

## **Board Action Summary**

**AGENDA ITEM:** Lead testing requirements

### **Summary of Recommended Board Action**

**ACTION:** Final Adoption

**ISSUE:** The harmful impact of lead exposure during a child's development, especially for the youngest children, is well known and well documented.

### **BACKGROUND:**

The Early Learning Division (Division) posted rules requiring lead testing in child care facilities on December 5, 2017. After appearing in the Secretary of State's bulletin on January 1, 2018, public comment was accepted by the Division until 5pm January 21, 2018. The Division received 92 pages of testimony between January 9th and January 21st. In light of the testimony received, staff requested additional time to work with the Oregon Health Authority (OHA) to review the public testimony and ensure that any rules the Early Learning Council adopts are consistent with OHA recommendations and align with partnering agencies, such as the Oregon Department of Education.

The Division has considered all public testimony received (the Division extended the public comment period until January 25) and has incorporated some of the recommendations received from the public, as well as recommendations received from the OHA and the Portland Water Bureau.

### Summary of Rules

- Action level is set at "at or above 15 ppb."
- Testing, mitigation and parent reporting must be conducted in conformance with the United States Environmental Protection Agency's 3Ts for Schools: Revised Guidance dated October 2016.
- Mitigation plan must be developed and submitted to the Office of Child Care for approval and implemented within 30 days of approval.
- A provider may seek a waiver of the requirement if a test had been conducted within six years of the effective date of the rule, as long as it meets the US EPA 3Ts, and test results were below 15 ppb.

### Implementation Timeline

The Office of Child Care will begin informing child care providers of the new requirements and provide both training and technical assistance upon the passage of these rules in February. Staff is being trained on providing technical assistance to providers and the Division is working to ensure its data system will be able to capture the lead results providers are required to send. The Division will also be working on the necessary translations for materials once the rules are adopted by the Council. As such, child care providers may begin submitting lead testing results in April – although

they are welcome to begin testing sooner – and the Office of Child Care will conduct ongoing follow-up to ensure providers have completed the lead testing by September 30, 2018.

The Division has posted information on lead poisoning prevention on the website:

<https://oregonearlylearning.com/lead-poisoning-prevention/> and have flyers and letters prepared for distribution pending the passage of the final rule set. Additional information and resources will continue to be added to the website and shared with providers as available.

#### **ACTION PRECEDING BOARD ACTION:**

In September 2016, the Early Learning Council requested the Early Learning Division convene a workgroup of staff and stakeholders to bring recommendations to the Council on water testing and lead mitigation in child care settings. An interim report and workgroup presentation were provided in February 2017.

The Early Learning Council adopted the recommendation of the cross-sector Lead Workgroup, which was for regulation, training and outreach, but did not include lead testing. Further discussion with cross-sector partners, coordination with city water bureaus and a clear directive from the Governor indicated the need for required lead testing in child care facilities.

**Fiscal Analysis:** The Division was required to analyze the fiscal impact of the proposed rules through the rule-making process. Analysis included financial impacts of the rules to stakeholders, to small business (defined as a business that is independently owned and operated with 50 or fewer employees) or to local government. Based on a scan of accredited laboratories, each test costs approximately \$22.00 with a \$10.00 collection cost. The full impact is unknown at this time. Nationally, health agencies are learning more about the scope of the problem in existing infrastructure.

An outcome of the proposed testing requirement will be to provide a clearer understanding of the scope, scale and costs of mitigating and ultimately preventing exposure to lead contamination through drinking water at Oregon's licensed and regulated child care facilities.

Costs of mitigation, e.g., supplying bottled water, replacing faucets and plumbing is unknown.

## Division 180

### REGULATED SUBSIDY FAMILY CHILD CARE HOMES

#### 414-180-0015

##### Health

(1) The child care facility must be a healthy environment for children.

(2) There must be at least one flush toilet and one hand-washing sink available to children. Drinking water for preparing food, infant formula, drinking or cooking shall not be obtained from hand-washing sinks.

(3) The facility shall identify the location of all drinking water faucets and fixtures accessible to children or used to obtain water for preparing food, infant formula, drinking or cooking and shall sample the water from these faucets and fixtures for lead. The facility shall sample in accordance with United States Environmental Protection Agency 3T's for Reducing lead in Drinking Water in Schools: Revised guidance dated October 2006 and shall use an Oregon Environmental Laboratory Accreditation Program (ORELAP) accredited drinking water laboratory.

(4) Lead testing as required by 414-180-0015(3) shall be conducted within the past six years of the effective date of this section and no later than six months after the effective date of this section and at least once every six years.

(5) The test results shall be kept on the facility premises at all times and a copy provided to the Office of Child care within 10 days of receiving the results.

(6) Irrespective of test results, the facility must immediately notify all parents and guardians verbally, in writing, or by email, of the test results and post results in a prominent place in the facility where they will be seen by parents and guardians within one business day. Information provided to parents and guardians shall be in accordance with United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006.

(7) If the test results are at or above 15 parts per billion (ppb), the facility must immediately:

(a) Prevent children from using or consuming water from faucets or fixtures identified in 414-080-0015(3) that have test results at or above 15 ppb, supplying water from drinking water faucets or fixtures identified in 414-180-0015(3) that have test results below 15 ppb or bottled or packaged water to meet the requirements of this section;

(b) Within sixty days of receiving the test results, the provider shall submit a corrective action plan for approval by the OCC for any faucet or fixture that has test results at or above 15 ppb, following the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006;

(c) The facility must implement corrective actions or remedies identified in the approved plan within 30 days of OCC approval; and

(d) The facility must conduct follow-up sampling and results must demonstrate lead below 15 ppb before the facility may resume use of faucets or fixtures identified in 414-080-0015(3) that previously tested at or above 15 ppb.

(8) A provider may submit documented lead testing results obtained within six years immediately preceding the effective date of this section to the OCC, and request a waiver of this requirement for a period not to exceed six years from the date of the test results submitted. This provision applies only to tests conducted in accordance with the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006 and the results were below 15 ppb. The OCC shall determine whether the tests submitted conform to the requirements of OAR 414-080-0015(3).

(9) Irrespective of results obtained in accordance with 414-080-0015(3), actions to protect children from exposure to lead contamination in drinking water include:

(a) Flushing pipes before using to prepare food, infant formula, drinking or cooking by running the tap each time before use until the water is noticeably cooler (30 seconds to two minutes); and

(b) Using only cold water from drinking water faucets or fixtures identified in 414-180-015(3) that have test results at or below 15 ppb for preparing food, infant formula, drinking or cooking; and

(10) Boiling water does not remove lead from water and is not considered an acceptable action to protect children from exposure to lead contamination in drinking water.

(11) Existing programs must submit test results by September 30, 2018.

(12) The provider must comply with local, state and federal laws related to immunizations, child care restrictable diseases, child safety systems and seat belts in vehicles, bicycle safety, civil rights laws, and the Americans with Disabilities Act.

(13) Infants shall have a crib, portable crib or playpen with a clean, non-absorbent mattress. All cribs must comply with current Consumer Product Safety Commission (CPSC) standards. There shall be no items in the crib with the infant (e.g. toys, pillows or stuffed animals).

(14) If the parent(s) so request, siblings may share the same bed.

(15) The upper level of bunk beds shall not be used for children under ten years of age.

(16) If an infant uses a blanket, the blanket may not cover the infant's head or face.

(17) Infants must be laid on their backs on a flat surface for sleeping.

(18) Children shall not be laid down with a bottle for sleeping.

(19) First aid supplies and a chart or handbook of first aid instructions shall be maintained in one identified place and kept out of reach of children.

(20) The first aid supplies shall include: band aids, adhesive tape, sterile gauze pads, soap or sealed antiseptic towelettes or solution to be used as a wound cleaning agent, a solution for disinfecting after a blood spill, a sanitary temperature taking device.

(21) Illness:

(a) Except for mild cold symptoms that do not impair a child's daily functioning, sick children shall not be in care.

