant to RCW 43.216.325, the department is authorized to take enforcement actions when ONB providers fail to comply with this chapter or chapter 43.216 RCW. Enforcement actions are taken pursuant to RCW 43.216.020, 43.216.065, and 43.216.250. Enforcement actions include civil monetary penalties and the denial, suspension, revocation, modification, or nonrenewal of a license.

(2) ONB providers subject to an enforcement action have the right to appeal by requesting an adjudicative proceeding pursuant to chapter 110-03 WAC, DCYF administrative hearing rules.

(3) The department must issue a notice of violation to ONB providers when commencing enforcement actions. A notice of violation must be sent by certified mail or personally served and must include:

(a) The reason why the department is taking the action;

(b) The rules the ONB provider failed to comply with;

(c) The ONB provider's right to appeal enforcement actions; and

(d) How the ONB provider may appeal and request a hearing.

(4) Fines must not exceed \$250 per day per violation for an ONB program, or as otherwise set by the legislature. Fines may be:

(a) Assessed and collected with interest for each day a violation occurs;

(b) Imposed in addition to other enforcement actions; and

(c) Withdrawn or reduced if an ONB provider comes into compliance during the notification period.

(5) ONB providers must pay fines within 28 calendar days after receiving a notice of violation unless:

(a) The office of financial recovery establishes a payment plan for the ONB provider;

(b) A later due date is specified on the notice of violation, pursuant to RCW 43.216.335(2); or

(c) The ONB provider requests a hearing, pursuant to chapter 110-03 WAC, DCYF hearing rules and RCW 43.216.335(3).

(6) The department may suspend or revoke a license if ONB providers fail to pay assessed fines within 28 calendar days or become delinquent in making payments, pursuant to RCW 43.216.327 and 43.216.335. If an ONB provider's license is due for renewal, the department may elect not to continue the license for failure to pay a fine.

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RECORDS, POLICIES, REPORTING, AND POSTING

NEW SECTION

WAC 110-302-0450 Parent or guardian handbook and related policies. (1) ONB providers must supply to each parent or guardian written policies regarding the ONB program. Each enrolled child's record must have signed documentation stating the parent or guardian reviewed the handbook and ONB program policies.

(2) ONB providers must have and follow formal written policies in either paper or electronic format, including:

(a) A nondiscrimination statement;

(b) A family engagement and partnership communication plan;

(c) A parent or guardian's permission for photography, videotaping, or surveillance of their child;

(d) Alcohol, tobacco, cannabis use and prohibition of illegal drugs;

(e) Curriculum philosophy pursuant to WAC 110-302-0305, and how this philosophy is implemented;

(f) Child guidance plan, which includes restraint policies and forbidding corporal punishment;

(g) Expulsion policy;

(h) ONB program staff-to-child ratios and classroom or age grouping types offered, if applicable;

(i) For ONB programs that offer any of the following, they must include a policy for each that applies to their ONB program:

(i) Care for children with specific or special needs;

(ii) Dual language learning;

(iii) Religious and cultural activities, including how holidays will be celebrated;

(iv) Transportation and off-site field trips;

(v) Water activities;

(vi) Campfire activities; and

(vii) How weapons on the premises are secured, if applicable;

- (j) ONB program risk management policies and waiver(s) for activities that are covered under WAC 110-302-0471;
- (k) ONB program days and hours of operation, including closure dates and observed holidays;
- (l) Enrollment and disenrollment requirements;
- (m) Fees and payment plans;
- (n) Sign-in and sign-out requirements;
- (o) Information required for the child's record, including:
 - (i) The importance and plan for keeping the information current;
 - (ii) A plan to keep the child's information confidential; and
 - (iii) Who may legally access the child's information;
- (p) A kindergarten transition plan, if applicable;
- (q) What parents or guardians must supply for their child, if applicable (for example, extra clothing or diapers);
- (r) Permission for a parent or guardian's access to areas of the ONB program during business hours;
- (s) Termination of services policy;
- (t) Emergency preparedness plan;
- (u) ONB provider's and staff's duty to report incidents including reporting suspected child abuse, neglect, sexual abuse, or maltreatment;
- (v) Policies regarding mixed age groups, if applicable, including when children may be in a mixed age group;
- (w) Description of where the parent or guardian may find and review the ONB program's:
 - (i) Health policy;
 - (ii) Staff policies;
 - (iii) Consistent care policy;
 - (iv) Menus;
 - (v) Liability insurance;
 - (vi) Inspection reports and notices of enforcement actions, if applicable; and
 - (vii) Other relevant ONB program policies;
- (x) Any food preparation practices done by staff at their private residence, pursuant to WAC 110-302-0198;
- (y) Any laundering practices done by staff or families at their private residence, pursuant to WAC 110-302-0245;
- (z) Policies for postings for an ONB program without an appropriate facility for posting.

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NEW SECTION

WAC 110-302-0455 Attendance records. (1) ONB providers may keep a child in care up to a maximum of 10 hours each day. If needed, the maximum time may be extended based upon the parent or guardian's work, an agreed upon alternate schedule, or travel to and from the ONB program.

(2) ONB providers must keep daily child attendance records, either in paper or electronic format for each child including the children of staff in the ONB program. These records must be easily accessible and kept on-site or in the ONB program's administrative office for department review. These records must clearly document:

- (a) The name of the child;

- (b) The date of care;
- (c) Child arrival and departure times from the ONB program;
- (d) Signature or electronic signature of parent, guardian or other authorized person at the time of arrival and departure; and
- (e) A staff signature when a child leaves the ONB program to attend school or participate in off-site activities not offered by the ONB program.

(3) ONB providers must keep daily staff attendance records for each classroom or group of children. These attendance records must be on paper or in an electronic format and clearly document:

- (a) The name of each staff member including staff assigned to care for children with special needs and one-on-one care and volunteers;
- (b) The number of children in each ONB program classroom or group of children;
- (c) The staff-to-child ratio;
- (d) The date; and
- (e) Start and end times of the assigned staff or volunteers.

(4) If the attendance records are kept electronically, the electronic system must:

(a) Record either an electronic signature, swipecard, personal identification number (PIN), biometric reader, or similar action by the parent or authorized person when signing the child in or out of care or staff notation of who picked up or dropped off along with time in and out if authorized person does not have electronic signature, swipe card, PIN, biometric reader or similar action;

(b) Ensure the authenticity, confidentiality, integrity, security, accessibility, and protection against disproof of the electronic records;

(c) Be able to produce an authentic, verifiable and uniquely identified written record for each transaction;

(d) Be able to authenticate (prove the identity of) the sender of the record and ensure that the electronic record has not been altered;

(e) Be able to capture an electronic record for each transaction conducted;

(f) Be able to retain the electronic record in an accessible form for their legal minimum retention period;

(g) Be able to search and retrieve electronic records in the normal course of business; and

(h) Be able to perform in an accurate, reliable, and consistent manner in the normal course of business.

