



# PROPOSED RULE MAKING

## CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

**Agency:** State Board of Health

- Preproposal Statement of Inquiry was filed as WSR 13-18-080 ; 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).

- Original Notice
- Supplemental Notice to WSR
- Continuance of WSR

**Title of rule and other identifying information:** (Describe Subject)

Chapter 246-105 WAC Immunization of child care and school children against certain vaccine-preventable diseases. Updating the chapter to reflect changes in state law and to reference the current national immunization standards from the Advisory Committee on Immunization Practices.

**Hearing location(s):** Washington State Department of Health  
Point Plaza East, Room 152/153  
310 Israel Road SE  
Tumwater, WA 98501

Date: 01/08/14

Time: 1:30 pm

**Submit written comments to:**

Name: Jeff Wise  
Address: Washington State Department of Health  
PO Box 47843  
Olympia, WA 98504-7843  
e-mail: <http://www3.doh.wa.gov/policyreview/>  
fax 360-236-3590 by (date) 01/02/2014

**Assistance for persons with disabilities:** Contact

Desiree Robinson by 01/02/2014

TTY (800) 833-6388 or () 711

**Date of intended adoption:** 01/08/2014

(Note: This is NOT the effective date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

This proposal aligns the rule's immunization exemption procedures required for entry into schools and child care centers with RCW 28A.210.090. Definitions and other language are updated for clarity and to ensure the rule language is consistent with the statute. The reference to national immunization standards set by the Advisory Committee on Immunization Practices (ACIP) is updated from the 2012 version to the 2013 version. Additional language clarifies existing requirements.

**Reasons supporting proposal:**

This revision is necessary to provide clarity to existing rule requirements. It ensures consistency of the Washington State school and child care immunization requirements with 1) state statute regarding immunization exemption procedures, and 2) the most recent national immunization standards as set by the ACIP.

**Statutory authority for adoption:**

RCW 28A.210.140

**Statute being implemented:**

RCW 28A.210.090

**Is rule necessary because of a:**

- Federal Law?  Yes  No
  - Federal Court Decision?  Yes  No
  - State Court Decision?  Yes  No
- If yes, CITATION:

DATE 11/27/2013

NAME (type or print)

Michelle A. Davis

SIGNATURE

TITLE

Executive Director, State Board of Health

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: **December 03, 2013**

TIME: **12:02 PM**

**WSR 13-24-095**

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

None

**Name of proponent:** (person or organization) Washington State Board of Health

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Jeff Wise	310 Israel Road, SE Tumwater, WA 98501	(360) 236-3483
Implementation.... Michele Roberts	310 Israel Road, SE Tumwater, WA 98501	(360) 236-3568
Enforcement..... Michele Roberts	310 Israel Road, SE Tumwater, WA 98501	(360) 236-3568

**Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?**

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:  
Address:

phone  
fax  
e-mail

No. Explain why no statement was prepared.

A small business economic impact statement was not prepared. The proposed rule would not impose more than minor costs on businesses in an industry.

**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  
e-mail

No: Please explain: The agency did not complete a cost benefit analysis under RCW 34.05.328. RCW 34.05.328(5)(b)(iii)

exempts rules that adopt or incorporate by reference without material change federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards; RCW 34.05.328(5)(b)(iv) exempts rules that only correct typographical errors, make address or name changes or clarify the language of a rule without changing its effect; and RCW 34.05.328(5)(b)(v) exempts rules the content of which is explicitly and specifically dictated by statute.

**WAC 246-105-020 Definitions.** For the purposes of this chapter, the words and phrases in this section have the following meanings unless the context clearly indicates otherwise:

- (1) "Certificate of exemption (COE)" means a form that is:
  - (a) Approved by the department and consistent with the requirements of WAC 246-105-050(2); or
  - (b) An immunization form produced by the state immunization information system.
- (2) "Certificate of immunization status (CIS)" means a form that is:
  - (a) Approved by the department and consistent with the requirements of WAC 246-105-050(1); or
  - (b) An immunization form produced by the state immunization information system.
- (3) "Chief administrator" means:
  - (a) The person with the authority and responsibility for supervising the immediate operation of a school or child care center; or
  - (b) A person designated in writing by the statutory or corporate board of directors of the school district or school; or
  - (c) If (a) and (b) of this subsection do not apply, a person or persons with the authority and responsibility for supervising the general operation of the school district or school.
- (4) "Child" means any person regardless of age admitted to:
  - (a) Any public school district; or
  - (b) Any private school or private institution subject to approval by the state board of education or described in RCW 28A.305.130 and 28A.195.010 through 28A.195.060; or
  - (c) Any child care center.
- (5) "Child care center" means any ~~((licensed))~~ facility or center licensed by the department of early learning under chapter 43.215 RCW that regularly provides care ((of)) for a group of thirteen or more children one month of age through twelve years of age for periods of less than twenty-four hours per day ((subject to licensure by the department of early learning as described in chapter 43.215 RCW)).
- (6) "Conditional" means a type of temporary immunization status where a child is not immunized against one or more of the vaccine-preventable diseases required by this chapter for full immunization. A child in this status is allowed to attend a school or child care center provided the child makes satisfactory progress toward full immunization.
- (7) "Department" means the department of health.
- (8) "Exempt" or "exemption" means a type of immunization status where a child has not been immunized against one or more of the vaccine-preventable diseases required by this chapter for full immunization due to medical, religious, philosophical or personal reasons. A child in this status is allowed to attend a school or child care center only by providing the required COE form.
- (9) "Full immunization" or "fully immunized" means an immunization status where a child has provided proof of acquired immunity or has been vaccinated with immunizing agents against each of the vaccine-preventable diseases listed in WAC 246-105-030 according to the national immunization guidelines described in WAC 246-105-040.

(10) "Health care practitioner" means a physician licensed under chapter 18.71 or 18.57 RCW, a naturopath licensed under chapter 18.36A RCW, a physician assistant licensed under chapter 18.71A or 18.57A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

(11) "Health care provider" means a person licensed, certified or registered in a profession listed in RCW 18.130.040(2), if administering vaccinations is within the profession's scope of practice.

(12) "Immunizing agent" means any vaccine or other immunologic drug licensed and approved by the United States Food and Drug Administration (FDA), or meeting World Health Organization (WHO) requirements, for immunization of persons against vaccine-preventable diseases.

~~((11))~~ (13) "Local health officer" means the individual appointed under chapter 70.05 RCW as the health officer for the local health department, or appointed under chapter 70.08 RCW as the director of public health of a combined city-county or combined county health district.

~~((12))~~ (14) "National immunization guidelines" means guidelines that are:

(a) Approved by the Advisory Committee on Immunization Practices (ACIP); and

(b) Published in the *Morbidity and Mortality Weekly Report (MMWR)*; and

(c) Consistent with the terms and conditions set forth in WAC 246-105-040.

~~((13))~~ (15) "Parent" means, for the purposes of signature requirements in this rule:

(a) The mother, father, legal guardian, or any adult *in loco parentis* of a child ~~((seventeen))~~ less than eighteen years of age ~~((or younger))~~; or

(b) A person eighteen years of age or older; or

(c) An emancipated minor.

~~((14))~~ (16) "Religious membership" means membership in a religious body or church whose teachings or beliefs preclude a health care practitioner from providing medical treatment to the child.

(17) "Satisfactory progress" for purposes of conditional status or an expired temporary medical exemption means the start or continuance towards full immunization status through the receipt of missing immunizations in a manner consistent with the national immunization guidelines described in WAC 246-105-040 and within the following time frames:

(a) Any missing immunizations must be received within thirty days after the first day of attendance or after a temporary medical exemption is no longer valid, unless receipt within such time is inconsistent with the guidelines.

(b) When the immunizations are part of a series with recommended intervals between doses, each additional missing immunization must be received no later than thirty days past the recommended date of administration of the next dose as established by the guidelines.

~~((15))~~ (18) "School" means a facility, site, or campus for programs of education as defined in RCW 28A.210.070 to include preschool and kindergarten through grade twelve.