(b) A provider shall not admit or retain in care, except with the written approval of the local health office, a child who:

(A) Is diagnosed as having or being a carrier of a child care restrictable disease, as defined in Oregon Health Authority administrative rule; or

(B) Has one of the following symptoms or combination of symptoms or illness;

(i) Fever over 100°F, taken under the arm;

(ii) Diarrhea (more than one abnormally loose, runny, watery or bloody stool);

(iii) Vomiting;

(iv) Nausea;

(v) Severe cough;

(vi) Unusual yellow color to skin or eyes;

(vii) Skin or eye lesions or rashes that are severe, weeping, or pus-filled;

(viii) Stiff neck and headache with one or more of the symptoms listed above;

(ix) Difficult breathing or abnormal wheezing; or

(x) Complaints of severe pain.

(c) A child who, after being admitted into child care, shows signs of illness, as defined in this rule, whenever possible will be separated from the other children, and the parent(s) notified and asked to remove the child from the child care facility as soon as possible.

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(d) If a child has mild cold symptoms that do not impair his/her normal functioning, the child may remain in the child care facility and the parent(s) notified when they pick up their child.

(22) Section 21 of this rule does not apply when the provider is caring only for children from the same family and no other unrelated child care children are present, except that the provider shall notify the parent if a child who, after being admitted into child care, shows signs of illness.

(23) Parents must be notified if their child is exposed to an outbreak of a communicable disease.

(24) No person shall smoke or carry any lighted smoking instrument, including an e-cigarette or vaporizer in the child care facility or within ten feet of any entrance, exit, or window that opens or any ventilation intake that serves an enclosed area, during child care hours or when child care children are present.

(25) No person shall use smokeless tobacco in the child care facility during child care hours or when child care children are present.

(26) No person shall smoke, carry any lighted smoking instrument, including an e-cigarette, or vaporizer or use smokeless tobacco in motor vehicles while child care children are passengers.

(27) No one shall consume alcohol on the child care facility premises during child care hours or when child care children are present.

(28) No one shall be under the influence of alcohol on the child care facility premises during child care hours or when child care children are present.

(29) No one shall possess, use or store illegal controlled substances on the child care facility premises. No one shall be under the influence of illegal controlled substances on the child care facility premises.

(30) No one shall grow or distribute marijuana on the premises of the child care facility. No adults shall use marijuana on the child care facility premises during child care hours or when child care children are present.

(31) Child care providers and any individual supervising, transporting, preparing meals, or otherwise working in the proximity of child care children and those completing daily attendance and billing records shall not be under the influence.

(32) "Under the influence" means observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the individual has used alcohol, any controlled substances (including lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana), or inhalants that impairs their performance of essential job function or creates a direct threat to child care children or others. Examples of abnormal behaviors include, but are not limited to hallucinations, paranoia, or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to slurred speech as well as difficulty walking or performing job activities.

(33) All marijuana, marijuana derivatives and associated paraphernalia must be stored under child safety lock.

(34) Any animal at the child care facility shall be in good health and be a friendly companion for the children in care.

(35) Dogs and cats must be vaccinated according to a licensed veterinarian's recommendations.

(36) Dogs and cats shall be kept free of fleas, ticks and worms.

(37) Animal litter boxes shall not be located in areas accessible to children or areas used for food storage or preparation.

(38) Exotic animals, including, but not limited to: reptiles (e.g. lizards, turtles, snakes) amphibians, monkeys, hook-beaked birds, baby chicks and ferrets are prohibited unless they are housed in and remain in a tank or other container which precludes any direct contact by children. Educational programs that include prohibited animals and are run by zoos, museums and other professional animal handlers are permitted.

(39) Prescription and non-prescription medication shall only be given to a child if the provider has written authorization from the parent.

(40) Prescription and non-prescription medications must be properly labeled and stored.

(41) Non-prescription medications or topical substances must be labeled with the child's name.

(42) Prescription medications must be in the original container and labeled with the child's name, the name of the drug, dosage, directions for administering, and the physician's name.

(43) Medication requiring refrigeration must be kept in a separate, tightly covered container, marked "medication," in the refrigerator.

(44) Parents must be informed daily of any medications given to their child or any injuries their child has had.

(45) Sunscreen may be used with written parental authorization.

(a) In instances where parent has provided written permission to use sunscreen, providers must reapply sunscreen every two hours while the child care children are exposed to the sun.

(b) Providers shall use a sunscreen with an SPF of 15 or higher and must be labeled as "Broad Spectrum".

(c) Providers shall not use aerosol sunscreens on child care children.

(d) Sunscreen shall not be used on child care children younger than six months.

(46) Parents must be given the telephone number so they can contact the provider if needed.

**Statutory/Other Authority:** ORS 326.425(7)

**Statutes/Other Implemented:** ORS 329A.505

**414-180-0020**

**Sanitation**

(1) Pre-mixed sanitizers and disinfectants that are EPA registered and meet Oregon Health Authority criteria may be used in all areas of the home per manufacturer instructions.

(2) All caregivers and children must wash their hands with soap and warm, running water:

- (a) Before handling food;
- (b) Before assisting with feeding;
- (c) Before and after eating;
- (d) After diapering;
- (e) After using the toilet;
- (f) After assisting someone with toileting;
- (g) After nose wiping;
- (h) After playing outside; and
- (i) After touching an animal or handling pet toys.

(3) Hand sanitizers shall not replace hand washing. If hand sanitizers are present in the home, they shall be kept out of children's reach and shall not be used on children.

(4) Clean toys, equipment and furniture used by children when soiled.

(5) Diaper changing surfaces must be either:

- (a) Non-absorbent and easily disinfected;
- (b) Disposed of after each use; or
- (c) Laundered after each use.

(6) The building, grounds, any toy, equipment, and furniture are maintained in a clean, sanitary, and hazard free condition.



(7) All garbage, solid waste, and refuse must be disposed of regularly, in a safe and sanitary manner.

(8) Bio-contaminants including but not limited to bodily fluids and blood shall be disposed of in a manner that prevents exposure to children.

**Statutory/Other Authority:** ORS 326.425(7)

**Statutes/Other Implemented:** ORS 329A.505

#### **414-180-0045**

##### **Record Keeping**

(1) The following records, except those specified in OAR 414-180-0045(1)(e), must be kept by the provider for at least one year. These records shall ~~and must~~ be available at all times to OCC:

(a) Information from the parent(s) for each child at the time of admission:

(A) Name and birth date of the child;

(B) Any chronic health problem(s), including allergies, the child has;

(C) Date child entered care;

(D) Names, work and home telephone numbers and addresses, and the work hours of the parent(s) or legal guardian(s);

(E) Name and telephone number of person(s) to contact in an emergency;

(F) Name and telephone number of person(s) to whom the child may be released;

(G) Health history of any problems that could affect the child's participation in child care.

(b) Daily attendance records, including dates each child attended and arrival and departure times for each day. Times shall be recorded as the child care children arrive and depart.

(c) Medications administered, including the child's name, and the date and time of dosage and the dosage amount.

(d) Injuries to a child.

(e) Lead testing results for drinking water for the past six years.

(2) Injuries to a child which require attention from a licensed health care professional, such as a physician, EMT or nurse, must be reported to OCC within seven days.

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(3) The provider must have a written statement from the parent(s) regarding whether or not the provider is authorized to obtain emergency medical treatment for a child.

**Statutory/Other Authority:** ORS 326.425(7)

**Statutes/Other Implemented:** ORS 329A.505

## Division 205

### REGISTERED FAMILY CHILD CARE HOMES

#### 414-205-0020

##### Application for Registration

- (1) The applicant must apply for registration on the form(s) supplied by OCC. The original form(s) must be submitted to OCC for processing.
- (2) Persons submitting new applications must attend a family child care overview session prior to submitting their application to OCC.
- (3) Persons interested in submitting an application must meet the training requirements outlined in OAR 414-205-0055.
- (4) An application for registration is required:
  - (a) For a new registration;
  - (b) For renewing a registration; and
  - (c) For reopening a registration.
- (5) There is a non-refundable filing fee of \$30 for each application. If the provider submits documentation that the provider's family income is below 100% of the Federal Poverty Level, the fee may be reduced.
- (6) An applicant shall identify the location of drinking water faucets and fixtures used to obtain water to prepare food, infant formula, drinking or cooking, and dish washing and the location of bathroom, diaper changing, bathing and handwashing faucets and fixtures that are not used for drinking water.
- (7) An application for certificate shall be accompanied by lead testing results for drinking water at all drinking water faucets and fixtures identified in OAR 414-205-0020(6). Results shall be those obtained within the past six years.
- (8) An applicant shall have all drinking water faucets and fixtures identified in OAR 414-205-0020(6) tested for lead.
- (9) An applicant shall use an Oregon Environmental Laboratory Accreditation Program (ORELAP) -accredited drinking water laboratory and shall test in accordance with the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006.