(5) Electronic attendance records must contain information necessary to reproduce the entire electronic record and associated signatures in a form that permits a person viewing or printing the entire electronic record to verify:

(a) The contents of the electronic record;

(b) The person signing the electronic record; and

(c) The date signatures were executed.

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NEW SECTION

WAC 110-302-0460 Child records. (1) ONB providers must keep current individualized enrollment and health records for all enrolled

children, including children of staff, updated annually or as often as enrolled children's health records are updated.

(a) A child's record must be kept in a confidential manner but in an area easily accessible to staff.

(b) A child's parent or guardian must be allowed access to all of their own child's records.

(2) Each child's enrollment record must include the following:

(a) The child's birth date;

(b) An enrolled child's parent or guardian's phone number, address, and contact information for reaching the family while the child is in care;

(c) Emergency contact information. If no emergency contact is available, a written and signed emergency contact plan may be accepted;

(d) Names and phone numbers of persons authorized to pick up enrolled children;

(e) A plan for special or individual needs of the child, if applicable, including parent or guardian signatures, pursuant to WAC 110-302-0300;

(f) Signed parent or guardian permissions and waivers, pursuant to WAC 110-302-0450 as applicable for:

(i) Field trips;

(ii) Transportation;

(iii) Bathing;

(iv) Plant foraging activities, pursuant to WAC 110-302-0346;

(v) Climbing natural features, pursuant to WAC 110-302-0347;

(vi) Water activities including swimming pools or other bodies of water, pursuant to WAC 110-302-0350;

(vii) Campfire activities, pursuant to WAC 110-302-0351;

(viii) Tool use activities, pursuant to WAC 110-302-0352;

(ix) Applicable ONB program risk management policies and waivers, pursuant to WAC 110-302-0471; and

(x) Photo, video, or surveillance activity;

(g) The beginning and end enrollment date for children no longer in the ONB program's care;

(h) Physical restraint documentation pursuant to WAC 110-302-0335, if applicable;

(i) Expulsion information, documentation, and steps taken to avoid expulsion, if applicable;

(j) Termination of services documentation and communication; and

(k) Notification of child developmental screening information given to the preschool-age child's parent or guardian, if applicable.

(3) Each child's health record and the information described in subsection (2)(a) through (e) of this section must be available to staff for medical administration or emergencies.

(4) A health record is required for every child who is enrolled and counted in an ONB program's capacity. A health record must include:

(a) An immunization record, pursuant to WAC 110-302-0210;

(b) The child's health history, including any known health conditions and the child's individual care plan, if applicable;

(c) A medication authorization and administration log, pursuant to WAC 110-302-0215, if applicable;

(d) Documentation of special medical procedure training by parent or guardian, if applicable;

- (e) Medical and dental care provider names and contact information or what facility the parent or guardian would prefer for treatment;
- (f) Dates of the child's last physical and dental exam, if available;
- (g) Consent to seek medical care and treatment of the child in the event of injury or illness, signed by the child's parent or guardian;
- (h) Signed parent or guardian permission for visiting health professionals who provide direct services to children at the ONB program;
- (i) An incident or injury report, pursuant to WAC 110-302-0475, that includes:
 - (i) The date and description of the child's incident or injury;
 - (ii) Treatment provided to the child while in care;
 - (iii) The names of the ONB program staff providing the treatment;
- and
 - (iv) Evidence that a copy of the incident or injury report was given to the child's parent or guardian;
- (j) Documentation that an ONB provider reported food poisoning or contagious diseases to the local health jurisdiction or the DOH, if applicable.

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NEW SECTION

WAC 110-302-0465 Retaining facility and ONB program records.

- (1) ONB providers must keep the records required under this chapter for a minimum of three years unless otherwise indicated.
- (2) Attendance records must be kept for a minimum of five years.
- (3) Facility and ONB program records from the previous 12 months must be easily accessible and kept on-site or in the ONB program's administrative office for department or other state agency review.
- (4) Records older than 12 months must be provided within two weeks of a written request by the department.
- (5) ONB providers must keep the following records available for department review:
 - (a) The parent or guardian handbook;
 - (b) Sleep equipment forms and specifications, if applicable;
 - (c) Food temperature logs pursuant to CACFP, if applicable;
 - (d) Child incident and illness logs;
 - (e) Vaccination records for pets or animals housed at the ONB, if applicable;
 - (f) Car insurance policy, if applicable;
 - (g) Curriculum planning schedule;
 - (h) Strengthening families program self-assessment or an equivalent assessment, if applicable;
 - (i) Documents from department visits (inspections, monitoring, compliance agreements, and safety plans);
 - (j) Land use agreements for ONB programs;
 - (k) Insurance policies, for ONB programs; and
 - (l) Waivers or variances from department rules, if applicable.
- (6) Except for ONB programs that enroll only school-age children and operate on public or private school premises, ONB providers must keep the following records:

- (a) Furniture and play equipment forms and specifications, if applicable;
- (b) CCA test results, if applicable;
- (c) Annual fire inspection by qualified fire professional, if applicable;
- (d) Monthly inspection to identify fire hazards and elimination of such hazards;
- (e) Monthly testing of smoke and carbon monoxide detectors;
- (f) Monthly fire extinguisher inspection and annual maintenance;
- (g) Lead and copper testing results;
- (h) Private well and septic systems inspection and testing results, if applicable;
- (i) Cleaning log for large area rugs or carpets, if applicable;
- (j) Pesticide use (seven years);
- (k) King, Pierce, and Snohomish counties smelter plume inspection results or evaluation agreement, if applicable; and
- (l) Land maintenance records, such as arborist records, for ONB programs operating on private land.