AMENDATORY SECTION (Amending WSR 09-02-003, filed 12/26/08, effective 1/26/09)

**WAC 246-105-030 Vaccine-preventable diseases children must be protected against for full immunization.** In accordance with the conditions of this chapter, a child is required to be vaccinated against, or show proof of acquired immunity for, the following vaccine-preventable diseases before attending school or a child care center:

- (1) ((~~Diphtheria~~)) Chickenpox (Varicella);
- (2) ((~~Tetanus~~)) Diphtheria;
- (3) ((~~Pertussis (whooping cough)~~)) German Measles (Rubella);
- (4) ((~~Poliomyelitis~~)) Haemophilus influenzae type B disease;
- (5) ((~~Measles (rubeola)~~)) Hepatitis B;
- (6) ((~~Mumps~~)) Measles (Rubeola);
- (7) ((~~Rubella~~)) Mumps;
- (8) ((~~Hepatitis B~~)) Pneumococcal disease;
- (9) ((~~Haemophilus influenzae type B disease~~)) Polio (Poliomyelitis);
- (10) ((~~Varicella~~)) Tetanus; and
- (11) ((~~Effective July 1, 2009, pneumococcal~~)) Whooping Cough (Pertussis).

AMENDATORY SECTION (Amending WSR 12-17-018, filed 8/2/12, effective 9/2/12)

**WAC 246-105-040 Requirements based on national immunization guidelines.** The department shall develop and distribute implementation guidelines for schools and child care centers that are consistent with the national immunization guidelines described in this section and the requirements in WAC 246-105-090.

(1) Unless otherwise stated in this section, a child must be vaccinated against each vaccine-preventable disease listed in WAC 246-105-030 at ages and intervals according to the national immunization guidelines in the "Advisory Committee on Immunization Practices (ACIP) Recommended Immunization Schedule for Persons Aged 0((-) Through 18 Years, United States ((2012)) 2013"; as published in the Morbidity and Mortality Week Report (MMWR) ((2012;61(05):01-4)) 2013;62(01): 2-8.

(2) In addition to the ages and intervals required by subsection (1) of this section, the following vaccine administration guidelines shall apply. Schools and child care centers may accept one of the following as proof of a child's immunization status against varicella:

(a) Documentation on the CIS form that the child received age appropriate varicella vaccine; or

(b) Diagnosis or verification of a history of varicella disease by a health care provider acting within his or her scope of practice; or

(c) Diagnosis or verification of a history of herpes zoster by a health care provider acting within his or her scope of practice; or

(d) Serologic proof of immunity against varicella; or

(e) Documentation by the parent that a child has a history of varicella. This type of proof will be accepted only for certain grade

levels described in the department's implementation guidelines according to WAC 246-105-090(2).

AMENDATORY SECTION (Amending WSR 09-02-003, filed 12/26/08, effective 1/26/09)

**WAC 246-105-050 Required documentation of immunization status.**

(1) Before a child may attend a school or child care center, a parent must provide proof of immunization status using the following ~~((types of))~~ documentation:

~~((1))~~ (a) A department-approved CIS form ~~((which must be))~~ signed by the parent. The CIS form must include:

~~((a))~~ (i) Name of child ~~((or student))~~;

~~((b))~~ (ii) Birth date;

~~((c))~~ (iii) Type of vaccine(s) administered;

~~((d))~~ (iv) Month, day, and year of each dose of vaccine received;

~~((e))~~ (v) A section to indicate whether ~~((an accompanying))~~ a COE form ~~((has been provided))~~ accompanies the CIS form;

~~((f))~~ (vi) A section to document serologic proof of immunity ~~((which must be))~~ signed by a ~~((licensed))~~ health care provider acting within his or her scope of practice and ~~((include))~~ including a copy of a lab report; and

~~((g))~~ (vii) Parent signature and date.

~~((2))~~ (b) If applicable, a department-approved COE form signed by a parent. A COE form must include:

~~((a))~~ (i) Name of child ~~((or student))~~;

~~((b))~~ (ii) Birth date;

~~((c))~~ (iii) A place to indicate whether the parent is claiming a medical, religious, personal, or philosophical exemption. This must include:

(A) A statement signed and dated by a health care practitioner stating that he or she has provided the parent information about the benefits and risks of immunization to the child as a condition of obtaining a medical, religious, personal, or philosophical exemption;

(B) The requirement in (b)(iii)(A) of this subsection does not apply to a parent who demonstrates a religious membership under subsection (b)(iii)(F) of this subsection;

(C) A ~~((section))~~ place to indicate ~~((a))~~ any permanent or temporary medical exemption for one or more vaccines which must be signed and dated by a ~~((licensed))~~ health care ~~((provider))~~ practitioner;