(10) An applicant may submit documented lead testing results obtained within six years immediately preceding the effective date of this section to the OCC, and request a waiver of this requirement for a period not to exceed six years from the date of the test results submitted. This provision applies only to tests conducted in accordance with the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006 and the results were below 15 ppb. The OCC shall determine whether the tests submitted conform to the requirements of OAR 414-205-0020(89).

(11) All civil penalties must be paid in full.

(12) To determine if requirements are met, the applicant/provider may be required to supply additional information or permit OCC, a fire marshal, or a public health official to assess the home and/or review child care records.

(13) Providers must satisfactorily complete an on-site health and safety review conducted by OCC prior to issuance of a new, renewal or reopen registration. The review will ensure that the provider is in compliance with the rules related to health, safety and sanitation.

(14) If an application for renewal is received by OCC at least 30 days prior to the expiration date of the current registration, the current registration, unless officially revoked, remains in effect until OCC has acted on the application for renewal and has given notice of the action taken.

**Statutory/Other Authority:** ORS 329A

**Statutes/Other Implemented:** ORS 329A.260, 329A.330 & 329A.440

#### **414-205-0035**

##### **General Requirements**

(1) The home in which child care is provided must be the residence of the provider.

(2) The provider may not hold a medical marijuana card, grow marijuana, or be a distributor of marijuana.

(3) Registration is limited to one provider per household.

(4) A registration applies to only the person and address on the certificate of registration and is not transferable to another location or individual.

(5) The registration is valid for a maximum of two years. The registration period begins with the effective date shown on the certificate of registration. A provider may not care for more than three (3) children, other than the provider's own children, at any one time prior to receiving a certificate of registration from OCC.

(6) OCC registration records are open to the public on request. However, information protected by state or federal law will not be disclosed.

(7) The name, address, telephone number, and registration status of providers is public information. However, OCC may withhold from the public a provider's address and telephone number if the provider makes a written request documenting that disclosure of the address and/or telephone number would endanger him/her or a family member living in the home (OAR 137-004-0800). The request must be on a form supplied by OCC.

(8) The Certificate of Registration must be posted in the family child care home in an area where it can be viewed by parents.

(9) Water testing results, in accordance with OAR 414-205-0020(68) must be posted in a prominent place in the family child care home where it can be seen by parents and guardians. Information provided to parents and guardians shall be in accordance with United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006.

(10) The provider shall have no other employment, either in or out of the home, during the hours children are in care.

(11) OCC staff may conduct an unannounced monitoring visit at least once during the license period.

(12) The provider or substitute must allow a representative from the Office of Child Care access to the home any time child care children are present.

(13) The provider shall allow an inspection of all areas of the facility that are accessible to child care children, and a health and safety review of other areas of the facility to ensure the health and safety of child care children.

(14) The provider must allow parents or legal guardians of child care children access to the home during the hours their child(ren) are in care.

(15) The provider must comply with local, state and federal laws related to immunizations, child care restrictable diseases, child safety systems and seat belts in vehicles, bicycle safety, civil rights laws, and the Americans with Disabilities Act.

(16) Any caregiver who has reason to believe that any child has suffered abuse (physical injury, mental injury, neglect that leads to physical harm, sexual abuse and/or exploitation, or threat of harm) must report the information to the Department of Human Services Child Welfare (DHS) or to a law enforcement agency. By statute, this requirement applies 24 hours per day.

(17) The provider must notify parents if there will be a substitute provider and the caregiver's name. In the event of an emergency, a good faith effort will be made to notify parents that a substitute will be caring for the children.

(18) The provider must notify parents if the children will be away from the home for any part of the day for visits, field trips or any other activity off the premises and the name of the caregiver.

(19) If an applicant or a provider wishes to provide child foster care, the provider must receive approval from OCC and DHS, prior to placement of the foster child(ren).

(20) Registered providers shall comply with all conditions placed on their license.

(21) Information provided to OCC on applications, in records or reports, or any other written or verbal communication, shall be current, complete and accurate.

#### **414-205-0100**

##### **Health**

(1) All caregivers shall take appropriate precautions to prevent shaken baby syndrome and abusive head trauma.

(2) The home must be a healthy environment for children.

(a) No person shall smoke or carry any lighted smoking instrument, including an e-cigarette or vaporizer in the family child care home or within ten feet of any entrance, exit, or window that opens or any ventilation intake that serves an enclosed area, during child care hours or when child care children are present. No person shall use smokeless tobacco in the family child care home during child care hours or when child care children are present. No person shall smoke, carry any lighted smoking instrument, including an e-cigarette, or vaporizer or use smokeless tobacco in motor vehicles while child care children are passengers.

(b) No one shall consume alcohol on the family child care home premises during child care hours or when child care children are present. No one shall be under the influence of alcohol on the family child care home premises during child care hours or when child care children are present.

(c) Notwithstanding OAR 414-205-0000(5), no one shall possess, use or store illegal controlled substances on the family child care home premises. No one shall be under the influence of illegal controlled substances on the family child care home premises.

(d) Notwithstanding OAR 414-205-0000(5), no one shall grow or distribute marijuana on the premises of the registered family child care home. No adults shall use marijuana on the registered family child care home premises during child care hours or when child care children are present.

(e) No adult under the influence of marijuana shall have contact with child care children.

(f) Notwithstanding OAR 414-205-0000(5), marijuana plants shall not be grown or kept on the registered family child care home premises.

(g) All medical marijuana must be kept in its original container if purchased from a dispensary and stored under child safety lock. All medical marijuana derivatives and associated paraphernalia must be stored under child safety lock.

(h) Effective July 1, 2015, all marijuana, marijuana derivatives and associated paraphernalia must be stored under child safety lock.

(i) There must be at least one flush toilet and one hand-washing sink available to children. Steps or blocks must be available to ensure children can use the toilet and sink without assistance.

Drinking water for preparing food, infant formula, drinking or cooking shall not be obtained from hand-washing sinks.

(j) The room temperature must be at least 68°F during the hours the child care business is conducted.

(k) Rooms occupied by children must have a combination of natural and artificial lighting.

(l) Floors must be free of splinters, large unsealed cracks, sliding rugs and other hazards.

(3) The facility shall identify the location of all drinking water faucets and fixtures identified in OAR 215-0020(6) and sample the water from these faucets and fixtures for lead. The facility shall sample in accordance with United States environmental Protection Agency 3T's for Reducing lead in Drinking Water in Schools: Revised guidance dated October 2006 and shall use an Oregon Environmental Laboratory Accreditation Program (ORELAP) accredited drinking water laboratory.

(4) Lead testing as required by 414-205-0100 (3) shall be conducted within the past six (6) years of the effective date of this section and no later than six months after the effective date of this section and at least once every six years.

(5) The test results shall be kept on the facility premises at all times and a copy provided to the Office of Child Care within ten (10) days of receiving the results.

-(6) Irrespective of test results, the facility must immediately notify all parents and guardians verbally, in writing, or by email, of the test results and post results in a prominent place in the facility where they will be seen by parents and guardians within one business day. Information provided to parents and guardians shall be in accordance with United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006;

(7) If the test results are at or above 15 ppb, the facility shall immediately:

(a) Prevent children from using or consuming water from faucets or fixtures identified in OAR 414-205-0020(6) that have test results at or above 15 ppb by supplying water from drinking water faucets or fixtures identified in OAR 215-0020(6) that have test results below 15 ppb or bottled or packaged water to meet the requirements of this section.

(b) Within sixty days of receiving the test results, the provider shall submit a corrective action plan for approval by the OCC for any faucet or fixture that has test results at or above 15 ppb,

following the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006;

(c) The facility must implement corrective actions or remedies identified in the approved plan within 30 days of OCC approval; and

(d) The facility must conduct follow-up sampling and results must demonstrate lead below 15 ppb before the facility may resume use of faucets or fixtures identified in 414-080-0015(3) that previously tested at or above 15 ppb.