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NEW SECTION

- WAC 110-302-0470 Emergency preparedness plan.** (1) ONB programs must have and ONB providers must follow a written emergency preparedness plan. The plan must be reviewed and approved by the department prior to being licensed as an ONB program and prior to when the ONB provider makes substantial changes to the ONB program or premises. Emergency preparedness plans must:
- (a) Be designed to respond to fire, natural disasters, and other emergencies that might affect the ONB program;
 - (b) Be specific to the ONB program and able to be implemented during hours of operation;
 - (c) Address what the ONB provider would do if a staff member has an emergency to ensure children are not left unsupervised;
 - (d) Address what the ONB program must do if parents are not able to get to their children for up to three days;
 - (e) Follow the requirements contained in chapter 212-12 WAC, Fire marshal standards and the state fire marshal's office requirements of an ONB program;
 - (f) Be reviewed at program orientation, annually with all ONB program staff with documented signatures, and when the plan is updated;
 - (g) Be reviewed with parents or guardians when a child is enrolled and when the plan is updated; and
 - (h) Apply to all locations where an ONB program is licensed to operate.
- (2) The written emergency preparedness plan must cover at a minimum:
- (a) Disaster evacuation plans, including fires that require evacuation from a building and outdoor fires or encounters with dangerous wildlife that require evacuation from the outdoor natural space into the nearby emergency shelter or alternative evacuation location.
 - (i) An evacuation floor plan of any building being used by the ONB program that identifies room numbers or names of rooms, emergency

exit pathways, emergency exit doors, and emergency exit windows if applicable;

- (ii) Methods to be used for sounding an alarm or informing children of the danger and calling 911;
- (iii) Actions to be taken by a person discovering an emergency;
- (iv) How the ONB provider will evacuate children, especially those who cannot walk independently. This may include children with disabilities, functional needs requirements, or other special needs;
- (v) Where the emergency shelter and evacuation route are located;
- (vi) What to take when evacuating children including, but not limited to:
 - (A) First-aid kit(s);
 - (B) Copies of emergency contact information;
 - (C) Child medication records; and
 - (D) Individual children's medication, if applicable.
- (vii) How the ONB provider will maintain the required staff-to-child ratio and account for all children;
- (viii) How parents or guardians will be able to contact the ONB program; and
- (ix) How children will be reunited with their parents or guardians after the event.
 - (b) Earthquake procedures including:
 - (i) What an ONB provider will do during an earthquake;
 - (ii) How an ONB provider will account for all children; and
 - (iii) Except for ONB programs that enroll only school-age children and operate on public or private school premises, how an ONB provider will coordinate with local or state officials to determine if the licensed space is safe for children after an earthquake.
 - (c) Public safety related lockdown scenarios when an individual at or near an ONB program is harming or attempting to harm others with or without a weapon. This plan must include lockdown of the ONB program or shelter-in-place including:
 - (i) How doors and windows will be secured to prevent access, if needed; and
 - (ii) Where children will safely stay inside the ONB license space, or inside an alternate evacuation location for an ONB program without a suitable structure in the licensed area.
 - (d) Missing child protocols pursuant to WAC 110-302-0475. Missing child protocols for ONB programs must also include how staff will:
 - (i) Immediately check for the child's presence at hazardous features, such as a ravine, cliff, road, or body of water, within a quarter mile of the ONB program; and
 - (ii) Manage the behavior of the remaining children, and using techniques described in WAC 110-302-0310(4).
 - (e) Extreme weather procedures including, but not limited to, a description of the following:
 - (i) How staff will determine whether to cancel or alter the scheduled daily ONB program based on weather including, but not limited to:
 - (A) Strong winds, including gusts over 25 mph;
 - (B) Extreme cold or heat, pursuant to WAC 110-302-0147;
 - (C) Unhealthy air quality;
 - (D) Lightning storm;
 - (E) Tornado;
 - (F) Hurricane;
 - (G) Falling trees or large branches; or
 - (H) Flooding, tsunami, or seiche;

- (ii) How staff will inform parents and guardians of canceled or altered daily ONB programs;
 - (iii) How staff will determine a need to use the emergency shelter;
 - (iv) How staff will contact families if extreme weather requires a cancellation of the ONB program after the day has already begun;
 - (v) How and where staff will care for children whose parents cannot be contacted when the ONB program is canceled after the day has already begun;
 - (vi) The factors that will be used for determining how long staff will remain at the emergency shelter with children before relocating to an alternate evacuation location;
 - (vii) How staff and children will relocate to an alternate evacuation location (i.e., transportation);
 - (viii) How the ONB provider will maintain the required staff-to-child ratio and account for all children; and
 - (ix) How parents will be notified of emergencies, evacuations, and how children will be reunited with their parents or guardians after the event.
- (f) A description for how parents or guardians will be contacted after the emergency ends.
- (3) ONB providers must keep on the premises a three-day supply of food, water, blankets for possible overnight stay, and life-sustaining medication for the licensed capacity of children and current staff for use in case of an emergency. An ONB program must ensure these resources are available at the alternate evacuation location.
- (a) For an ONB program that enrolls only school-age children and operates on public or private school premises, if the school on the premises has an existing three-day supply of food and water that would sustain the ONB program's license capacity of children and staff, the ONB program may submit to the department documentation from the school verifying the school agrees to allow the ONB program to access and use the three-day supply of food and water in an emergency.
- (4) ONB providers must practice and record emergency drills with staff and children as follows:
- (a) Disaster evacuation drills, such as for fire or encounters with dangerous wildlife, once each calendar month;
 - (b) Earthquake, lockdown, high winds, flooding, shelter-in-place, or missing child drill once every two calendar months;
 - (c) Emergency drills must be conducted with a variety of staff and at different times of the day; and
 - (d) Drills must be recorded on a department form and include:
 - (i) The date and time of the drill;
 - (ii) The number of children and staff who participated;
 - (iii) The length of the drill; and
 - (iv) Notes about how the drill went and how it may be improved.
- (5) In areas where local emergency plans are already in place, such as school districts, ONB programs may adopt or amend such procedures when developing their own plan.

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NEW SECTION

WAC 110-302-0471 ONB benefit-risk assessments, risk management policies, and waivers. (1) ONB programs must have and follow benefit-risk assessments and risk management plans approved by the department. These assessments and plans must be submitted to DCYF on a form provided by the department and be available for department review at the time of initial licensing. An amended assessment or plan cannot be implemented until the department has approved it. Benefit-risk assessments must include, but are not limited to, the following criteria:

- (a) Information about the site or sites that will be used by the ONB program on a regular basis.
- (b) Different seasons of the year such as summer versus winter plans, based on how conditions change within ONB sites and locations used by the ONB program on a regular basis.
- (c) Risky play activities including, but not limited to, the following:
 - (i) Climbing natural features pursuant to WAC 110-302-0146;
 - (ii) Water activities pursuant to WAC 110-302-0350;
 - (iii) Using sharp tools pursuant to WAC 110-302-0352;
 - (iv) Plant foraging pursuant to WAC 110-302-0346;
 - (v) ONB program pets pursuant to WAC 110-302-0225;
 - (vi) Egg collection and consumption pursuant to WAC 110-302-0196;
 - (vii) Campfire activities pursuant to WAC 110-302-0351; and
 - (viii) Activities near water, cliffs, steep slopes, or other potentially hazardous natural features.

