



RULE-MAKING ORDER

CR-103E (July 2011)
(Implements RCW 34.05.350)

Agency: Department of Social and Health Services, Children's Administration

Emergency Rule Only

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose: The department is changing licensing regulations in WAC 388-145-1555(5), WAC 388-145-1600(4), WAC 388-145-1665(4), WAC 388-145-1675(1,2), and WAC 388-148-1465(3,6) as recommended by the Washington State Patrol fire protection bureau. These WAC changes affect both the Division of Licensed Resources (DLR) Group Care Facilities' WACs (chapter 388-145 WAC) and the Child Foster Home WACs (chapter 388-148 WAC). For group care facilities, the state-adopted international codes do not require facilities that are sprinkler protected to have windows that open to the outside or to have windows that are large enough for emergency personnel to enter and exit. The current WAC requires this even if the facility is sprinkler protected. Further, the state-adopted international codes require smoke detectors to be both inside and outside of all bedrooms in homes and facilities, which is different from the current WAC. Finally, foster homes without a window large enough for emergency personnel to enter and exit have been approved by the fire marshal or building official with jurisdiction to do so. Immediately changing the WAC to reflect current standards and practices implemented by the fire marshal or building official will allow such foster homes to meet minimum licensing standards. DLR is amending these WACs to align with the state-adopted international code requirements.

The department is also changing licensing regulations in WAC 388-148-1470(14,15) and 388-148-1515(9) as recommended by the Children's Administration Regional Medical Consultants. These changes are based on child safety. Additional requirements address the use of weighted blankets and clarify that neither formula nor breastmilk can be warmed in the microwave oven.

There will be no other content or language changes to the WACs that are part of this emergency rule change.

Citation of existing rules affected by this order:

Repealed:

Amended: WAC 388-145-1555(5), WAC 388-145-1600(4), WAC 388-145-1665(4), WAC 388-145-1675(1, 2), WAC 388-148-1465(3,6), WAC 388-148-1470(14,15), and WAC 388-148-1515(9)

Suspended: None

Statutory authority for adoption: RCW 74.15.010, RCW 74.15.030, RCW 74.15.040, RCW 74.15.090, RCW 74.13.031

Other authority:

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding:

The WAC changes are being requested to align the DLR WACs with the current building code and to provide additional safety related language to the use of weighted blankets in foster homes.

Date adopted:

June 22, 2017

NAME (TYPE OR PRINT)

Katherine Vasquez

SIGNATURE

TITLE

DSHS Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: June 23, 2017

TIME: 3:13 PM

WSR 17-14-023

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	<u>7</u>	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	<u>7</u>	Repealed	_____

WAC 388-145-1555 What does the department require for my buildings and property?

(1) You must maintain your buildings, premises, and equipment in a clean and sanitary condition, free of hazards, and in good repair. You must furnish your facility appropriately, based on the age and activities of the children in your care. You must:

(a) Provide handrails for steps, stairways, and ramps if required by the department;

(b) Have emergency lighting devices available and in operational condition;

(c) Provide appropriate furnishings, based on the age and activities of the children in your care;

(d) Have washable, water-resistant floors in bathrooms, kitchens, and other rooms exposed to moisture. Washable short-pile carpeting may be approved in kitchen areas if kept clean and sanitary;

(e) Provide tamper-proof or tamper-resistant electrical outlets or blank covers installed in areas accessible to children under the age of six or other persons with limited capacity or who might be endangered by access to them; and

(f) Have easy access to rooms occupied by children in case an emergency arises.

(2) You must have adequate indoor and outdoor space, ventilation, toilet and bathing facilities, light and heat to ensure the health and comfort of all members of the household.

(3) The cleanliness and care of your premises must meet generally accepted health standards for the storage and preparation of food.

(4) You must make reasonable attempts to keep the premises free from pests, such as rodents, flies, cockroaches, fleas, and other insects using the least toxic methods.

(5) People must be able to easily open doors from the inside and outside in all areas of the facility that are occupied, unless the building or structure has a fire sprinkler protection system and was previously approved by the local fire marshal or building official with jurisdiction. This includes closets, bathrooms, and bedrooms. You must also have easy access to the outside in case of an emergency.

