



STATE OF WASHINGTON  
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October 1, 2012

To: Interested Parties

From: Marci Hixson, Rules Coordinator  
Department of Early Learning

SUBJECT: Revised WAC Chapters 170-296A Licensed Family Home Child Care Standards  
Concise Explanatory Statement

RCW 34.05.325(6) requires the Department to prepare a “concise explanatory statement” before any rule is filed for permanent adoption. The concise explanatory statement:

- Identifies the Department’s reasons for adopting the rule
- Describes any differences between the proposed rule and the final rule, other than editing, and the reasons for the differences; and
- Summarizes all comments by category received on the proposal rules during the official comment period, the Department’s response to the comments, and whether any comments resulted in a change to the final rules, or giving the Department’s reasons if the rule was not changed.

The Department sends the concise explanatory statement to everyone who commented on the proposed rules, or to anyone who requests it.

**Reasons for Adopting the Rule.**

The permanent rules are intended to update the rules for several purposes, including to:

- Correct the concentration of bleach and water solution for sanitizing and disinfecting
- Make corrections to the requirements under notifiable conditions
- Clarify requirements for cleaning, sanitizing, and disinfecting
- Correct typographical errors
- Readopt a rule related to emergency exit windows that was inadvertently left out of the Small Business Economic Impact Statement

Adoption of this rule is consistent with state Office of Financial Management guidance regarding implementation of Executive Order 10-06 suspending non-critical rule making (extended by Executive Order 11-03), but allowing rules to proceed that are:  
*“Required by federal or state law or required to maintain federally delegated or authorized programs;” or*  
*“Necessary to protect public health, safety, and welfare or necessary to avoid an immediate threat to the state’s natural resources...”*  
 These requirements are necessary to protect the safety, health and welfare of children in licensed child care environments.

**Rule Development Process.** On March 30, 2012, DEL filed a CR 101 pre-proposal public notice that began the rule development process.

On May 1, 2012, DEL filed the formal proposed rules (CR-102 notice). Formal public hearings were held in the evening on June 27, 2012 in Tumwater. No one from the public attended the hearing. The comments received in writing are summarized by issue or WAC number in the table below. The table also includes the department responses to each issue raised in the public comments.

**Differences between the Proposed Rule and the Final Rule, other than editing.** The following changes were made to the rules proposed as WSR 12-10-075.

**170-296A-010 Definitions:** Under the definition of Disinfect or disinfecting added the statement “allowed to stand wet for at least two minutes”  
 Under the definition of Sanitize or sanitizing added the statement “allowed to stand wet for at least two minutes”  
 Under the definition of Nonprescription medication (a) removed “and aspirin” and (e) removed “teething pain reducers”

**170-296A-3925 Cleaning, sanitizing, and disinfecting table.**  
 (2)(a) added the statement “allowed to stand wet for at least two minutes”  
 (3)(a)(i) added the statement “allowed to stand wet for at least two minutes”

**Summary of Comments; Department Response, and effect on the Final Rule.** DEL received written comments on the proposed rules. The following table summarized the issues raised in public comments, by rule section and category, and the department’s response. The response also indicates if the proposed rule was changed as a result of the comment, or if the proposed rule was not changed and why.