(d) Guidance for when increased staffing is necessary, and provide guidance for the development of the applicable risk management policies and procedures described in subsection (2) of this section.

(2) ONB programs must have and follow risk management policies and procedures to address potential hazards and risks of the ONB programs. These must include, but are not limited to, policies or procedures related to the following:

- (a) Encountering non-ONB program pets and wildlife pursuant to WAC 110-302-0225 and 110-302-0353;
- (b) Interacting with strangers, limiting unsupervised access to any child in care, pursuant to WAC 110-302-0345;
- (c) The shared use of public space;
- (d) Weather requiring the use of an emergency shelter;
- (e) Required clothing and keeping children dressed for the weather pursuant to WAC 110-302-0147;
- (f) Using public facilities or buildings;
- (g) Encountering poisonous species; and
- (h) All other potentially hazardous situations and natural features.

(3) Parents or guardians must sign an ONB program risk waiver that acknowledges and accepts the potential hazards and risks associated with ONB programs. The ONB programs' applicable risk management policies or procedures, as described in subsection (2) of this section, along with the parent waiver, must be included in the parent handbooks, pursuant to WAC 110-302-0450.

(4) A copy of waivers signed by the child's parent or guardian must be kept in each child's records.

(5) ONB staff must be trained on the applicable ONB program benefit-risk assessments, and risk management policies and risk procedures pursuant to WAC 110-302-0110.

(6) Staff must consider the health and safety needs of children and staff daily, as well as any instances of heightened or dangerous behavior among children, when determining that more restrictive risk management practices are necessary to address an unforeseen increased risk.

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NEW SECTION

WAC 110-302-0475 Duty to protect children and report incidents.

(1) Pursuant to RCW 26.44.030, when ONB providers have reasonable cause to believe a child has suffered abuse or neglect, that ONB provider must report such incident, or cause a report to be made, to the proper law enforcement agency or the department. "Abuse and neglect" has the same meaning here as in RCW 26.44.020.

(2) ONB providers must report by telephone to the listed individuals, department, and other government agencies when the ONB provider knows or has reason to know of an act, event, or occurrence described in (a) through (f) of this subsection.

(a) Law enforcement or the department at the first opportunity, but in no case longer than 48 hours:

(i) The death of a child while in the ONB program's care or the death from injury or illness that may have occurred while the child was in care;

(ii) A child's attempted suicide or talk about attempting suicide;

(iii) Any suspected physical, sexual, or emotional child abuse;

(iv) Any suspected child neglect, child endangerment, or child exploitation;

(v) A child's disclosure of sexual or physical abuse; or

(vi) Inappropriate sexual contact between two or more children.

(b) Emergency services (911) immediately, and to the department within 24 hours:

(i) A child missing from care, triggered as soon as staff realizes the child is missing;

(ii) A medical emergency that requires immediate professional medical care;

(iii) A child who is given too much of any oral, inhaled, or injected medication;

(iv) A child who took or received another child's medication;

(v) A fire or other emergency;

(vi) Poisoning or suspected poisoning; or

(vii) Other dangers or incidents requiring emergency response.

(c) Washington poison center immediately after calling 911, and to the department within 24 hours:

(i) A poisoning or suspected poisoning;

(ii) A child who is given too much of any oral, inhaled, or injected medication; or

(iii) A child who took or received another child's medication.

The ONB provider must follow any directions provided by Washington poison center;

(d) The local health jurisdiction or the DOH immediately, and to the department within 24 hours about an occurrence of food poisoning or reportable contagious disease as defined in WAC 246-110-010(3);

(e) To the department at the first opportunity, but in no case no longer than 24 hours, upon knowledge of any person required by chapter 110-06 WAC to have a change in their background check history due to:

- (i) A pending charge or conviction for a crime listed in chapter 110-06 WAC;
 - (ii) An allegation or finding of child abuse, neglect, maltreatment or exploitation under chapter 26.44 RCW or chapter 110-30 WAC;
 - (iii) An allegation or finding of abuse or neglect of a vulnerable adult under chapter 74.34 RCW; or
 - (iv) A pending charge or conviction of a crime listed in the secretary's list in chapter 110-06 WAC from outside Washington state, or a "negative action" as defined in RCW 43.216.010;
- (f) A child's parent or guardian as soon as possible, but no later than the release of the child at the end of the day, and to the department within 24 hours, about using physical restraint on a child as described in WAC 110-302-0335.

(3) In addition to reporting to the department by phone or email, ONB providers must submit a written incident report of the following on a department form within 24 hours of:

- (a) Situations that required an emergency response from emergency services (911), Washington poison center, or DOH;
- (b) Situations that occur while children are in care that may put children at risk including, but not limited to, inappropriate sexual touching, neglect, physical abuse, maltreatment, or exploitation; and
- (c) A serious injury to a child in care.

(4) ONB providers must immediately report to the parent or guardian:

- (a) Their child's death, serious injury, need for emergency or poison services; or
- (b) An incident involving their child that was reported to the local health jurisdiction or the DOH.

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NEW SECTION

WAC 110-302-0480 Transportation and off-site activity policy.

(1) ONB programs must have and ONB providers must follow a transportation and off-site activity policy for personal or public transportation service, or nonmotorized travel offered to children in care.

