



# RULE-MAKING ORDER PERMANENT RULE ONLY

## CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON  
FILED

DATE: February 25, 2022

TIME: 4:30 PM

WSR 22-06-061

**Agency:** State Board of Health

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.
- Other (specify) (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

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

- Yes
  - No
- If Yes, explain:

**Purpose:** Chapter 246-100 WAC, Communicable and Certain Other Diseases. The purpose of this rule making is to revise chapter 246-100 WAC to assure consistency with statutory requirements and protect public health and safety. Revisions include, but are not limited to: (1) Establishing reporting requirements and procedures for investigations for sexually transmitted diseases; (2) specifying behavior that endangers the public health; (3) defining specimens that can be obtained and tests that can be administered for sexually transmitted diseases, blood-borne pathogens, and other infections; (4) determining categories of employment that are at risk of substantial exposure to a blood-borne pathogen; and (5) defining what constitutes an exposure that presents a possible risk of transmission of a blood-borne pathogen.

During the 2020 legislative session, the legislature passed Engrossed Substitute House Bill (ESHB) 1551, modernizing the control of certain communicable diseases. This bill modernizes the state's control of communicable disease laws by ending statutory HIV/AIDS exceptionalism, reducing HIV-related stigma, defelonizing HIV exposure, and removing barriers to HIV testing. The bill took effect June 11, 2020.

The Board's CR-101, Preproposal statement of inquiry, identified potential revisions to both chapter 246-100 WAC, Communicable and certain other diseases, and chapter 246-101 WAC, Notifiable conditions. Proposed changes related to ESHB 1551 for chapter 246-101 WAC were adopted under a separate rulemaking process, as the notifiable conditions chapter was already open for revisions at the time of filing the CR-101 to implement ESHB 1551. Amendments to chapter 246-101 WAC were adopted by the board at its March 2021 public meeting and were limited to minor editorial revisions consistent with the changes in ESHB 1551. These changes can be found in WSR 21-11-040.

**Citation of rules affected by this order:**

- New: WAC 246-100-2031 and WAC 246-100-2061
- Repealed: WAC 246-100-208 and WAC 246-100-209
- Amended: WACs 246-100-011, 246-100-021, 246-100-036, 246-100-070, 246-100-072, 246-100-202, 246-100-203, 246-100-204, 246-100-205, 246-100-206, 246-100-207 and 246-100-211
- Suspended: None

**Statutory authority for adoption:** RCW 43.20.050, 70.24.130

**Other authority:**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 21-20-127 on October 5, 2021 (date).  
 Describe any changes other than editing from proposed to adopted version: WAC 246-100-010 was amended to include a new definition (22) for "practical means to prevent transmission" to further clarify applicability of WAC 246-100-203. WAC 246-100-021 was amended to clarify that instruction provided by health care providers must be culturally and linguistically appropriate. WAC 246-100-072 was amended to clarify that local health officials may contact or otherwise obtain information from health care providers for purposes of case investigation. WAC 246-100-202 was amended to clarify that local health officers must provide information on STI prevention methods. WAC 246-100-203 was amended in response to public comment to further clarify that behaviors endangering the public health require a pattern of behaviors that do not include exposure in the eyes or interruption of the epidermis, which is based on the best available scientific data. Further, this section was amended to clarify further that it does not apply when practical means to prevent transmission were taken; the proposed rule included similar language, but this amendment provides explicit clarification. Lastly, this section was amended to clarify, based on public comment, that a health order to cease and desist certain behaviors requires a documented pattern of behavior. Additionally, amendments to this section clarify that providers are not required to conduct

anonymous HIV testing, but when they do, testing must be consistent with certain provisions. WAC 246-100-2031 was amended to clarify further that a local health officer may only seek detainment of a person with an STI when there is reliable information suggesting the person continues to engage in behaviors that present an imminent danger to the public health. Further, the section was amended to clarify further that behaviors presenting an imminent danger to the public health exclude instances when the HIV infection is non-infectious. Based on the best available scientific data, multiple sections were amended to clarify that the introduction of blood, semen, or vaginal fluids to the eyes or an interruption of the epidermis does not constitute behavior endangering the public health (WAC 246-100-203), exposure presenting possible risk (WAC 246-100-206) or possible risk of transmission of a blood-borne pathogen (WAC 246-100-2061). If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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Other: N/A

**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	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>2</u>	Amended	<u>12</u>	Repealed	<u>2</u>

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

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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**The number of sections adopted in the agency's own initiative:**

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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**The number of sections adopted using:**

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

**Date Adopted:** 01/12/2022

**Name:** Michelle A. Davis

**Title:** Executive Director

**Signature:**

