



# 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 13-20-099 ; 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)

WAC 246-101-010, Definitions within the notifiable conditions regulations. Proposed changes to the definitions of "assisted living facility", "elevated blood lead level", and "laboratory".

**Hearing location(s):** Heathman Lodge  
7801 NE Greenwood Dr  
Vancouver WA 98662

Date: 3/12/14 Time: 11:20 a.m.

**Submit written comments to:**

Name: Rad Cunningham  
Address: PO Box 47846  
Olympia WA 98504  
e-mail: <http://www3.doh.wa.gov/policyreview/>  
fax 360-236-3059 by (date) 03/05/2014

**Assistance for persons with disabilities:** Contact

Ted Dale by 03/05/2014

TTY (800) 833-6388 or () 711

**Date of intended adoption:** 03/12/2014

(Note: This is NOT the effective date)

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

The purpose of the proposed rule is to change the definition of "elevated blood lead level" for children and adults for consistency with the Centers for Disease Control and Prevention's (CDC) blood lead reference level for children and adults. The proposed rule also changes the term "boarding home" to "assisted living facility" consistent with SHB 2056, Chapter 10, Laws of 2012, and clarifies the definition of "laboratory" by including a reference to chapter 246-338 WAC, Medical test site rules.

**Reasons supporting proposal:**

In 2009 the CDC revised their guidance on adult lead levels down from 25 micrograms per deciliter (µg/dL) to 10 µg/dL. In 2012 the CDC revised their guidance on childhood lead levels down to a level of concern of 5 µg/dL. The proposed rules replace the existing levels in the notifiable conditions rules with these more protective CDC standards. The proposed rule also changes the term "boarding home" to "assisted living facility" consistent with SHB 2056, Chapter 10, Laws of 2012, and clarifies the definition of "laboratory" by including a reference to chapter 246-338 WAC, Medical test site rules.

**Statutory authority for adoption:**

RCW 43.20.050

**Statute being implemented:**

RCW 43.20.050

**Is rule necessary because of a:**

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

**DATE** 02/04/2014

**NAME** (type or print)

Michelle A. Davis

**SIGNATURE**

**TITLE**

Executive Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE:** February 04, 2014

**TIME:** 1:06 PM

**WSR 14-04-113**

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

None

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

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Rad Cunningham	243 Israel Rd SE, Tumwater, WA 98501	360-236-3359
Implementation....Rad Cunningham	243 Israel Rd SE, Tumwater, WA 98501	360-236-3359
Enforcement.....Rad Cunningham	243 Israel Rd SE, Tumwater, WA 98501	360-236-3359

**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: Rad Cunningham

Address: 243 Israel Rd SE, Tumwater, WA 98501

phone 360-236-3359

fax 360-236-3059

e-mail [rad.cunningham@doh.wa.gov](mailto:rad.cunningham@doh.wa.gov)

No: Please explain:

**WAC 246-101-010 Definitions within the notifiable conditions regulations.** The following definitions apply in the interpretation and enforcement of this chapter:

(1) "Associated death" means a death resulting directly or indirectly from the confirmed condition of influenza or varicella. There should be no period of complete recovery between the illness and death.

(2) "Blood lead level" means a measurement of lead content in whole blood.

(3) "Board" means the Washington state board of health.

(4) "Carrier" means a person harboring a specific infectious agent and serving as a potential source of infection to others.

(5) "Case" means a person, alive or dead, diagnosed with a particular disease or condition by a health care provider with diagnosis based on clinical or laboratory criteria or both.

(6) "Child day care facility" means an agency regularly providing care for a group of children for less than twenty-four hours a day and subject to licensing under chapter 74.15 RCW.

(7) "Condition notifiable within three business days" means a notifiable condition that must be reported to the local health officer or the department within three business days following date of diagnosis. For example, if a condition notifiable within three business days is diagnosed on a Friday afternoon, the report must be submitted by the following Wednesday.

(8) "Communicable disease" means a disease caused by an infectious agent that 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.