- (a) The transportation and off-site activity policy must include routine trips, which must not exceed two hours in a vehicle per day for any individual child.
 - (b) Written parent or guardian authorization to transport the parent or guardian's child. The written authorization must be:
 - (i) For a specific event, date, and anticipated travel time;
 - (ii) For a specific type of trip (for example, transporting to and from school, or transporting to and from a field trip); or
 - (iii) For a full range of trips a child may take while in the ONB provider's care; and
 - (iv) For purposes of ONB program emergency preparedness, emergency trips to an alternative evacuation location.
 - (c) Written notices to parents or guardians, to be given at least 24 hours before field trips are taken.
- (2) During travel to an off-site activity, ONB providers must:

- (a) Have the health history, appropriate medication (if applicable), emergency information, and emergency medical authorization forms accessible for each child being transported;
 - (b) Have a phone to call for emergency help;
 - (c) Have a complete first-aid kit;
 - (d) Maintain the staff-to-child ratio, mixed groupings, and active supervision requirements;
 - (e) Have a current first-aid and CPR certification pursuant to WAC 110-302-0106;
 - (f) Take attendance using a roll call or other method that assures all children are accounted for each time children begin and end travel to an off-site activity, and every time children enter and exit a vehicle; and
 - (g) Never leave children unattended in the vehicle.
- (3) When ONB providers supply the vehicle to transport children in care, the ONB program and ONB provider must:
- (a) Follow chapter 46.61 RCW, Rules of the road, and other applicable laws regarding child restraints and car seats;
 - (b) Assure that the number of passengers does not exceed the seating capacity of the vehicle;
 - (c) Maintain the vehicle in good repair and safe operating condition;
 - (d) Maintain the vehicle temperature at a comfortable level to children;
 - (e) Assure the vehicle has a current license and registration by Washington state transportation laws;
 - (f) Assure the vehicle has emergency reflective triangles or other devices to alert other drivers of an emergency;
 - (g) Assure the driver has a valid driver's license for the type of vehicle being driven and a safe driving record for at least the last five years;
- (4) Prevent any driver with a known condition that would compromise driving, supervision, or evacuation capabilities from operating ONB program vehicles; and
- (5) Have a current insurance policy that covers the driver, the vehicle, and all occupants.

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NEW SECTION

WAC 110-302-0485 Termination of services policy. (1) ONB programs must have and ONB providers must follow a termination of services policy.

(2) ONB providers may terminate a child's services due to that child's parent or guardian's inability to meet the expectations and requirements of the ONB program. Expectations and requirements of the ONB program may include unpaid bills, continual late arrivals, or a parent, guardian or family member's inappropriate or unsafe behavior in or near ONB program space.

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NEW SECTION

WAC 110-302-0486 Expulsion policy. (1) ONB programs must have and ONB providers must follow an expulsion policy, pursuant to WAC 110-302-0340.

(2) The expulsion policy must:

(a) Provide examples of behavior that could lead to expulsion from the ONB program;

(b) Detail steps the ONB provider takes to avoid expelling a child including, but not limited to, environmental and staffing changes;

(c) Detail how the ONB provider communicates to the parent or guardian of a child the steps taken under (b) of this subsection; and

(d) Include information that may benefit an expelled child including, but not limited to, community based resources.

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NEW SECTION

WAC 110-302-0490 Child restraint policy. (1) ONB programs must have and ONB providers must follow a child restraint policy that contains behavior management and practices, pursuant to WAC 110-302-0335.

(2) A restraint policy must be:

(a) Appropriate for children's developmental level, abilities, and language skills;

(b) Directly related to the child's behavior; and

(c) Designed to be consistent, fair, and positive.

(3) The director, program director, assistant director, site director, program supervisors, lead teachers and other appropriate staff members must be trained annually in the ONB program's child restraint policy.

(4) Only trained staff may restrain a child in care, pursuant to WAC 110-302-0335.

[]

NEW SECTION

WAC 110-302-0495 Consistent care policy. (1) ONB programs must have and ONB providers must follow a policy that promotes the consistent care of children.

(2) When possible, ONB providers must be assigned to work with a consistent group of children for much of the day with a goal of building long-term, trusting relationships.

[]

NEW SECTION

WAC 110-302-0500 Health policy. (1) ONB programs must have and ONB providers must follow a written health policy reviewed and approved by the department that includes the topics listed in subsection (2) of this section. The health policy must be reviewed and approved by the department when changes are made, and as otherwise necessary.

(2) ONB programs' health policies must comply with the requirements described in these standards including, but not limited to:

- (a) A prevention of exposure to blood and body fluids plan;
- (b) Meals, snacks, and food services including guidelines for food allergies and food brought from home;
- (c) Handwashing and hand sanitizer use;
- (d) Toileting;
- (e) Observing children for signs of illness daily;
- (f) Exclusion and return of ill children, staff, or any other person in the ONB program space;
- (g) Contagious disease notification;
- (h) Medical emergencies, injury treatment and reporting;
- (i) Immunization tracking;
- (j) Medication management, storage, administration and documentation;
- (k) Care for pets and animals that have access to licensed space, how children may engage with pets and animals, and the health risks of interacting with pets and animals;
- (l) How general cleaning will be provided and how areas such as food contact surfaces, kitchen equipment, toys, toileting equipment, and laundry will be cleaned, sanitized and disinfected;
- (m) Pest control policies;
- (n) Caring for children with special needs or health needs, including allergies, as listed in the child's record; and
- (o) Dental hygiene practices and education.

[]

NEW SECTION

WAC 110-302-0505 Postings. (1) Postings listed in subsection (2) of this section that are part of an ONB program must be clearly visible to parents, guardians, and ONB program staff whenever possible. ONB programs without the ability to post the information detailed in subsection (2) of this section must instead:

- (a) Have available on-site and easily accessible for parent or guardian review the same information as described in subsection (2)(a), (b), (d), (f), (k), and (l) of this section.
- (b) Deliver notice to the parents and guardians of the events described in subsection (2)(i), (l), and (m) of this section within 24 hours of the occurrence of such event or events.
- (c) Have available on-site and easily accessible to staff the information contained in subsection (2)(a), (b), (c), (e), (f), (g), (h), (i), (j), and (m) of this section.

(2) Postings on ONB program premises must include, whenever possible:

- (a) The child care license, pursuant to WAC 110-302-0010;

(b) The ONB program site map, with emergency routes and exits identified in each child care area, pursuant to WAC 110-302-0400 (3)(g) and 110-302-0470 (2)(a)(i);

(c) Dietary restrictions, known allergies, and nutrition requirements, if applicable, in a location easily accessible for staff but not available to those who are not parents or guardians of the enrolled child, pursuant to WAC 110-302-0186(1);

(d) Handwashing practices at each handwashing sink or station, pursuant to WAC 110-302-0200;

(e) Diaper changing or stand-up diapering procedure at each diapering station, if applicable, pursuant to WAC 110-302-0220 and 110-302-0221(1)(d);

(f) Pesticide treatment notices, if applicable, pursuant to RCW 43.216.280 and 17.21.410 (1)(d);

(g) Emergency numbers and information including, but not limited to:

(i) 911 or emergency services number;

(ii) Name, address and directions from the nearest arterial street or nearest cross street to the facility;

(iii) The department's toll-free number;

(iv) Washington poison center toll-free number; and

(v) The contact information for child protective services;

(h) The location of emergency medical information for children and staff;

(i) A notice of any current or pending enforcement action, including probationary licenses, pursuant to RCW 43.216.687. Notice must be posted:

(i) Immediately upon receipt; and

(ii) For at least two weeks or until the violation causing the enforcement action is corrected, whichever is longer;

(j) "No smoking" and "no vaping" signs, pursuant to WAC 110-302-0420;

(k) A copy of a department approved waiver or variance from a rule in this chapter, if applicable. Waivers or variances must be posted for parent or guardian view when related to the overall ONB program and not related to any specific child, and as long as the waiver or variance is approved;

(l) Insurance coverage, or a lapse or termination of such coverage if applicable, pursuant to RCW 43.216.700; and

(m) Any other information listed or described in RCW 43.216.687.