(6) Facilities must have nonbreakable light fixture covers or shatter-resistant light bulbs or tubes in food preparation and dining areas. DLR will review your facility to determine other areas that may be a concern for the safety of children.

(7) You must have an immediate plan to address hazardous conditions on your property or in your facility. The department may remove children from your care if hazardous conditions are not immediately remedied.

(8) Your facility must be accessible to emergency vehicles and your address must be clearly visible on your facility or mailbox so that first responders can easily find your location.

(9) Your facility must be located on a well-drained site, free from hazardous conditions. You must discuss with your licensor any potential hazardous conditions, considering the children's ages, behaviors and abilities.

(10) You must have a working landline telephone at all times. Individuals calling your facility must be able to leave a message at all times.

(11) You must post emergency numbers and the physical address of the facility in an easily visible location near the telephone. This must include the Washington state poison control number (1-800-222-1222).

(12) Utility rooms with mop sinks that do not have windows opening to the outside must be ventilated with a mechanical exhaust fan to the outside of the building.

(13) The use of window blinds or other window coverings with pull cords capable of forming a loop and posing a risk of strangulation to children are prohibited per RCW 43.215.360.

(14) Infants/toddlers are not allowed to use wheeled baby walkers.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-145-1600 What are the general requirements for bedrooms?

(1) Each child shall have or share a bedroom, approved by the licensor, with privacy and space that is appropriate and adequate to meet the child's developmental needs.

(2) For facilities licensed after December 31, 1986, bedrooms must have:

(a) Adequate ceiling height for the safety and comfort of the occupants. Normally this would be seven and a half feet; and

(b) A window that can open to the outside, allowing natural light into the bedroom and permitting emergency access or exit.

(3) Each bedroom must have unrestricted direct access to outdoors as well as one direct access to common use areas such as hallways, corridors, living rooms, day rooms, or other such common use areas.

(4) Approval may be granted to a building or structure that does not have direct access to the outdoors if it has a fire sprinkler protection system and was previously approved by the local fire marshal or building official with jurisdiction.

(5) You must not use hallways, kitchens, living rooms, dining rooms, and unfinished basements as bedrooms.

~~((+5))~~ (6) Common areas of the facility such as hallways, kitchens, living rooms, and dining rooms must not be used as bedrooms for anyone in the household without permission of the DLR licensor and DSHS worker, if applicable.

~~((+6))~~ (7) An adult must be on the same floor or within easy hearing distance and access to where children under six years of age are sleeping.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-145-1665 What are the fire safety requirements for all group residential facilities?

(1) You must comply with the regulations developed by the chief of the Washington state patrol through the director of the fire protection bureau (WSP/FPB). These regulations are contained in the current fire code and Washington state

amendments as adopted by the state of Washington. Contact the WSP/FPB for specific requirements.

(2) If you operate a staffed residential home for five or fewer children you must meet the fire safety requirements outlined in chapter 388-148 WAC for child foster homes.

(3) You and your staff must be familiar with safety procedures related to fire prevention, including fire drill procedures.

(4) You and your staff must be able to:

(a) Operate all fire extinguishers installed on the premises;

(b) Test smoke detectors (single station types);

(c) Conduct frequent inspections at your facility to identify fire hazards and take action to correct any hazards noted during the inspection;

(d) Ensure children are able to escape from every floor in your facility. In most cases, this includes a functional fire ladder available from upper stories; and

(e) ~~((Ensure windows open to the outside and are large enough for emergency personnel to enter and exit wearing rescue gear))~~ Approval may be granted to a building or structure that does not have direct access to the outdoors if it has a fire sprinkler protection system and was previously approved by the local fire marshal or building official with jurisdiction.

(5) You must have easy access to all rooms in your facility in case of emergencies.

(6) Barriers are required for fireplaces, wood stoves and other heating systems for facilities licensed for children less than six years of age. You must not leave open-flame devices unattended or use them for a purpose other than for what they were designed.