(9) "Contact" means a person exposed to an infected person, animal, or contaminated environment that may lead to infection.

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

(11) "Disease of suspected bioterrorism origin" means a disease caused by viruses, bacteria, fungi, or toxins from living organisms that are used to produce death or disease in humans, animals, or plants. Many of these diseases may have nonspecific presenting symptoms. The following situations could represent a possible bioterrorism event and should be reported immediately to the local health department:

(a) A single diagnosed or strongly suspected case of disease caused by an uncommon agent or a potential agent of bioterrorism occurring in a patient with no known risk factors;

(b) A cluster of patients presenting with a similar syndrome that includes unusual disease characteristics or unusually high morbidity or mortality without obvious etiology; or

(c) Unexplained increase in a common syndrome above seasonally expected levels.

(12) "Elevated blood lead level" means blood lead levels equal to or greater than ((25)) 10 micrograms per deciliter for persons aged fifteen years or older, or equal to or greater than ((10)) 5 micrograms per deciliter in children less than fifteen years of age.

(13) "Emerging condition with outbreak potential" means a newly identified condition with potential for person-to-person transmission.

(14) "Food service establishment" means a place, location, operation, site, or facility where food is manufactured, prepared, processed, packaged, dispensed, distributed, sold, served, or offered to the consumer regardless of whether or not compensation for food occurs.

(15) "Health care-associated infection" means an infection acquired in a health care facility.

(16) "Health care facility" means:

(a) Any (~~boarding home~~) assisted living facility licensed under chapter 18.20 RCW; birthing center licensed under chapter 18.46 RCW; nursing home licensed under chapter 18.51 RCW; hospital licensed under chapter 70.41 RCW; adult family home licensed under chapter 70.128 RCW; ambulatory surgical facility licensed under chapter 70.230 RCW; or private establishment licensed under chapter 71.12 RCW;

(b) Clinics, or other settings where one or more health care providers practice; and

(c) In reference to a sexually transmitted disease, other settings as defined in chapter 70.24 RCW.

(17) "Health care provider" means any person having direct or supervisory responsibility for the delivery of health care who is:

(a) Licensed or certified in this state under Title 18 RCW; or

(b) Military personnel providing health care within the state regardless of licensure.

(18) "Health care services to the patient" means treatment, consultation, or intervention for patient care.

(19) "Health carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020.

(20) "HIV testing" means conducting a laboratory test or sequence of tests to detect the human immunodeficiency virus (HIV) or antibodies to HIV performed in accordance with requirements to WAC 246-100-207. To assure that the protection, including, but not limited to, pre- and post-test counseling, consent, and confidentiality afforded to HIV testing as described in chapter 246-100 WAC also applies to the enumeration of CD4 + (T4) lymphocyte counts (CD4 + counts) and CD4 + (T4) percents of total lymphocytes (CD4 + percents) when used to diagnose HIV infection, CD4 + counts and CD4 + percents will be presumed HIV testing except when shown by clear and convincing evidence to be for use in the following circumstances:

(a) Monitoring previously diagnosed infection with HIV;

(b) Monitoring organ or bone marrow transplants;

(c) Monitoring chemotherapy;

(d) Medical research; or

(e) Diagnosis or monitoring of congenital immunodeficiency states or autoimmune states not related to HIV.

The burden of proving the existence of one or more of the circumstances identified in (a) through (e) of this subsection shall be on the person asserting the existence.

(21) "Immediately notifiable condition" means a notifiable condition of urgent public health importance, a case or suspected case of which must be reported to the local health officer or the department without delay at the time of diagnosis or suspected diagnosis, twenty-four hours a day, seven days a week.

(22) "Infection control measures" means the management of infected persons, or of a person suspected to be infected, and others in a manner to prevent transmission of the infectious agent.

(23) "Institutional review board" means any board, committee, or other group formally designated by an institution, or authorized under federal or state law, to review, approve the initiation of, or conduct periodic review of research programs to assure the protection of the rights and welfare of human research subjects as defined in RCW 70.02.010.