[]

OTS-4293.1

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 110-300E-0001 Authority.

WAC 110-300E-0005 Definitions.

- WAC 110-300E-0015 Outdoor nature-based licensing agreement—Uniform rules.
- WAC 110-300E-0020 Enforcement actions—Right of review—Process of seeking review.
- WAC 110-300E-0400 Outdoor nature-based licenses—Application.

WSR 23-10-065

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed May 2, 2023, 11:40 a.m., effective June 2, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of all changes is to update references to "temporary permits" to now refer to "temporary license plates." These changes are in accordance with SHB 1790, passed in 2022; temporary plates replace temporary permits as an administrative concept and throughout chapter 46.16A RCW.

Citation of Rules Affected by this Order: Amending WAC 308-56A-460, 308-56A-500, 308-96A-260, and 308-94A-035.

Statutory Authority for Adoption: RCW 46.12.600, 46.01.110, 46.16A.220.

Adopted under notice filed as WSR 23-06-080 on March 1, 2023.

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 the 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: May 2, 2023.

Ellis Starrett
Rules and Policy Manager

OTS-4346.1

AMENDATORY SECTION (Amending WSR 22-10-102, filed 5/4/22, effective 7/1/22)

WAC 308-56A-460 Destroyed or wrecked vehicle—Reporting—Rebuilt.

(1) **What are total loss, destroyed, salvage, and wrecked vehicles?** For the purposes of this section:

(a) A total loss vehicle is one whose destruction has been reported to the department as described in RCW 46.12.600 by an insurer (insurance companies and self-insurers as described in RCW 46.29.630);

(b) A destroyed vehicle is one whose destruction has been reported to the department as described in RCW 46.12.600 by the vehicle's owner;

(c) A salvage vehicle as defined in RCW 46.04.514;

Note: When used in this section, the terms "destroyed" and "destroyed vehicle" include total loss, destroyed, and salvage vehicles.

(d) A wrecked vehicle as defined in RCW 46.80.010(6).

Note: A vehicle may be considered destroyed or wrecked when the evidence of ownership is a salvage certificate/title, insurance company bill of sale, or wrecker bill of sale from any jurisdiction, or when the evidence of ownership indicates the vehicle may be a destroyed vehicle not reported to the department.

(2) **How are vehicles reported to the department as total loss, destroyed, salvage, or wrecked?**

(a) Insurers may report total loss vehicles to the department:

(i) Electronically through the department's online reporting system. Insurers must destroy ownership documents for a vehicle reported this way; or

(ii) By submitting the certificate of title or affidavit in lieu of title indicating the vehicle is "DESTROYED"; or

(iii) By submitting a completed total loss claim settlement form.

Note: Reports of total loss vehicles must include the insurer's name, address, and the date of loss.

(b) Registered or legal owners report a vehicle as destroyed by submitting the certificate of title or affidavit in lieu of title indicating the vehicle is "DESTROYED," and must include the registered owner's name, address, and date of loss.

(c) Licensed wreckers report wrecked vehicles as required in RCW 46.80.090.

(d) For vehicles six through 20 years old a statement whether or not the vehicle meets the market value threshold amount as defined in RCW 46.12.600 is also required.

(3) **What is the current market value threshold amount?** The current market value threshold amount is \$10,430.

(4) **How is the market value threshold amount determined?** Using the current market value threshold amount described in RCW 46.12.600 each year the department will add the increased value if the increase is equal to or greater than \$50.

(5) **What if the "market value threshold amount" is not provided as required?** If the market value threshold amount is not provided when required, the department would treat the report of destruction as if the market value threshold as described in RCW 46.12.600 has been met. The certificate of title will be branded according to WAC 308-56A-530.

(6) **What documentation is required to obtain a certificate of title after a vehicle is destroyed?** After a vehicle has been reported destroyed or wrecked and is rebuilt, you must submit the following documentation to the department in order to obtain a new certificate of title:

(a) Application for certificate of title as described in RCW 46.12.530;

(b) Certificate of vehicle inspection as described in WAC 308-56A-150;

(c) Bill of sale from the insurer, owner, or wrecker who reported the vehicle's destruction to the department.

(i) Bills of sale from insurers must include a representative's signature and title of office;

(ii) Bills of sale from insurers and wreckers do not need to be notarized;

(iii) Bills of sale from owners shown on department records must be notarized or certified;

(iv) A bill of sale is not required when owners shown on department records retain a destroyed vehicle and apply for a new certificate of ownership;

(v) Releases of interest from lien holder(s) or proof of payment such as a canceled check bearing a notation that it has been paid by the bank on which it was drawn or a notarized statement on a receipt from the legal owner that the debt is satisfied are required when the vehicle is retained by the registered owner(s).

(d) Odometer disclosure statement, if applicable.

(7) **What is required of a Washington licensed vehicle dealer prior to selling a destroyed or wrecked vehicle?** Except as permitted by RCW 46.70.101 (1)(b)(viii), before a dealer may sell a destroyed or wrecked vehicle under their Washington vehicle dealer license, the dealer must:

(a) Rebuild the vehicle to standards set by the state of Washington or the federal government pertaining to the construction and safety of vehicles; and

(b) Obtain a vehicle inspection by the Washington state patrol; and

(c) Apply for and receive a certificate of ownership for the vehicle, issued in the name of the vehicle dealer.

(8) **Once a destroyed or wrecked vehicle is rebuilt, do the license plates remain with the vehicle?** Whether or not the license plates remain with the vehicle depends on the circumstance:

(a) Standard issue license plates may remain with a destroyed vehicle unless they are severely damaged or the vehicle was issued a department temporary ((permit)) license plate described in WAC 308-56A-140;

(b) Replacement license plates are required for wrecked vehicles since Washington licensed wreckers are required by WAC 308-63-070 to remove them;

(c) Special license plates may remain with or be transferred to a destroyed or wrecked vehicle;

(d) Applicants may retain the current license plate number as provided for in RCW 46.16A.200, unless the vehicle was issued a department temporary ((permit)) license plate as described in WAC 308-56A-140.