(8) A provider may submit documented lead testing results obtained within six years immediately preceding the effective date of this section to the OCC, and request a waiver of this requirement for a period not to exceed six years from the date of the test results submitted. This provision applies only to tests conducted in accordance with the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: revised guidance dated October 2006 and the results were below 15 ppb. The OCC shall determine whether the tests submitted conform to the requirements of OAR 414-080-0015(3).

(9) Irrespective of results obtained in accordance with section (3), actions to protect children from exposure to lead contamination in drinking water should be taken at all times, including:

(a) Flushing pipes before using to prepare food, infant formula, drinking or cooking by running the tap each time before use until the water is noticeably cooler (approximately 30 seconds to two minutes); and

(b) Using only cold water from drinking water faucets and fixtures identified in OAR 414-205-0020(6) that have lead test results below 15 ppb for preparing food, infant formula, drinking or cooking; and

(10) Boiling water does not remove lead from water and is not an acceptable action to protect children from exposure to lead contamination in drinking water.

(11) Existing programs must submit testing results by September 30, 2018.

(12) First aid supplies and a chart or handbook of first aid instructions shall be maintained in one identified place and kept out of reach of children.

(a) The first aid supplies shall include: band aids, adhesive tape, sterile gauze pads, soap or sealed antiseptic towelettes or solution to be used as a wound cleaning agent, scissors, disposable plastic gloves for handling blood spills, a solution for disinfecting after a blood spill, a sanitary temperature taking device and CPR mouth guards.

(b) A first aid kit and a copy of each child's emergency medical information including a medical release form shall be taken any time the caregiver is transporting child care children or taking child care children on field trips.



(13) Infants must be laid on their backs on a flat surface for sleeping.

(14) Illness:

(a) A provider shall not admit or retain in care, except with the written approval of the local health office, a child who:

(A) Is diagnosed as having or being a carrier of a child care restrictable disease, as defined in Oregon Health Authority administrative rule; or

(B) Has one of the following symptoms or combination of symptoms or illness;

(i) Fever over 100°F, taken under the arm;

(ii) Diarrhea (more than one abnormally loose, runny, watery or bloody stool);

(iii) Vomiting;

(iv) Nausea;

(v) Severe cough;

(vi) Unusual yellow color to skin or eyes;

(vii) Skin or eye lesions or rashes that are severe, weeping or pus-filled;

(viii) Stiff neck and headache with one or more of the symptoms listed above;

(ix) Difficulty breathing or abnormal wheezing;

(x) Complaints of severe pain.

(b) A child, who, after being admitted into child care, shows signs of illness, as defined in this rule, shall be separated from the other children, and the parent(s) notified and asked to remove the child from the provider's home as soon as possible.

(15) If a child has mild cold symptoms that do not impair his/her normal functioning, the child may remain in the provider's home and the parent(s) notified when they pick up their child.

(16) Parents must be notified if their child is exposed to an outbreak of a communicable disease.

(17) Prescription and non-prescription medication shall only be given to a child if the provider has written authorization from the parent, as required in OAR 414-205-0130(3).

(18) Prescription and non-prescription medications must be properly labeled and stored.

(a) Non-prescription medications or topical substances must be labeled with the child's name.

(b) Prescription medications must be in the original container and labeled with the child's name, the name of the drug, dosage, directions for administering, and the physician's name.

(c) Medication requiring refrigeration must be kept in a separate, tightly covered container, marked "medication," in the refrigerator.

(19) Sunscreen is considered a non-prescription medication and may be used for child care children under the following conditions:

(a) Providers must obtain written parental authorization prior to using sunscreen.

(b) One container of sunscreen may be used for child care children unless a parent supplies an individual container for their child. The sunscreen shall be applied in a manner that prevents contaminating the container.

(A) Parents must be informed of the type of product and the sun protective factor (SPF).

(B) Parents must be given the opportunity to inspect the product and active ingredients.

(c) If sunscreen is supplied for an individual child care child, the sunscreen must be labeled with the child's first and last name and must be used for only that child.

(d) Providers must reapply sunscreen every two hours while the child care children are exposed to the sun.

(e) Providers shall use a sunscreen with an SPF of 15 or higher and must be labeled as "Broad Spectrum".

(f) Providers shall not use aerosol sunscreens on child care children.

(g) Sunscreen shall not be used on child care children younger than six months.

(h) Child care children over six years of age may apply sunscreen to themselves under the direct supervision of the provider or staff member.

(20) Parents must be informed daily of any medications given to their child or any injuries their child has had.

(21) If a child with allergies is enrolled who needs a specific plan for caring for that child, such a plan shall be developed in writing between the provider, parents, and if necessary, outside specialists. All staff who come in contact with that child shall be fully aware of the plan.

(22) The provider must provide or ensure the availability of meals and snacks appropriate for the ages and needs of the children served.

(a) Meals and snacks must be based on the guidelines of the USDA Child Care Food Program.

(b) Foods must be stored and maintained at the proper temperature.

(c) Foods must be prepared and served according to the minimum standards for food handler certification.

(d) Infants must be held or sitting up for bottle feeding. Propping bottles is prohibited.

(e) Children shall not be laid down with a bottle for sleeping.

(23) Any animal at the family child care home shall be in good health and be a friendly companion for the children in care.

(a) Potentially aggressive animals must not be in the same physical space as the children.

(b) Dogs and cats must be vaccinated according to a licensed veterinarian's recommendations.

(c) Dogs and cats shall be kept free of fleas, ticks and worms.

(24) Animal litter boxes shall not be located in areas accessible to children or areas used for food storage or preparation.

(25) Caregivers must be physically present when children are interacting with animals.

(26) Exotic animals, including, but not limited to: reptiles (e.g. lizards, turtles, snakes) amphibians, monkeys, hook-beaked birds, baby chicks and ferrets are prohibited unless they are housed in and remain in a tank or other container which precludes any direct contact by children. Educational programs that include prohibited animals and are run by zoos, museums and other professional animal handlers are permitted.

(27) Parents must be made aware of the presence of any animals on the premises.

#### **414-205-0120**

##### **Sanitation**

(1) Pre-mixed sanitizers and disinfectants that are EPA registered and meet Oregon Health Authority criteria may be used in all areas of the home per manufacturer instructions.

(2) All caregivers and children must wash their hands with soap and warm, running water:

(a) Before handling food;

(b) Before assisting with feeding;

(c) Before and after eating;

- (d) After diapering;
  - (e) After using the toilet;
  - (f) After assisting someone with toileting;
  - (g) After nose wiping;
  - (h) After playing outside; and
  - (i) After touching an animal or handling pet toys.
- (3) Hand sanitizers shall not replace hand washing. If hand sanitizers are present in the home, they shall be kept out of children's reach and shall not be used on children.
- (4) All toys, equipment and furniture used by children must be cleaned, rinsed and sanitized regularly and whenever soiled.
- (5) Diaper changing surfaces must be either:
- (a) Non-absorbent and easily disinfected;
  - (b) Disposed of after each use; or
  - (c) Laundered after each use.
- (6) The diaper changing area shall be located so that hand washing can occur immediately after diapering without contacting other surfaces or children.
- (7) The building and grounds must be maintained in a clean and sanitary manner.
- (8) All garbage, solid waste, and refuse must be disposed of regularly, in a safe and sanitary manner.
- (9) Bio-contaminants including but not limited to bodily fluids and blood shall be disposed of in a manner that prevents exposure to children.
- (10) Wading pools are prohibited for wading

#### **414-205-0130**

#### **Record Keeping**

- (1) The following records except those specified in OAR 414-205-0130 (1)(e) shall be kept by the provider for at least one year. These records shall be available at all times to OCC:
- (a) Information from the parent(s) for each child at the time of admission:

- (A) Name and birth date of the child;
  - (B) Any chronic health problem(s), including allergies, the child has;
  - (C) Date child entered care;
  - (D) Names, work and home telephone numbers and addresses, and the work hours of the parent(s) or legal guardian(s);
  - (E) Name and telephone number of person(s) to contact in an emergency;
  - (F) Name and telephone number of person(s) to whom the child may be released;
  - (G) The name of the school attended by the child care child; and
  - (H) Name, address and telephone number of the child's doctor and dentist.
  - (I) Health history of any problems that could affect the child's participation in child care.
- (b) Daily attendance records, including dates each child attended and arrival and departure times for each day. Times shall be recorded as the child care children arrive and depart;
  - (c) Medications administered, including the child's name, and the date and time of dosage and the dosage amount; and
  - (d) Injuries to a child.
- (e) Lead testing results for drinking water for the past six (6) years.
- (2) Injuries to a child which require attention from a licensed health care professional, such as a physician, EMT or nurse, must be reported to OCC within seven days.
  - (3) The provider must have a written statement from the parent(s) regarding whether or not the provider is authorized to:
    - (a) Obtain emergency medical treatment for a child;
    - (b) Administer medications to a child;
    - (c) Take a child on a field trip or other activity outside the home or participate in any water activity; and
    - (d) Transport a child to or from school or allow a child to bus or walk to or from school or home.

