



# PROPOSED RULE MAKING

## CR-102 (August 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: August 29, 2017

TIME: 12:20 PM

WSR 17-18-035

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

**Original Notice**

**Supplemental Notice to WSR** \_\_\_\_\_

**Continuance of WSR** \_\_\_\_\_

**Preproposal Statement of Inquiry was filed as WSR** 17-14-018 ; or

**Expedited Rule Making--Proposed notice was filed as WSR** \_\_\_\_\_ ; or

**Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).**

**Proposal is exempt under RCW** \_\_\_\_\_.

**Title of rule and other identifying information:** (describe subject) The department is proposing to amend WAC 388-145-1555 "What does the department require for my buildings and property?", WAC 388-145-1600 "What are the general requirements for bedrooms?", WAC 388-145-1665 "What are the fire safety requirements for all group residential facilities?", WAC 388-145-1675 "What requirements must be followed for smoke detectors?", WAC 388-148-1465 "What other emergency fire and safety requirements must I follow to become licensed?", WAC 388-148-1470 "What are the general requirements for bedrooms?", and WAC 388-148-1515 "What are the requirements regarding food?" to provide further licensing instructions regarding fire safety, weighted blankets, and food requirements.

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
October 10, 2017	10:00 a.m.	Office Building 2 DSHS Headquarters 1115 Washington Olympia, WA 98504	Public parking at 11 <sup>th</sup> and Jefferson. A map is available at: <a href="https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2">https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2</a>

**Date of intended adoption:** Not earlier than October 11, 2017 (Note: This is **NOT** the effective date)

**Submit written comments to:**

Name: DSHS Rules Coordinator

Address: PO Box 45850  
Olympia, WA 98504

Email: [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov)

Fax: (360) 664-6185

Other:

By (date) 5:00 p.m. October 10, 2017

**Assistance for persons with disabilities:**

Contact Jeff Kildahl |

Phone: (360) 664-6092

Fax:

TTY: (360) 664-6178

Email: [KildaJA@dshs.wa.gov](mailto:KildaJA@dshs.wa.gov)

Other:

By (date) September 26, 2017

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The intent of amending 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) is to provide further instructions on fire safety and to align the Division of Licensed Resources (DLR) WACs with the current building code requirements. The intent of amending WAC 388-148-1470(14,15) and WAC 388-148-1515(9) is to include additional safety requirements regarding the use of weighted blankets and to clarify that neither formula nor breast milk can be warmed in the microwave oven. This WAC change is specific to infant and child safety and was recommended by the Children's Administration Regional Medical Consultants.

**Reasons supporting proposal:** These changes have been requested by group care facilities, fire marshals, and the Children's Administration Regional Medical Consultants.

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

**Statute being implemented:**

**Is rule necessary because of a:**

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None

**Name of proponent:** (person or organization) Department of Social and Health Services

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Kristina Wright	1115 Washington Street SE, Olympia, WA	(360) 902-8349
Implementation:	Kristina Wright	1115 Washington Street SE, Olympia, WA	(360) 902-8349
Enforcement:	Kristina Wright	1115 Washington Street SE, Olympia, WA	(360) 902-8349

**Is a school district fiscal impact statement required under RCW 28A.305.135?**  Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

No: Please explain: The proposed rules do not meet the definition of a significant legislative rule under RCW 34.05.328 (5) (c) (iii).

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW \_.

Explanation of exemptions, if necessary: .

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

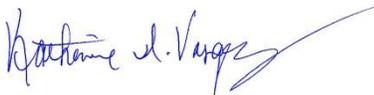
If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. The department has analyzed the proposed rules and determined that they do not impose more than minor costs on affected small businesses or small non-profit organizations.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: Kristina Wright  
Address: 1115 Washington Street SE, PO Box 45710, Olympia, WA 98504-5710  
Phone: (360) 902-8349  
Fax: (360) 902-7903  
TTY:  
Email: wrightks@dshs.wa.gov  
Other:

<b>Date:</b> August 23, 2017	<b>Signature:</b> 
<b>Name:</b> Katherine I. Vasquez	
<b>Title:</b> DSHS Rules Coordinator	

**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))~~ under RCW 43.215.360.

(14) ~~((Infants/toddlers))~~ Infants and 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))~~ must 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))~~ or unfinished basements as bedrooms.

~~((+5))~~ (6) You must not use 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 regula-

tions 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, 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.

(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 on your facility or mailbox 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))~~ five pound 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))~~ must 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))~~ must not use hallways, kitchens, living rooms, dining rooms, ~~((and))~~ or unfinished basements as bedrooms.

(4) Children ~~((may))~~ must 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~~((,))~~ and the 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))~~ be made of wood, metal, or approved plastic, with secure latching devices and clean, firm, snug-fitting mattresses covered with waterproof material that can ~~((be))~~ easily be 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))~~ must 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))~~ must not dress a swaddled infant in a manner that allows them to overheat.

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

(14) You ~~((may))~~ must 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 provider 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))~~ must not exceed ten percent of the child's body weight;

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

(c) You ~~((may))~~ must 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))~~ must not allow children to use the loft style beds or upper bunks if the child is vulnerable due to age, development, or condition ~~((- Examples-))~~, such as 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))~~ licensed health care provider 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))~~ licensed health care provider not to serve whole milk.

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

(7) Before serving a child breast milk you must have approval of the child's DSHS worker, ~~((physician))~~ licensed health care provider, and 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 breast milk must not be warmed in a microwave oven (~~in the bottle that will be used for feeding the infant~~).