Summary of Comments	Department Response Was the Proposed Rule Changed as a Result? If Not, Explain Why.
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Summary of Comments	Department Response Was the Proposed Rule Changed as a Result? If Not, Explain Why.
<p><b>Re-adopted Section 170-296A-4550</b></p> <ul style="list-style-type: none"> <li>As a leader involved in the Negotiated Rule Making process, I must remind you that our rules were to be research based. There is no research to support this rule. No fire department authority advised this rule, in fact, the opposite. They made it very clear that the preferred exits (of which FCCPs have more than one) were doorways and those were the safest for young children. Local building codes in many areas of the state do not support this rule. The end result of passage of this rule will be less licensed family child care providers. Once again, is this the result you are intending, putting even more children in unsafe child care? This rule is going beyond the intent of providing safe exits for children. It is costly in a time of economic recession. It is in conflict with building codes. It is not the safest way for children to exit a home, as any fire department will attest.</li> <li>This WAC is not recommended by the fire</li> </ul>	<p><b>The final rule was not changed as a result of this comment.</b>  <u>Rationale:</u> According to WAC 51-51-0326 Section R326 – Family Child Day Care Homes.</p> <p>Floors located more than 4 feet above grade level shall not be occupied by children in family day care homes.</p> <p>EXCEPTIONS: 1. Use of toilet facilities while under supervision of an adult staff person.  2. Family child day care homes may be allowed on the second story if one of the following conditions exists:  2.1 Stairways from the second story open directly to the exterior of the building without entering the first floor; or  2.2 One of the two required means of egress discharges directly to the exterior from the second story level, and a self-closing door is installed at the top or bottom of the interior stair leading to the floor below; or  2.3 A residential sprinkler system is provided throughout the entire building in accordance with National Fire Protection Association Standard 13d.</p> <p>Developing this rule supports the provider’s to care for children in areas of their home that otherwise may not be allowed based on the current Washington State building code requirements. This allows a variety of residential structures to be used in providing child care and supports parent’s access to care.</p> <p>Not all Family Child Care homes will require installation of an emergency exit platform. An emergency exit platform is only required if you are caring for children in a room on the second floor of a two story or split level home and you use a window more than four feet above grade as one of the two means of egress from the room and no fire sprinkler system is installed in the home.</p> <p>Examples are listed below:</p> <ul style="list-style-type: none"> <li>If you operate a child care in a living room or kitchen more than four feet above grade and there are two doors or doorways from the room that lead directly to two separate pathways to emergency exits, then an emergency exit</li> </ul>

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<p>department</p> <ul style="list-style-type: none"> <li>• Why does this requirement have to be a code?</li> <li>• This rule allows our homes to be more vulnerable to child predators and home invaders.</li> <li>• This is not an effective way to exit.</li> </ul>	<p>platform is not required because no window is being used as an emergency exit. For example, a living room four feet above grade with a front door leading outside and another door leading to an outside deck with a stairway to the ground does not require a platform outside the window.</p> <ul style="list-style-type: none"> <li>• If you operate a child care in a bedroom more than four feet above grade and one exit is a door to a pathway that leads to an emergency exit and the other exit is a door leading directly to the exterior of the building, then an emergency exit platform is not required because no window is being used as an emergency exit. For example, a bedroom four feet above grade with a door leading to a deck with a stairway to the ground and a door leading to a hallway that leads to the front door does not require a platform outside the window.</li> <li>• If you operate a child care in a bedroom more than four feet above grade and one exit is a door to a pathway that leads to an emergency exit and the other exit is an emergency exit window, then an emergency exit platform is required. For example, a bedroom with a door leading to a hallway that leads to the front door and a window used as an exit requires a platform outside the window.</li> </ul> <p>According to WAC 170-296A-4550 Emergency exit windows – An emergency exit window may be latched during business hours as long as a manufacturer-installed latch is used.</p>
<p><b>WAC 170-296A-010 Definitions</b>  Nonprescription medication: Should remove “and aspirin” and “teething pain reducers”  Disinfecting and sanitizing: Both should have - allowed to stand wet for at least two minutes.</p>	<p><b>The final rule was changed as a result of this comment.</b>  <b>Rationale:</b>  The recommendation from the Washington State Department of Health:</p> <ol style="list-style-type: none"> <li>1. In 2011 the FDA issued a safety announcement about over-the-counter gels and liquids applied to gums or mouth to reduce pain (teething pain reducers) The FDA warns parents and caregivers not to use benzocaine-containing medication on children younger than two years of age unless otherwise recommended by a physician.</li> <li>2. According to the American Academy Pediatrics</li> </ol>

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	<p>(2005) aspirin fever reducers should never be given as a nonprescription medication for children or teenagers without a physician’s order.</p> <p><b>3.</b> Wet time is as important for bleach as it is for other products. This is supported by the National Resource Center for Health and Safety in Child Care and Early Education, and can be found in Caring for Our Children.</p>
<p><b>WAC 170-296A-3925 Cleaning, sanitizing, and disinfecting table.</b> Add allowed to stand wet for at least two minutes to both disinfect and sanitize.</p>	<p>Wet time is as important for bleach as it is for other products. This is supported by the National Resource Center for Health and Safety in Child Care and Early Education, and can be found in Caring for Our Children.</p>