(24) "Isolation" means the separation or restriction of activities of infected individuals, or of persons suspected to be infected, from other persons to prevent transmission of the infectious agent.

(25) "Laboratory" means any facility licensed as a medical test site under chapter 70.42 RCW and chapter 246-338 WAC.

(26) "Laboratory director" means the director or manager, by whatever title known, having the administrative responsibility in any licensed medical test site.

(27) "Local health department" means the city, town, county, or district agency providing public health services to persons within the area, established under chapters 70.05, 70.08, and 70.46 RCW.

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

(29) "Member of the general public" means any person present within the boundary of the state of Washington.

(30) "Monthly notifiable condition" means a notifiable condition which must be reported to the local health officer or the department within one month of diagnosis.

(31) "Notifiable condition" means a disease or condition of public health importance, a case of which, and for certain diseases, a suspected case of which, must be brought to the attention of the local health officer or the state health officer.

(32) "Other rare diseases of public health significance" means a disease or condition, of general or international public health concern, which is occasionally or not ordinarily seen in the state of Washington including, but not limited to, spotted fever rickettsiosis, babesiosis, tick paralysis, anaplasmosis, and other tick borne diseases. This also includes public health events of international concern and communicable diseases that would be of general public concern if detected in Washington.

(33) "Outbreak" means the occurrence of cases or suspected cases of a disease or condition in any area over a given period of time in excess of the expected number of cases.

(34) "Patient" means a case, suspected case, or contact.

(35) "Pesticide poisoning" means the disturbance of function, damage to structure, or illness in humans resulting from the inhalation, absorption, ingestion of, or contact with any pesticide.

(36) "Principal health care provider" means the attending health care provider recognized as primarily responsible for diagnosis or treatment of a patient, or in the absence of such, the health care provider initiating diagnostic testing or treatment for the patient.

(37) "Public health authorities" means local health departments, the state health department, and the department of labor and industries personnel charged with administering provisions of this chapter.

(38) "Quarantine" means the separation or restriction on activities of an individual having been exposed to or infected with an infectious agent, to prevent disease transmission.

(39) "School" means a facility for programs of education as defined in RCW 28A.210.070 (preschool and kindergarten through grade twelve).

(40) "Sexually transmitted disease (STD)" means a bacterial, viral, fungal, or parasitic disease or condition which is usually transmitted through sexual contact, including:

- (a) Acute pelvic inflammatory disease;
- (b) Chancroid;
- (c) *Chlamydia trachomatis* infection;
- (d) Genital and neonatal Herpes simplex;
- (e) Genital human papilloma virus infection;
- (f) Gonorrhea;
- (g) Granuloma inguinale;
- (h) Hepatitis B infection;
- (i) Human immunodeficiency virus (HIV) infection and acquired immunodeficiency syndrome (AIDS);
- (j) Lymphogranuloma venereum;
- (k) Nongonococcal urethritis (NGU); and
- (l) Syphilis.

(41) "State health officer" means the person designated by the secretary of the department to serve as statewide health officer, or, in the absence of this designation, the person having primary responsibility for public health matters in the state.

(42) "Suspected case" means a person whose diagnosis is thought likely to be a particular disease or condition with suspected diagnosis based on signs and symptoms, laboratory evidence, or both.

(43) "Third-party payor" means an insurer regulated under Title 48 RCW authorized to transact business in this state or other jurisdiction including a health care service contractor and health maintenance organization, an employee welfare benefit plan, or a state or federal health benefit program as defined in RCW 70.02.010.

(44) "Unexplained critical illness or death" means cases of illness or death with infectious hallmarks but no known etiology, in previously healthy persons one to forty-nine years of age excluding those with chronic medical conditions (e.g., malignancy, diabetes, AIDS, cirrhosis).

(45) "Veterinarian" means an individual licensed and practicing under provisions of chapter 18.92 RCW, Veterinary medicine, surgery, and dentistry.