## Division 300

### CERTIFIED CHILD CARE CENTERS

#### **414-300-0010**

##### **Application for a Child Care Certificate**

(1) Unless exempted by Oregon laws governing child care facilities, no person or organization shall operate a child care center without a valid certificate issued by the Child Care Division.

(2) Application for a certificate shall be made on forms provided by [CEEDOCC](#).

(3) A completed application is required:

(a) For the initial certificate;

(b) For the annual renewal of the certificate; and

(c) Whenever there is a change of owner, operator or location.

(4) The applicant shall complete and submit an application to [CEEDOCC](#) at least:

(a) 45 days before the planned opening date of a new center; and

(b) For renewal of certification, 30 days prior to the expiration of the certificate.

(A) If an application for renewal and payment of the required fee is received by [CEEDOCC](#) at least 30 days prior to the expiration date of the current certificate, the current certificate, unless officially revoked, remains in force until [CEEDOCC](#) has acted on the application for renewal and has given notice of the action taken.

(B) If an application for renewal and payment of the required fee is not received by [CEEDOCC](#) at least 30 days prior to the expiration date of the current certificate, the certificate will expire as of the date stated on the certificate and child care must cease at the facility, unless the renewal is completed before the expiration date.

(5) An application for a certificate shall be accompanied by a non-refundable filing fee.

(a) For the initial application, a change of owner/operator, the reopening of a center after a lapse in certification, or a change of location (except when a facility is forced to move due to circumstances beyond the control of the operator), the fee is \$100 plus \$2 for each certified space (e.g., the fee for a child care center certified to care for 30 children is  $\$60 + \$100 = \$160$ ).

(b) For a renewal application, the fee is \$2 for each certified space.

(6) An application for a certificate must be completed by the applicant and approved by ~~CCDOCC~~ within 12 months of submission or the application will be denied. If an application is denied, an applicant must submit a new application for a certificate.

(7) All civil penalties must be paid in full.

(8) A floor plan shall be submitted with the initial application and/or when a facility is being constructed or remodeled. The floor plan shall show dimensions of all rooms to be used (length and width), the planned use of each room, the placement and number of toilets, bathroom, diaper changing, and handwashing sinks not used for drinking water, and diaper changing tables, ~~and~~ the location of the fixtures and plumbing in the kitchen, and the location of all drinking water faucets and fixtures used to obtain water to prepare food, infant formula, drinking or cooking. Similar plans shall be submitted to the environmental health specialist, the fire marshal and the buildings department prior to initial construction or remodel.

(9) If the facility is located within or attached to a building used for purposes other than child care, the floor plan shall describe the other activities which are carried out in adjoining rooms or buildings.

(10) If the applicant is a firm, association, corporation, public agency, or governmental entity, the application shall be signed by the chief executive officer or a person designated in writing to have the authority to sign for the applicant. If the applicant is a partnership, the application shall be signed by each partner.

(11) A management list shall be submitted with the application and updated annually. The list must specify who is responsible for each of the following:

(a) Financial management;

(b) Maintaining records;

(c) Budgeting;

(d) Policy Development;

(e) Staff management, orientation and training;

(f) Maintenance of building and grounds;

(g) Meal planning and preparation;

(h) Transportation of children, if provided; and

(i) Ensuring the appropriateness of program activities according to age and development of the children.

(12) An operator shall provide verification to [CEEDOCC](#) that the center meets all applicable building codes and zoning requirements that apply to child care facilities:

(a) Before the initial certificate is issued; and

(b) Whenever the facility is remodeled.

(13) The center shall be approved by an environmental health specialist registered under ORS chapter 700, or an authorized representative of the Health Division, and by a state or local fire marshal, before a certificate is issued by [CEEDOCC](#).

(a) If structural, emergency or permit problems occur, [CEED-OCC](#) may request that the operator have the center inspected by the appropriate authority; and

(b) The operator is responsible for payment of any applicable fees for fire safety and sanitation inspections.

(14) An application for certificate shall be accompanied by lead testing results for drinking water faucets and fixtures identified in OAR 414-300-0010(8). Results shall be those obtained within the past six years.

(15) An applicant shall have all drinking water faucets and fixtures identified in OAR 414-300-0010(8) tested for lead.

(16) An applicant shall use an Oregon Environmental Laboratory Accreditation Program (ORELAP) accredited drinking water laboratory and shall test in accordance with the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006.

(17) An applicant may submit documented lead testing results obtained within six years immediately preceding the effective date of this section to the OCC, and request a waiver of this requirement for a period not to exceed six years from the date of the test results submitted. This provision applies only to tests conducted in accordance with the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006 and the results were below 15 ppb. The OCC shall determine whether the tests submitted conform to the requirements of OAR 414-300-0010(15).

(18) Upon receipt of a completed application, a representative of [CEED-OCC](#) shall evaluate the center and all aspects of the proposed operation to determine if the center meets certification requirements (OAR 414-300-0000 through 414-300-0415).

**Statutory/Other Authority:** ORS [657A329A.260](#)

**Statutes/Other Implemented:** ORS [657A329A.260](#)

**414-300-0030**

**General Requirements**



(1) The operator shall display the following near the entrance, or in some other area of the center, where they may be viewed by parent(s) of children in care:

- (a) The most current certificate issued by ~~CCDOCC~~ [CCDOCC](#);
- (b) Name of the director and/or the substitute director;
- (c) Notice of planned field trips away from the immediate neighborhood, showing the date and place of each excursion;
- (d) The current week's menu for all meals and snacks, if meals are provided by the center. Any substitution shall be recorded on the menu;
- (e) A notice that the items identified in section (2) of this rule are available for review on request;
- (f) Information on how to report a complaint to CCD regarding certification requirements;
- (g) Notice that custodial parents have access to the center during the hours of operation and without advance notice; and
- (h) Notice of center closures (vacation days, holidays, etc.).
- (i) Water testing results, in accordance with OAR 414-300-0010(15).

**Statutory/Other Authority:** ORS ~~657A329A~~ [657A329A](#).260

**Statutes/Other Implemented:** ORS ~~657A329A~~ [657A329A](#).260

#### **414-300-0060**

##### **Record Keeping**

(1) The operator shall keep all records, except those specified in OAR 414-300-0060(1)(d)(F), ~~and 414-300-0060(1)(e)~~ [and 414-300-0060\(1\)\(e\)](#) for at least two years, and staff and children's records for two years after termination of employment or care. These records shall be available at all times to CCD:

- (a) Complete and current information on each child as required in OAR 414-300-0040(4) and (6);
- (b) Records of daily attendance showing:
  - (A) The date of employment, time of arrival and departure, and room assignment for each staff; and
  - (B) The date, name of each child in attendance, and time of arrival and departure. The record must show the children in attendance at any given time;

(C) The current day's attendance record shall be maintained in the child's classroom in paper format.

