

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

FILED

JUL 29 3 18 PM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Division of Health TITLE NUMBER: 64

RULE TYPE: Legislative; CITE AUTHORITY W. Va. Code § 16-1-7

ADMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 21

TITLE OF RULE BEING AMENDED: Child Care Centers

IF NO, SERIES NUMBER OF RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 28, 1996 AT 4:30 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Regulatory Development

Department of Health & Human Resources

Capitol Complex - Building 3, Room 265

Charleston, WV 25305

ATTN: Kay Howard

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Gretchen O. Lewis
for Kay Howard

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

6.20

ABSTRACT - PROPOSED RULE
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
DIVISION OF HEALTH
CHILD CARE CENTERS

64 CSR 21

Summary: This proposed revised legislative rule amends the current rule, Child Care Centers, 64 CSR 21 to incorporate standards for a new class of day care facility created by the 1996 Legislature in House Bill 4170. This new type of facility, called "family day care facility" may have seven (7) to twelve (12) children, including children who are living in the household who are less than six (6) years of age. No more than four (4) of the total number of children may be less than twenty-four (24) months of age. Day care centers now have thirteen (13) or more children. The Child Care Center Rule applies to both types of facilities.

The proposed amendments add a set of food service requirements more suitable for family day care facilities. Proposed amendments also clarify some standards which have caused confusion and update some older standards. Stylistic and technical changes are also proposed.

For further information contact: Linda Jones, Office of Environmental Health Services, Bureau for Public Health, Department of Health and Human Resources, 815 Quarrier Street, Charleston, West Virginia, 25301; or the Office of Regulatory Development, Bureau of Operations, Department of Health and Human Resources, State Capitol Complex, Building 3, Room 265, Charleston, West Virginia, 25305, telephone (304) 558-3223.

Copies of the proposed rule may be purchased from the Administrative Law Division of the Office of the Secretary of State, State Capitol Complex, Building 1, Suite 157K, Charleston, WV 25305-0771, phone (304) 558-6000.

7/26/96

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Child Care Centers, 64 CSR 21

Type of Rule: Legislative Interpretive Procedural

Agency: Bureau for Public Health (For the Division of Health)
Department of Health and Human Resources

Address: Building 3, Capitol Complex
Charleston, W. Va. 25305

1. Effect of the Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services					
Current Expense					
Repairs & Alterations					
Equipment					
Other					
Revenue					

2. Explanation of above estimates.

The proposed revisions are not anticipated to have any fiscal impact.

3. Objectives of this rule:

This proposed revised legislative rule modifies existing standards to include a set of food service requirements more suitable for family day care facilities. This is a new class of day care facility created by the Legislature in 1996 in House Bill 4170.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens.

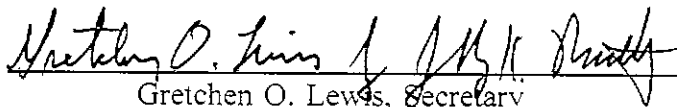
The proposed rule will have a positive impact on all these parties. It will increase the availability of child care which is a necessary support for working parents. It will also provide employment opportunities for persons who want to work in the child care field.

C. Economic Impact on Citizens/Public at Large.

The public will benefit from increased supports to working parents as the addition of this class of day care will encourage persons to obtain or maintain employment.

Date: July 26, 1996

Signature of Agency Head or Authorized Representative



Gretchen O. Lewis, Secretary
Department of Health and Human Resources

PROPOSED - TITLE 64
WEST VIRGINIA LEGISLATIVE RULES
DIVISION OF HEALTH
SERIES 21
CHILD CARE CENTERS

**PROPOSED - TITLE 64
WEST VIRGINIA LEGISLATIVE RULES
DIVISION OF HEALTH
SERIES 21
CHILD CARE CENTERS**

TABLE OF CONTENTS

§64-21-1. General	1
§64-21-2. Definitions	1
§64-21-3. Permits, Hearings, Notices, Orders	3
§64-21-4. Inspections	5
§64-21-5. General Requirements - Building	6
§64-21-6. Food Service Facilities	10
§64-21-7. Laundry	11
§64-21-8. Bedding and Sleeping Area	12
§64-21-9. Safety	13
§64-21-10. Animals	13
§64-21-11. Employee Health Requirements	14
§64-21-12. Penalty for Violating Provisions of Regulations	15
§64-21-13. Administrative Due Process	15
§64-64-14. Severability	15

PROPOSED - TITLE 64
WEST VIRGINIA LEGISLATIVE RULES
DIVISION OF HEALTH
SERIES 21
CHILD CARE CENTERS

FILED

JUL 29 3 18 PM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Ed. Note: This rule has been renumbered and reformatted according to the revised rules of the Secretary of State, Standard Size and Format for Rules and Procedures for Publication of the State Register or Parts of the State Register, Title 153, Series 6, effective June 7, 1996.

§64-21-1. General.