(9) **Will the certificate of ownership or registration certificate indicate "WA REBUILT"?** Salvage or wrecked vehicles meeting the criteria described in WAC 308-56A-530 will be branded "WA REBUILT."

[Statutory Authority: RCW 46.12.600. WSR 22-10-102, § 308-56A-460, filed 5/4/22, effective 7/1/22; WSR 22-02-056, § 308-56A-460, filed 1/4/22, effective 2/4/22; WSR 20-19-113, § 308-56A-460, filed 9/21/20, effective 10/22/20; WSR 19-13-008, § 308-56A-460, filed 6/6/19, effective 7/7/19. Statutory Authority: RCW 46.01.110 and 46.12.600. WSR 12-20-032, § 308-56A-460, filed 9/27/12, effective 10/28/12; WSR 11-22-034, § 308-56A-460, filed 10/26/11, effective 11/26/11. Statutory Authority: RCW 46.01.110. WSR 10-19-045, § 308-56A-460, filed 9/13/10, effective 10/14/10. Statutory Authority: RCW 46.12.005 and 46.01.110. WSR 09-19-113, § 308-56A-460, filed 9/22/09, effective 10/23/09. Statutory Authority: RCW 46.01.110. WSR 04-08-080, § 308-56A-460, filed 4/6/04, effective 5/7/04; WSR 02-19-016, § 308-56A-460, filed 9/9/02, effective 10/10/02; WSR 01-20-010, § 308-56A-460, filed 9/20/01, effective 10/21/01. Statutory Authority: RCW 46.01.110 and 46.12.070. WSR 00-06-025, § 308-56A-460, filed 2/23/00, effective 3/25/00. Statutory Authority: RCW 46.01.110. WSR 92-15-024, § 308-56A-460, filed 7/6/92, effective 8/6/92. Statutory Authority: RCW 46.01.110 and 46.12.070. WSR 91-04-025, § 308-56A-460, filed 1/29/91, effective 3/1/91; Order MV 208, § 308-56A-460, filed 7/31/74.]

AMENDATORY SECTION (Amending WSR 11-23-014, filed 11/7/11, effective 12/8/11)

WAC 308-56A-500 Definitions. The following definitions apply to terms used in chapters 46.12 and 46.16A RCW and chapter 308-56A WAC:

(1) "Affidavit in lieu of title" is a written declaration confirming the certificate of title is unavailable, lost, stolen, destroyed or mutilated. The affidavit in lieu of title may be used to release interest in the vehicle. The signature of the owner completing the affidavit in lieu of title must be notarized or certified as described in WAC 308-56A-270.

(2) "Affixed" means attached.

(3) "Brands" means a permanent notation on the electric vehicle record which prints on the certificate of title and vehicle registration certificate that records a circumstance or condition involving a vehicle.

(4) "Brands incident date" is the date that a brand was first applied to a vehicle. For states/jurisdictions participating in the National Motor Vehicle Title Information System (NMVTIS), it's the date the brand was first reported. For all states or jurisdictions, it is established by using the date the current title was issued. Brands on Washington records prior to the effective date of this rule will reflect a brand incident date equal to the date the last Washington certificate of title was issued.

(5) "Certificate of title" (also referred to as "certificate of ownership" or "title") is a legal document indicating proof of ownership and will establish a fact or sustain a judgment unless contradictory evidence is produced. A certificate of title may be a document other than a title when a title document is not issued by a jurisdiction. For example, for Canadian vehicles, the certificate of title is the registration.

(6) "Comment" means an indication on the certificate of title, vehicle title or registration application, or vehicle registration certificate that relates to tax liability, type of ownership, title transaction type or previous or current condition of the vehicle.

(7) "Commercial parking company" means any business directly engaged in providing vehicle parking upon property owned or controlled by the business and approved for public parking of vehicles.

(8) "Current license plate registration" means the current registration or one that has been expired less than one year.

(9) "Department temporary (~~permit~~) license plate" is a permit issued temporarily in lieu of registration and license plates when required documentation is unavailable.

(10) "Electronic/electronically filing" is a method to transmit information to the department that may include, but is not limited to, the use of the internet or facsimile.

(11) "Involuntary divestiture" means a change in vehicle ownership without the registered owner's involvement.

(12) "Impossible" as used in RCW 46.16A.200, means that there was nothing made by the manufacturer (to include, but not limited to, a bracket or the bumper of the vehicle) for the originally manufactured vehicle which would allow the license plate to be affixed to the vehicle in the manner prescribed in RCW 46.16A.200.

(13) "Joint tenancy with rights of survivorship" (JTWROS) means two or more people who own a vehicle in joint tenancy with the right to own individually if one of them dies.

(14) "Jurisdiction code" means an abbreviation used by the department that indicates state, province, district, or country.

(15) "Lien holder" means a person or entity that has a legal right or interest in another's property until a debt or duty that it secures is satisfied.

(16) "Not eligible for road use" (NEFRU) means a vehicle that does not meet Federal Motor Vehicle Safety standards, other federal or state standards for public road use as adopted, applied, and enforced by the Washington state patrol described in RCW 46.37.005.

(17) "A declaration under penalty of perjury" means a statement signed by the applicant to the effect - "I declare under penalty of perjury under the laws of the state of Washington that the information I have provided on this form is true and correct." Anyone who knowingly makes a false statement may be guilty of a crime under state law.

(18) "Personal representative" means:

(a) An individual appointed by the court; or

(b) An individual named in the last will and testament and confirmed by the court to manage the estate of a deceased person.

Personal representative may also include executor, administrator, special administrator, and guardian or limited guardian and special representative as defined in RCW 11.02.005(1).

(19) "Registered owner" means the same as described in RCW 46.04.460.

(20) "Security interest holders" means in this instance, the same as "lien holder" as defined in subsection (15) of this section.

(21) "Standard brand" is a brand found on the brands list maintained by the National Motor Vehicle Title Information System (NMVTIS) program.

(22) "Transferee" means a person to whom a vehicle is transferred, by purchase, gift, or any means other than by creation of a security interest, and any person who, as agent, signs an odometer disclosure statement for the transferee, when applicable.

(23) "Transferor" means a person who transfers ownership in a vehicle by sale, gift, or any means other than by creation of a security interest and any person who, as agent, signs an odometer disclosure statement for the transferor, when applicable.