(c) Personnel record for each staff, which shall include:

(A) Name, address and telephone number of staff;

(B) Position in center;

(C) Written verification (such as transcripts, payroll records, time sheets, documented resumes, notes regarding telephone conversations, etc.) that the person possesses the qualifications for the position;

(D) Verification that the staff is currently enrolled in the Central Background Registry;

(E) Statement of the staff's duties;

(F) Record of current health-related training, such as CPR, Life Support, Life Saving, and First Aid, and current food handler certifications, as appropriate;

(G) Driving record, driver's license number and expiration date if the person is to transport children; and

(H) Documentation of dates and participation in orientation, training, and staff development activities, as required in OAR 414-300-0120.

(d) A written record of:

(A) A death of or injury to a child, as specified in OAR 414-300-0030(3);

(B) Dates and times of the practices of emergency procedures;

(C) Child abuse reports made to the Department of Human Services Child Welfare (DHS) or a law enforcement agency;

(D) Authorizations to administer medication to a child, as specified in OAR 414-300-0230(1)(a);

(E) Medications dispensed, as specified in OAR 414-300-0230(1)(d);

(F) Meals and snacks provided by the center for the previous three weeks;

(G) The program of activities for each group of children, as specified in OAR 414-300-0300; and

(H) The daily schedule for each group of children, as specified in OAR 414-300-0290.

(e) Lead testing results for drinking water for the past six (6) years.

(2) The operator shall allow custodial parent(s), upon request, to review records and reports, except for child abuse reports, maintained on their own children.

#### **414-300-0180**

##### **Sanitation**

##### **(1) Water Supply:**

(a) The center's water supply shall be continuous in quantity and from a water supply system approved by the Health Division.

(b) There shall be safe drinking water available to children that is supplied in a sanitary manner. Drinking water for preparing food, infant formula, drinking or cooking shall not be obtained from bathroom sinks or diaper changing sinks.

(c) The facility shall identify the location of all drinking water faucets and fixtures identified in OAR -300-0010(8) tested for lead. The facility shall sample in accordance with United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006 and shall use an Oregon Environmental Laboratory Accreditation Program (ORELAP) accredited drinking water laboratory.

(d) Lead testing as required by OAR 414-300-0180(1c) shall be conducted within the past six years of the effective date of this section and no later than six months of the effective date of this section and at least once every six (6) years.

(e) The test results shall be kept on the facility premises at all times and a copy provided to the Office of Child Care within ten (10) days of receiving the results.

(f) Irrespective of test results, the facility must immediately notify all parents and guardians verbally, in writing, or by email, of the test results and post results in a prominent place in the facility where they will be seen by parents and guardians within one business day. Information provided to parents and guardians shall be in accordance with United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006.

(f) If test results exceed 15 parts per billion (ppb), the facility shall immediately:

(A) Prevent children from using or consuming water from faucets or fixtures identified in OAR 414-300-0010(8) that have test results at or above 15 ppb by supplying water from drinking water faucets or fixtures that have test results below 15 ppb or bottled or packaged water to meet the requirements of this section.

(B) Within sixty days of receiving the test results, the provider shall submit a corrective action plan for approval by the OCC for any faucet or fixture that has test results at or above 15 ppb,

following the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006;

(C) The facility must implement corrective actions or remedies identified in the approved plan within 30 days of OCC approval; and

(d) The facility must conduct follow-up sampling and results must demonstrate lead below 15 ppb before the facility may resume use of faucets or fixtures identified in OAR 414-300-0180(1c) that previously tested at or above 15 ppb.

(D) A provider may submit documented lead testing results obtained within six years immediately preceding the effective date of this section to the OCC, and request a waiver of this requirement for a period not to exceed six years from the date of the test results submitted. This provision applies only to tests conducted in accordance with the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: revised guidance dated October 2006 and the results were below 15 ppb. The OCC shall determine whether the tests submitted conform to the requirements of OAR 414-080-0015(3).

(E) Existing programs must submit testing results by September 30, 2018.

(a) Irrespective of results obtained in accordance with section (1)(c), actions to protect children from exposure to lead contamination in drinking water should be taken at all times, including:

(A) Flushing pipes before using to prepare food, infant formula, drinking or cooking by running the tap each time before use until the water is noticeably cooler (approximately 30 seconds to two minutes).

(B) Using only cold water from drinking water faucets and fixtures identified in OAR 414-300-0180(1c) that have lead test results below 15 ppb for preparing food, infant formula, drinking or cooking.

(b) Boiling water does not remove lead from water and is not an acceptable action to protect children from exposure to lead contamination in drinking water.

(2) Heat and Ventilation:

(a) The center shall be ventilated, by natural or mechanical means, and shall be free of excessive heat, condensation, and obnoxious odors.

(b) Room temperature shall be at least 68° F. (20 C.) and not so warm as to be dangerous or unhealthy in the center when children are present.

(c) After painting or laying carpet, the building must be aired out completely for at least 24 hours with good ventilation before children are allowed to return.

(3) Insect and Rodent Control:

(a) The center shall be in such condition as to prevent the infestation of rodents and insects.

(b) Doors and windows used for ventilation shall be equipped with fine-meshed screens.

(c) Automatic insecticide dispensers, vaporizers, or fumigants shall not be used.

(4) Maintenance:

(a) The building, toys, equipment, and furniture shall be maintained in a clean and sanitary condition:

(A) Kitchen and toilet rooms shall be cleaned when soiled and at least daily;

(B) The isolation area shall be thoroughly cleaned after each use and all bedding laundered before it is used again;

(C) Door knobs and cabinet pulls in toilet rooms and diaper changing areas shall be sanitized daily;

(D) All clean linen shall be stored in a sanitary manner;

(E) Soiled bed linen and clothing shall not be stored in food preparation or food storage areas, and shall be inaccessible to children;

(F) Floors, walls, ceilings, and fixtures of all rooms shall be kept clean and in good repair;

(G) All food storage areas shall be kept clean and free of food particles, dust, dirt, and other materials;

(H) Cribs, mats, and cots shall be sanitized with a sanitizing solution at least once a week and upon change of occupant. If visibly soiled, items must be cleaned prior to sanitizing.

(I) Bedding shall be cleaned when soiled, upon change of occupant and at least once a week;

(J) Water tables and toys used in water tables shall be emptied and sanitized daily;

(K) When a chemical, such as chlorine, is used for sanitizing, a test kit that measures the parts per million concentration of the solution shall be used to ensure the proper concentration; and

(L) Cloths, both single use and multiple use, used for wiping food spills on utensils and food-contact surfaces shall be kept clean and used for no other purpose. Cloths that are reused shall be stored in a sanitizing solution between uses.

(b) The center shall be kept hazard-free, in good repair, and free of litter or rubbish and unused or inoperable equipment and utensils.

(5) Infant and Toddler Care:

(a) The following shall be sanitized immediately after each use. If visibly soiled, items must be cleaned prior to sanitizing:

(A) A bathtub or other receptacle used for bathing a child;

(B) A diaper-changing table;

(C) High chairs, tables and chairs;

(D) Toys that infants and toddlers put in the mouth; and

(E) Toilet training seat inserts.

(b) Pacifiers must be labeled, stored individually and sanitized after contamination. The health department must approve methods of sanitation.

(c) A sanitizing solution shall be kept in each diaper changing area ready for immediate use. This solution need not be stored in a locked cabinet but must be out of children's reach.

(6) Hand washing:

(a) Staff and children shall wash their hands with soap and warm running water after using the toilet or wiping the nose, and before and after eating.

(b) Staff shall wash their hands with soap and warm running water before and after changing a diaper, before and after feeding a child or handling food and after assisting a child with toileting or wiping the nose.

(c) Infants' and children's hands shall be washed with soap and warm running water after diaper changing.

(d) Commercial products labeled "hand sanitizers" shall not replace hand washing. If hand sanitizers are present in the center, they shall be kept under child-proof lock and shall not be used by children.

(e) When hand washing is not possible, e.g. on field trips and on the playground, moist towelettes shall be used.

(7) Waste Disposal:

(a) All sewage and liquid wastes shall be collected, treated, and disposed of in compliance with the requirements of the Department of Environmental Quality.

(b) All garbage, solid waste, and refuse shall be disposed of at least once a week.

(c) All garbage shall be kept in watertight, non-absorbent, and easily washable containers with close-fitting lids.

(d) Diaper disposal containers shall be approved by the environmental health specialist.