(7) Emergency vehicles must be able to access your facility. Your address and/or mailbox must be clearly visible so that emergency personnel can easily find your location.

(8) We may require you to have an inspection by WSP/FPB or the local fire authority if we have questions about fire safety, or if local ordinances or WSP/FPB require these inspections.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-145-1675 What requirements must be followed for smoke detectors?

(1) Staffed residential homes licensed for five or fewer children must meet all of the following:

(a) ~~((If a sleeping or napping room has a ceiling height that is at least twenty four inches higher than its adjoining hallway, you must install a smoke detector in both the hallway and the sleeping or napping room.))~~ Your facility must have smoke detectors in operating condition both inside and outside of all sleeping areas. Smoke detectors must also be installed on each story of the facility, in all play areas, and in the basement. You must install and maintain smoke detectors according to the manufacturer's specifications.

(b) If a smoke detector is mounted on a wall, it must be twelve inches from the ceiling and a corner ~~((+and))~~.

(c) Smoke detectors must be tested twice a year to ensure they are in working order. You must document the date and time of the test.

(2) All other group residential facilities must meet the regulations developed by the WSP/FPB. You must also meet all of the following:

(a) ~~((Have))~~ Smoke detectors ~~((that are UL))~~ must be Underwriter's Laboratory (UL) or Factory Mutual (FM) approved and in ~~((each bedroom or in areas close to where children sleep, such as a hallway;~~

~~(b) Have smoke detectors on each level/story of the dwelling to include basements and habitable attics;))~~ operating condition both inside and outside of all sleeping areas. Smoke detectors must also be installed on each story of the facility, in all play areas, and in the basement. You must install and maintain smoke detectors according to the manufacturer's specifications.

~~((e))~~ (b) Have smoke detectors with a strobe and be in compliance with the Americans with Disabilities Act (ADA).

~~((d))~~ (c) Test single-station smoke detectors monthly or in a manner specified by the manufacturer. You must maintain a written record of such testing on the premises that indicates the date and time the test was completed.

(3) If questions arise concerning fire danger, the department may require that the local fire protection authority be consulted.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-148-1465 What other emergency fire and safety requirements must I follow to become licensed? (1) You must observe all state and local fire codes (WAC 212-12-005). We will determine that reasonable fire safety standards exist in your home based on the children placed in your home.

(2) Children must be able to escape from every floor in your home. In most cases, this includes a functional fire ladder available from upper stories.

(3) Windows must open to the outside and be large enough for a rescue person to enter and exit wearing rescue gear, unless the building or structure was previously approved by the local fire marshal or building official with jurisdiction.

(4) You must have easy access to all rooms in your home in case of emergency.

(5) We may require you to have an inspection by WSP/FPB or the local fire authority if we have questions about fire safety, or if local ordinances or WSP/FPB require these inspections.

(6) Your home must have smoke detectors in operating condition ~~((to protect sleep areas, play areas and))~~ both inside and outside of all sleeping areas. Smoke detectors must also be installed on each story of the home, in all play areas, and in the basement. You must install and maintain smoke detectors according to manufacturer's specifications.

(7) You must have at least one approved 2A10BC-rated 5lb or larger all-purpose fire extinguisher readily available at all times. You must maintain and service fire extinguishers according to manufacturer's specifications.

(8) Barriers are required for fireplaces, wood stoves and other heating systems if you are licensed for children less than six years

of age. You must not leave open-flame devices unattended or use them incorrectly.

(9) Emergency vehicles must be able to access your home. Your address must be clearly visible on your home or mailbox so that emergency personnel can easily find your home.

AMENDATORY SECTION (Amending WSR 16-17-101, filed 8/19/16, effective 9/19/16)

WAC 388-148-1470 What are the general requirements for bedrooms?

(1) Each child shall have a bedroom, approved by the licensor, with privacy and space that is appropriate and adequate to meet the child's developmental needs. Children may share bedrooms, in compliance with WAC 388-148-1475.