(24) "Unique brand" means a brand issued by a state that is not participating in the National Motor Vehicle Title Information System (NMVTIS) program and does not appear on the brands list maintained by NMVTIS.

(25) "Report of sale" is a document as required by RCW 46.12.650 or electronic record transaction that protects the seller of a vehicle from certain criminal and civil liabilities arising from use of the vehicle by another person after the vehicle has been sold or a change of ownership has occurred.

(26) "Washington vehicle licensing office" means an office that is operated by the department or an agent or subagent appointed under RCW 46.01.140 for the purpose of carrying out the vehicle titling and registration provisions in Title 46 RCW.

[Statutory Authority: RCW 46.01.110. WSR 11-23-014, § 308-56A-500, filed 11/7/11, effective 12/8/11. Statutory Authority: RCW 46.12.005 and 46.01.110. WSR 09-19-113, § 308-56A-500, filed 9/22/09, effective 10/23/09. Statutory Authority: RCW 46.01.110 and 46.12.101. WSR 06-23-038, § 308-56A-500, filed 11/7/06, effective 12/8/06. Statutory Authority: RCW 46.16.010. WSR 05-23-135, § 308-56A-500, filed 11/22/05, effective 1/3/06. Statutory Authority: RCW 46.01.110. WSR

05-07-152, § 308-56A-500, filed 3/23/05, effective 5/15/05; WSR
04-08-081, § 308-56A-500, filed 4/6/04, effective 5/7/04; WSR
02-19-016, § 308-56A-500, filed 9/9/02, effective 10/10/02. Statutory
Authority: RCW 65.20.110. WSR 00-13-083, § 308-56A-500, filed 6/20/00,
effective 7/21/00; WSR 00-06-004, § 308-56A-500, filed 2/18/00, effec-
tive 3/20/00; WSR 90-11-091, § 308-56A-500, filed 5/18/90, effective
6/18/90.]

WSR 23-10-077

PERMANENT RULES

BOARD OF ACCOUNTANCY

[Filed May 2, 2023, 3:43 p.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: Rule making is needed to change the increments in which continuing professional education (CPE) credit is earned to tenths of hours instead of half-hour increments after the first hour is earned. Five minutes will constitute one-tenth of a CPE hour based on the 50-minute CPE hour.

Citation of Rules Affected by this Order: Amending WAC 4-30-133.

Statutory Authority for Adoption: RCW 18.04.055.

Adopted under notice filed as WSR 23-05-023 on February 7, 2023.

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 the 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: April 28, 2023.

Michael J. Paquette, CPA
Executive Director

OTS-4330.1

AMENDATORY SECTION (Amending WSR 19-16-074, filed 7/31/19, effective 1/1/20)

WAC 4-30-133 Reporting periods, carry-forward/back, and limitations on continuing professional education (CPE) credit. (1) **CPE reporting period** is a calendar year time period beginning in the calendar year a credential is first issued by this board and ending on December 31st of the subsequent third calendar year.

(2) **CPE credit** is given in ~~((half-hour))~~ increments ~~((only))~~ of tenths of an hour after the first full CPE credit hour has been earned except for nano learning.

A minimum of ~~((fifty))~~ 50 minutes of continuous instruction constitutes one CPE credit hour and after the first ~~((fifty-minute))~~ 50-minute segment has been earned, ~~((twenty-five))~~ five minutes constitutes ~~((one-half))~~ one-tenth of a CPE credit hour.

CPE credit earned is rounded down to the nearest tenth of an hour.

(3) **Carry-forward:** CPE credit hours you complete during one CPE reporting period cannot be carried forward to the next period.

(4) **Carry-back:** As specified in WAC 4-30-134, CPE credit hours you complete during one CPE reporting period cannot be carried back to the previous reporting period unless the board has approved a request for extension or has required the carry-back as part of the sanctions for failure to complete required CPE.

(5) **Preparation time for CPE attendance:** Attendees obtain CPE credit only for time spent in instruction; no credit is allowed for preparation time unless the attendee is the discussion leader for the particular CPE segment or program.

(6) **Limitations on CPE credit:** In any given three-year renewal cycle, licensees are limited to the following upper limits of CPE credit for the following formats:

(a) Nano learning, as defined in WAC 4-30-010, is limited to no more than ~~((twelve))~~ 12 CPE credit hours out of the ~~((one hundred twenty))~~ 120 CPE credit total as specified in WAC 4-30-134.

(b) No more than ~~((sixty))~~ 60 hours of CPE can be awarded to any licensee during the three-year reporting period for the sum of:

(i) Service on the Washington state board of accountancy or the board's committees or volunteer service on one of the board approved peer review committees;

(ii) First time instructor/developer of a college or university course;

(iii) First time instructor/developer of a CPE course; and

(iv) Authorship of published articles, books, and other publications relevant to maintaining or improving professional competence.

(c) Service on the Washington state board of accountancy (board) including participation on an approved peer review committee, first time instructor/developer, or authorship of published materials will not count towards the minimum ~~((twenty))~~ 20 credit hours of CPE required per WAC 4-30-134 during each of the three years of the CPE reporting period.

(7) **Further requirements and clarifications:**

(a) **Self-study programs:** Credit for self-study programs is allowed for reporting purposes on the date you completed the program as established by the course completion certificate provided by the program sponsor.

(i) **Interactive self-study programs:** Interactive means electronic or other delivery formats of CPE in which feedback is provided during the study of the material in a manner to validate the individual's understanding of the material. The amount of credit allowed for interactive self-study is that which is recommended and documented by the program sponsor on the basis of the average completion time under appropriate "field tests."

(ii) **Noninteractive self-study programs:** The amount of credit allowed for noninteractive self-study is one-half the average completion time as determined and documented by the program sponsor on the basis of appropriate "field tests."

(b) **Instructor, discussion leader, or speaker:** If you serve as an instructor, discussion leader, or speaker at a program which meets the standards of WAC 4-30-132, the first time you present the program you may claim CPE credit hours for both preparation and presentation time. One hour of credit is allowed for each ~~((fifty))~~ 50 minutes of instruction. Additionally, you may claim credit for actual preparation time up to two times the presentation hours. No credit is allowed for subsequent presentations of a course constituted of substantially the same material.

(c) **Undergraduate and graduate courses:** For both undergraduate and graduate courses one semester credit equals (~~fifteen~~) 15 CPE credit hours and one quarter credit equals (~~ten~~) 10 CPE credit hours.

[Statutory Authority: RCW 18.04.055. WSR 19-16-074, § 4-30-133, filed 7/31/19, effective 1/1/20.]