(e) All garbage storage areas and garbage containers shall be kept clean.

(f) All rubbish and garbage storage shall be inaccessible to children.

(g) Bio-contaminants including but not limited to bodily fluids and blood shall be disposed of in a manner that prevents exposure to children.

**Statutory/Other Authority:** ORS [657329](#)A.260

**Statutes/Other Implemented:** ORS [657329](#)A.260

## Division 350

### CERTIFIED FAMILY CHILD CARE HOMES

#### 414-350-0020

#### Application for a Child Care Certificate

- (1) No person, unless exempted by Oregon laws governing child care facilities, shall operate a certified family child care home without a valid certificate issued by [CEEDOCC](#).
- (2) Application for a certificate shall be made on forms provided by [CEEDOCC](#).
- (3) A completed application is required:
  - (a) For the initial certificate;
  - (b) For the annual renewal of a certificate; and
  - (c) Whenever there is a change of provider or location.
- (4) The applicant shall complete and submit an application to [CEEDOCC](#) at least:
  - (a) 45 days before the planned opening date of the certified family child care home; and
  - (b) For renewal of a certificate, 30 days prior to the expiration of the certificate.
- (A) The expiration date of the current certificate, unless officially revoked, remains in force until [CEED-OCC](#) has acted on the application for renewal and has given notice of the action taken.
- (B) If an application for renewal and payment of the required fee is not received by [CEED-OCC](#) at least 30 days prior to the expiration date of the current certificate, the certificate will expire as of the date stated on the certificate and child care must cease at the facility, unless the renewal is completed before the expiration date.
- (C) An application for a certificate shall be accompanied by a non-refundable filing fee.
- (D) For the initial application, a change of provider, the reopening of a facility after a lapse in the certificate, or a change of location, the fee is \$25 plus \$2 for each certified space (e.g., the fee for a certified family child care home certified to care for 12 children is  $\$24 + \$25 = \$49$ ).
- (E) For a renewal application, the fee is \$2 for each certified space.
- (5) All civil penalties must be paid in full.



(6) An application for a certificate must be completed by the applicant and approved by CEEDOCC within 12 months of submission or the application will be denied. If an application is denied, an applicant will be required to submit a new application for a certificate.

(7) The applicant shall submit with the initial application or when the home is being remodeled a drawing showing the dimensions of all rooms to be used (length and width), the planned use of each room, the location of required exits, the placement of the kitchen and bathrooms, and the location of plumbing fixtures, identifying which are drinking water faucets and fixtures used to obtain water to prepare food, infant formula, drinking or cooking, and which are bathroom, diaper changing, bathing, and handwashing faucets or fixtures that are not used for drinking water.

(8) The applicant shall provide verification to CEEDOCC that the home meets all applicable building codes and zoning requirements that apply to certified family child care homes:

(a) Before the initial certificate is issued; and

(b) Whenever the home is remodeled.

(9) The home shall be approved by an environmental health specialist registered under ORS Chapter 700 or an authorized representative of the Department of Human Services before a certificate is issued by CEEDOCC.

(10) The home may be inspected by the local fire jurisdiction when local ordinances require a fire life safety survey as part of a business license or when CEEDOCC determines there is a need to do so.

(11) If the provider applies to care for more than 12 children, the provider must complete a fire life safety self evaluation. CEEDOCC staff and the provider will review the self evaluation. If fire safety concerns are identified, CEEDOCC staff may consult with the fire marshal and after consultation, may request that the fire marshal complete a fire life safety inspection.

(12) An application for certificate shall be accompanied by lead testing results for drinking water faucets and fixtures identified in OAR 414-350-0020(7). Results shall be those obtained within the past six (6) years.

(a) An applicant shall have all drinking water faucets and fixtures identified in OAR 414-350-0020(7) tested for lead;

(b) The facility shall test in accordance with United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006 and shall use an Oregon Environmental Laboratory Accreditation Program (ORELAP) accredited drinking water laboratory.

(c) A provider may submit documented lead testing results obtained within six years immediately preceding the effective date of this section to the OCC, and request a waiver of this

requirement for a period not to exceed six years from the date of the test results submitted. This provision applies only to tests conducted in accordance with the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: revised guidance dated October 2006 and the results were below 15 ppb. The OCC shall determine whether the tests submitted conform to the requirements of OAR 414-350-0020 (12)(b).

(13) Upon receipt of a completed application, a representative of ~~CEEDOCC~~ shall evaluate the home and all aspects of the proposed operation to determine if certification requirements (OAR 414-350-0000 through 414-350-0405) are met.

#### **414-350-0050**

##### **General Requirements**

(1) The following items shall be posted in the certified family child care home where they may be viewed by parents:

(a) The child care certificate;

(b) Notification of a communicable disease outbreak at the home;

(c) The evacuation plan; ~~and~~

(d) Water testing results, in accordance with OAR 414-350-0020(12); and

(e) A notice that the following items are available for parents to review:

(A) The guidance/discipline policy;

(B) The current week's menus, with substitutions recorded;

(C) The description of the general routine;

(D) Information on how to report a complaint to OCC regarding certification requirements; and

(E) The most recent OCC and sanitation inspection reports and, if applicable, fire life safety self-evaluation (or fire marshal inspection report if completed).

(F) Lead testing results for drinking water for the past six years.

(2) The provider shall ensure that a copy of these administrative rules is available in the certified family child care home to all parents and staff.

(3) Caregivers shall report suspected child abuse or neglect immediately, as required by the Child Abuse Reporting Law (ORS 419B.005 through 419B.050) to the Department of Human Services Child Welfare (DHS) or to a law enforcement agency. By statute, this requirement applies 24 hours per day.

(4) The certified family child care home shall comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, civil rights laws, and the Americans with Disabilities Act (ADA).

(5) Representatives of all agencies involved in certification shall have immediate access to all parts of the home whenever the provider is conducting the child care business:

(a) OCC staff shall have the right to inspect all areas of the facility that are accessible to child care children, and to conduct a health and safety review of other areas of the facility to ensure the health and safety of child care children. This includes access to all caregivers, records of children enrolled in the home, and all records and reports related to the child care operation regarding compliance with these rules; and

(b) Representatives of the Department of Human Services Child Welfare (DHS) and the State Fire Marshal have the right to enter and inspect the home when an inspection has been requested by OCC.

(6) Custodial parents of all children enrolled shall have access to the home during the hours their child(ren) are in care.

(7) The provider shall develop the following information in writing and shall make it available to OCC, to staff, and to parent(s) at the time of enrollment:

(a) Guidance and discipline policy;

(b) Information on transportation, when provided by the provider or other caregiver; and

(c) The plan for handling emergencies and/or evacuations, including, but not limited to, acute illness of a child or staff, natural disasters (e.g. fire, earthquake, etc.), man-caused events, such as violence at a child care facility, power outages, and situations which do not allow reentry to the home after evacuation.

(8) The provider shall comply with the Department of Human Services' administrative rules relating to:

(a) Immunization of children (OAR 333-019-0021 through 333-019-0090);

(b) Reporting communicable diseases (OAR 333-019-0215 through 333-019-0415); and

(c) Child care restrictable diseases (OAR 333-019-0010).

(9) The provider shall report to OCC:

(a) An accident at the home resulting in the death of a child, within 48 hours after the occurrence; and

(b) Injuries to a child at the certified family child care home which require attention from a licensed health care professional, such as a physician, EMT or nurse, within 7 days after the occurrence.

(10) Documentation of meals and snacks provided by the certified family child care home shall be made available to OCC upon request, if the home does not participate in the USDA Child and Adult Care Food Program. Documentation is limited to the three weeks prior to the request.

(11) The provider is responsible for compliance with these requirements (OAR 414-350-0000 through 414-350-0405).

(12) Parental request or permission to waive any of the rules for certified family child care homes does not give the provider permission to do so.