~~((d))~~ (D) A ~~((section))~~ place to indicate ~~((a religious))~~ any personal or philosophical exemption for one or more vaccines;

~~((e))~~ (E) A ~~((section))~~ place to indicate ~~((a personal or philosophical))~~ any religious exemption for one or more vaccines; and

~~((f))~~ (F) A place to demonstrate religious membership. This must include a statement signed and dated by the parent identifying the name of the church or religious body, affirming membership in it, and affirming that the religious beliefs or teachings of the church or religious body preclude a health care practitioner from providing medical treatment to the child;

(iv) Notice to parents that if an outbreak of vaccine-preventable disease for which the child is exempted occurs, the child may be ex-

cluded from the school or child care center for the duration of the outbreak; and

~~((g))~~ (v) Parent signature and date.

(2) Parents who must include a signed statement from a health care practitioner under subsection (1)(b)(iii) of this section may submit:

(a) A photocopy of the signed COE in place of the original; or

(b) Along with the COE form, a letter from the health care practitioner in place of the signed statement under subsection (1)(b)(iii) of this section. The letter must:

(i) Indicate that the health care practitioner has provided the parent information about the benefits and risks of immunization to the child;

(ii) Reference the child's name; and

(iii) Be signed and dated by the health care practitioner.

(3) If immunizations are deferred on a temporary basis for medical reasons under subsection (1)(b)(iii)(C) of this section, the child must make satisfactory progress toward full immunization once the medical exemption has expired.

AMENDATORY SECTION (Amending WSR 09-02-003, filed 12/26/08, effective 1/26/09)

**WAC 246-105-060 Duties of schools and child care centers. (1)**

Schools and child care centers shall require:

(a) A CIS form conforming to WAC 246-105-050 (1)(a) for new enrollees registering for admission into kindergarten through grade twelve or a child care center as a requirement of admission. Information on the CIS is used to determine if a child is fully immunized, conditional or exempt.

(b) For enrollees attending under conditional status or an expired temporary medical exemption, documentation of satisfactory progress toward full immunization.

(c) For enrollees claiming exempt status, a signed COE form indicating a medical, religious, philosophical, or personal exemption conforming to WAC 246-105-050 (1)(b)(iii) or, if applicable, WAC 246-105-050(2).

~~((i) A medical exemption is allowed when a signature of a licensed medical doctor (M.D.), a doctor of osteopathy (D.O.), doctor of naturopathy (N.D.), physician assistant (P.A.), or nurse practitioner (A.R.N.P.), acting within the scope of practice, certifies medical reasons to defer or forego one or more immunizations required for full immunization.~~

~~((ii) If immunizations are deferred on a temporary basis for medical reasons, the student must make satisfactory progress toward full immunization once the medical exemption has expired.))~~

(2) In maintaining child immunization records, schools and child care centers shall:

(a) Keep all department-approved forms described in WAC 246-105-050 for each enrolled child attending their school or child care center.

(b) Keep a list of children currently with medical, religious, philosophical, or personal exemptions. This list must be transmitted to the local health department upon request.

(c) Return the department-approved CIS or applicable COE or a legible copy of such documents to the parent if the child is withdrawn from a school or child care center or transferred from the school. A school or child care center may not withhold from the parent a child's department-approved CIS or COE for any reasons, including nonpayment of school or child care center fees.

(d) Provide access to immunization records to agents of the state or local health department of each child enrolled.

(3) In maintaining child immunization records, the chief administrator shall:

(a) Retain records for at least three years on a child who is excluded from school under this chapter. The record must include the child's name, address, and date of exclusion.

(b) Submit an immunization status report under chapter 28A.210 RCW either electronically on the internet or on a form provided by the department. The report must be submitted to the department by November 1 of each year. If a school opens after October 1, the report is due thirty days from the first day of school.

AMENDATORY SECTION (Amending WSR 09-02-003, filed 12/26/08, effective 1/26/09)

**WAC 246-105-070 Duties of health care providers or organizations.** (~~(Persons or organizations)~~) A health care provider administering immunizations, or the organizations he or she works for, either public or private, shall(~~(+~~

~~(1))~~ furnish each person immunized, or his or her parent, with a written record of immunization containing information required by (~~the state board of health; and~~

~~(2) Provide immunizations and records in accordance with chapter 246-100 WAC)~~ this chapter.