(2) Each bedroom must have unrestricted direct access to outdoors as well as one direct access to common use areas such as hallways, corridors, living rooms, day rooms, or other such common use areas.

(3) You may not use hallways, kitchens, living rooms, dining rooms, and unfinished basements as bedrooms.

(4) Children may not be required to pass through private bedroom space in order to access common areas of the home.

(5) An adult must be on the same floor or within easy hearing distance and access to where children under six years of age are sleeping.

(6) You must provide an appropriately sized separate bed for each child with clean bedding, and a mattress in good condition.

(7) Some children may soil the bed, and you may need to plan accordingly. You must provide waterproof mattress covers or moisture-resistant mattresses if needed. Each child's pillow must be covered with waterproof material or be washable.

(8) You must assure that children have access to clean clothing that is appropriate for their age. You must provide safe storage of children's clothing and personal possessions.

(9) You must provide an infant with a crib that ensures the safety of the infant, and complies with chapter 70.111 RCW, Consumer Product Safety Improvement Act of 2008. These requirements include:

(a) A maximum of 2 3/8" between vertical slats of the crib; and

(b) Cribs, infant beds, bassinets, and playpens must have clean, firm, snug-fitting mattresses covered with waterproof material that can be easily disinfected and be made of wood, metal, or approved plastic with secure latching devices.

(10) You must place infants on their backs for sleeping, unless advised differently by the child's licensed health care provider.

(11) You may not have loose blankets, pillows, crib bumpers, or stuffed toys with a sleeping infant.

(12) You may swaddle infants using one lightweight blanket upon the advice and training of a licensed health care provider. You must keep the blanket loose around the hips and legs when swaddling in order to avoid hip dysplasia. You may swaddle infants under two months of age unless a licensed health care provider directs otherwise. You may not dress a swaddled infant in a manner that allows them to over-heat.

(13) You may not use wedges and positioners with a sleeping infant unless advised differently by the infant's licensed health care provider.

(14) You may not use weighted blankets for children under three years of age or ~~((that have))~~ for children of any age with mobility limitations ~~((unless advised differently by the child's licensed health care provider))~~.

(15) ~~((If))~~ You may use a weighted blanket ~~((-))~~ upon the advice and training from a licensed health care professional for children over the age of three years who do not have mobility limitations. You must meet the following requirements:

(a) The weight of the blanket may not exceed ten percent of the child's body weight;

(b) Metal beads are choking hazards and may not be used in a weighted blanket; ~~((and))~~

(c) You may not cover the child's head with a weighted blanket or place it above the middle of the child's chest ~~((-))~~;

(d) The weighted blanket must not hinder a child's movement; and

(e) The weighted blanket must not be used as a restraint.

(16) You may not allow children to use the loft style beds or upper bunks if the child is vulnerable due to age, development or condition. Examples: Preschool children, expectant mothers, and children with a disability.

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-148-1515 What are the requirements regarding food? (1)

Food served to children in your care must meet their nutritional and developmental needs, with a variety of options for adequate nutrition and meal enjoyment.

(2) Children's cultural needs should also be considered when planning meals.

(3) All home-canned foods must be preserved following published procedures and you must be able to provide the printed published procedures that you followed.

(4) Before you modify a child's diet, you must obtain written authorization from a physician for children under the age of ten years.

(5) The milk or milk products you serve must be pasteurized. Children between the ages of twelve and twenty-four months must receive whole milk unless you have written authorization from a physician not to serve whole milk.

(6) Children under the age of twelve months must receive formula or breast milk unless the child's physician authorizes a different diet.

(7) Before serving a child breast milk you must have approval of the child's DSHS worker, physician, parent or guardian. If breast milk is provided by anyone other than a baby's biological mother, it must be obtained through a licensed breast milk bank.

(8) When you are using bottles to feed infants, you must sterilize and use them according to product standards and commonly acceptable practices. You must refrigerate filled bottles if you do not use them immediately, and you must empty the bottle if not used within twenty-four hours.

(9) To prevent burns, formula or breastmilk must not be warmed in a microwave oven (~~in the bottle that will be used for feeding the infant~~).