#### **414-350-0080**

##### **Records**

(1) The provider shall keep the following records:

(a) Complete and current information on each child, as required in OAR 414-350-0060(3) and (4);

(b) Daily attendance record for each child, including dates each child attended and arrival and departure times each day;

(c) Daily attendance record for the provider and each caregiver, including dates worked and arrival and departure times each day;

(d) Medication administered, as specified in OAR 414-350-0180(8)(d);

(e) Emergency plan practice sessions and evacuations, as specified in OAR 414-350-0170(15);

(f) An injury to or death of a child, as specified in OAR 414-350-0180(7);

(g) Child abuse reports made to the Department of Human Services Child Welfare (DHS) or a law enforcement agency;

(h) The general routine, as specified in OAR 414-350-0220(2);

(i) Verification of the provider's and each caregiver's:

(A) Qualifications for the position, as specified in OAR 414-350-0100 and 414-350-0110;

(B) Current health-related training, such as CPR and First Aid, as specified in OAR 414-350-0100(3) and 0100(6);

(C) Training as required in OAR 414-350-0115;

(D) Current enrollment in the Central Background Registry;

(E) Current food handler's certification pursuant to ORS 624.570, when required; and

(F) Caregiver participation in an orientation to the provider's policies and practices and these administrative rules.

(j) Lead testing results for drinking water for the past six (6) years.

(2) A provider shall allow custodial parent(s), upon request, to review all records and reports, except for child abuse reports, maintained on their own children.

(3) Records, except those specified in OAR 414-350-0080(1)(j), shall be kept for at least two years, and caregivers' and children's records for two years after termination of employment or care. These records shall be available at all times to ~~CEEDOCC~~.

#### **414-350-0160 Sanitation**

(1) Water Supply:

(a) The home's water supply shall be continuous in quantity and from a water supply system approved by the Department of Human Services.

(b) The facility shall sample the water from all drinking water faucets and fixtures identified in OAR 414-350- 0020(7) and have the water tested for lead. The facility shall test in accordance with the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006 and shall use an Oregon Health Authority Oregon Environmental Laboratory Accreditation Program (ORELAP) accredited drinking water testing laboratory.

(c) Lead testing as required by 414-350-0160 (1)(b) shall be conducted within the past six years of the effective date of this section and no later than six months after the effective date of this section and at least once every six years.

(d) The test results shall be kept on the facility premises at all times and a copy provided to the Office of Child Care within ten (10) days of receiving the results.

(e) If the test results are at or above 15 parts per billion (ppb), the facility shall immediately:

(A) Prevent children from using or consuming water from faucets or fixtures identified in OAR 414-350-0020(7) that have test results at or above 15 ppb by supplying water from drinking water faucets or fixtures that have test results below 15 ppb or bottled or packaged water to meet the requirements of this section.

(B) Within sixty days of receiving the test results, the provider shall submit a corrective action plan for approval by the OCC for any faucet or fixture that has test results at or above 15 ppb, following the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006;

(C) The facility must implement corrective actions or remedies identified in the approved plan within 30 days of OCC approval; and

(D) The facility must conduct follow-up sampling and results must demonstrate lead below 15 ppb before the facility may resume use of faucets or fixtures identified OAR 414-350-0020(7) that previously tested at or above 15 ppb.

(E) With approval by OCC, the facility may resume use of faucets or fixtures that previously tested at or above 15 ppb once corrective actions or remedies have been implemented.

(f) Irrespective of results obtained in accordance with section (1)(c), actions to protect children from exposure to lead contamination in drinking water should be taken at all times, including:

(A) Flushing pipes before using to prepare food, infant formula, drinking or cooking by running the tap each time before use until the water is noticeably cooler (approximately 30 seconds to two minutes).

(B) Using only cold water from drinking water faucets and fixtures identified in OAR 414-350-0020(7) that have lead test results below 15 ppb for preparing food, infant formula, drinking or cooking.

(g) Boiling water does not remove lead from water and is not an acceptable action to protect children from exposure to lead contamination in drinking water.

(h) Existing programs must submit testing results by September 30, 2018.

(i) If drinking water is from a private source, the provider shall provide evidence of bacterial and chemical analysis which establish safety of the water;

(j) The tests shall be conducted by the local health department, the Department of Human Services, or an approved commercial laboratory;

(k) The bacterial analysis shall be done quarterly;

(l) The chemical analysis shall be done only once for a well and yearly for other water sources;

(m) The provider shall have drinking water available to children that is supplied in a safe and sanitary manner. If drinking water is obtained from bathroom sinks or sinks used for handwashing after changing a diaper, the sink must be sanitized after each handwashing.

(2) Hand Washing:

(a) Caregivers and children shall wash their hands with soap and warm running water after nose wiping, after using the toilet, and before and after eating;

(b) Caregivers shall wash their hands with soap and warm running water before and after changing a diaper, before and after feeding a child or handling food, and after assisting a child with toileting and nose wiping;

(c) Infants' and children's hands shall be washed with soap and warm running water after diaper changing;

(d) Staff shall immediately and thoroughly wash their hands after handling animals or cleaning cages;

(e) Commercial products labeled "hand sanitizers" shall not replace hand washing. If hand sanitizers are present in the home, they shall be kept under child-proof lock and shall not be used by children;

(f) When hand washing is not possible, e.g., on field trips or the neighborhood park, moist towelettes shall be used.

(3) Maintenance:

(a) The building, toys, equipment, and furniture shall be maintained in a clean, sanitary, and hazard-free condition:

(A) Kitchen and bathrooms shall be cleaned when soiled and at least daily;

(B) Floors, walls, ceilings, and fixtures of all rooms shall be kept clean and in good repair;

(C) All kitchen counters, shelves, tables, refrigeration equipment, sinks, drain boards, cutting boards, and other equipment or utensils used for food preparation shall be kept clean and in good repair;

(D) All food storage areas shall be kept clean and free of food particles, dust, dirt and other materials;

(E) Cloths, both single use and multiple use, used for wiping food spills on utensils and food-contact surfaces shall be kept clean and used for no other purpose. Cloths that are reused shall be stored in a sanitizing solution between uses.

(F) The isolation area shall be thoroughly cleaned after use and all bedding laundered after each use;

(G) A diaper-changing table shall:

(i) Have a surface that is non-absorbent and easily cleaned;

(ii) Be cleaned and sanitized after each use;

(iii) Not be used for any purposes other than diapering, including food or drink preparation or storage, dish washing, storage of food service utensils, arts and crafts supplies or products, etc.; and

(iv) Comply with the requirements for diaper changing area specified in OAR 414-350-0235(2)(b).

(H) Bathtubs, showers, sinks, bathinettes, or other receptacles used for bathing children shall be cleaned and sanitized after each use and shall not be used to obtain drinking water for preparing food, infant formula, drinking or cooking.

(I) Bedding shall be cleaned when soiled, with change of occupant, or at least once a week.

(b) Tableware, kitchenware (pots, pans and equipment), and food-contact surfaces of equipment shall be washed, rinsed, sanitized, and air-dried after each use. The cleaning and sanitizing of tableware and kitchenware shall be accomplished by using:

(A) A dishwasher that is operated according to the manufacturer's instructions; or

(B) A three-step manual process as follows:

(i) Washing in the first compartment;

(ii) Rinsing in a second compartment; and

(iii) Immersion in a third compartment or large dishpan or tub for at least two minutes in a sanitizing solution containing at least 2 teaspoons of household chlorine bleach in each gallon of warm water.

(c) A sink used for diapering or bathing activities shall not be used for any part of preparing food, infant formula, drinking or cooking, or dish washing.

(d) Soap, paper towels dispensed in a sanitary manner, and mixing faucets with hot and cold running water shall be provided at each hand washing sink.

(e) The home and grounds shall be kept clean and free of litter or rubbish and unused or inoperable equipment, utensils, and vehicles.



(f) All garbage, solid waste, and refuse shall be disposed of at least once a week.

(A) All garbage shall be kept in watertight, non-absorbent, and easily washable containers with close-fitting lids;

(B) All garbage storage areas and garbage containers shall be kept clean; and

(C) All garbage storage shall be inaccessible to children.

(g) Bio-contaminants including, but not limited to bodily fluids and blood shall be disposed of in a manner that prevents exposure to children.

(4) Insect and Rodent Control:

(a) The home shall be in such condition as to prevent the infestation of rodents and insects.

(b) Doors and windows which are opened for ventilation shall be equipped with fine-meshed screens.

(c) Automatic insecticide dispensers, vaporizers, or fumigants shall not be used.