1.1. Scope. -- ~~These legislative rules establish~~ This legislative rule establishes the environmental health requirements for the construction and operation of child care centers.

1.2. Authority. -- W. Va. Code § 16-1-7.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Supersession of Former Rule. -- This rule amends and replaces W. Va. Legislative Rule, Child Care Centers, 64 CSR 21, effective March 15, 1974.

1.6. Applicability. -- This rule applies to the owners and operators of child care centers.

1.7. Enforcement. -- This rule is enforced by the director of the division of health.¹

~~§ 64-21-2. Application and Enforcement.~~

~~2.1. Application. -- These legislative rules apply to the owners and operators of child care centers.~~

~~2.2. Enforcement. -- The enforcement of these legislative rules is vested with the director of the West Virginia department of health or his lawful designee.~~

§64-21-2. Definitions.

2.1. Approved. -- A procedure of operation, installation or construction which is in accordance with the standards, specifications, and instructions established by the state department

¹ The Department of Health and Human Resources (DHHR) was created by the Legislature's reorganization of the executive branch of State government in 1989. The Department of Health was renamed the Division of Health and made a part of the DHHR (W. Va. Code § 5F-1-1 et seq.). Administratively within the DHHR the Bureau for Public Health through its Commissioner carries out the public health function of the Division of Health.

division of health.

2.2. Child Care Center. -- Any child care facility providing nonresidential child care for seven (7) or more children for all or part of a day. The term "child care center" includes: day care centers, family day care facilities, nursery schools, and preschools. "Child care center" does not include:

2.2.a. A kindergarten, preschool or school education program operated by a public school, accredited by the state department of education, or which operates with sessions not exceeding four (4) hours per day for any child;

2.2.b. An individual or facility which offers occasional, temporary care of children for brief periods while parents are shopping, engaging in recreational activities, attending religious services or engaging in other business or personal affairs;

2.2.c. Summer recreation camps operated for children attending sessions for periods not exceeding thirty (30) days;

2.2.d. Hospitals or other medical facilities which are primarily used for temporary residential care of children for treatment, convalescence or testing; or

2.2.e. Persons providing family day care solely for children related to them, including grandparents, aunts and uncles.

2.3. Construct. -- Construct, extend, alter, or modify.

2.4. Day Care Center. -- A child care center which provides nonresidential child care for thirteen (13) or more children on a nonresidential basis.

2.5. Director. -- Director of the division of health or his or her lawful designee.

2.6. Family Day Care Facility. -- Any facility which is used to provide nonresidential child care for compensation for seven (7) to twelve (12) children, including children who are living in the household who are less than six (6) years of age. No more than four (4) of the total number of children may be less than twenty-four (24) months of age.

2.7. Health Officer. -- The state director of the division of health or the executive officer of the local board of health or his ~~duly-authorized~~ or her lawful representative.

2.8. Permit. -- A written document, issued by the ~~department~~ division of health giving a designated person permission to operate, construct, extend, alter or modify a building or structure to be used, or being used, as a child care center.

2.9. Person. -- Individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency or any entity recognized by law.

~~2.10. State Director of Health. The administrative head and chief executive officer of the state board of health or his duly authorized representative.~~

~~3.6. Child Care Center. Any child care facility receiving seven or more children for all or part of a day. The term shall be construed to mean day care center, day nurseries, nursery schools, kindergartens, play groups, night time care facilities, or centers or workshops for the mentally or physically handicapped.~~

~~3.7. Construct. The term construct shall also be construed to mean and include the terms extend, alter, and modify.~~

§64-21-3. Permits, Hearings, Notices, Orders.

3.1. Construction and Modification.

~~3.1.a. On and after March 15, 1974, the date these regulations became effective~~ Except for minor repairs, no person shall construct a building or structure to be used as a child care center, or extend, alter or modify any structure used as a child care center without first making written application to the ~~state department~~ division of health and having received a permit for same. Construction, extension, alteration, or modifications shall not commence until a permit has been obtained for ~~such~~ that purpose from the ~~state department~~ division of health.

3.1.b. A permit for the construction of a child care center shall not be issued until an application for a construction permit and detailed plans and specifications of the child care center have been submitted to the ~~state department~~ division of health for review and approval.

3.1.c. An application for a permit shall be made in writing and submitted to the division of health on a form prescribed by ~~that agency, the director.~~ The form shall be signed by the applicant or his or her authorized agent, and shall contain such the information as may be requested by the state department division of health to enable it to determine if the child care center construction is in compliance with all applicable provisions of these regulations this rule.

3.1.d. When upon review of the plans, specifications, and application for a permit, the ~~state department~~ division of health is satisfied that the proposed construction of the child care center is satisfactory, a permit shall be issued. If the construction activities have not commenced within six (6) months from the date of issuance of a permit, ~~said the permit shall automatically expire~~ expires.

3.1.e. The application, plans, and specifications shall include, but not be limited to: a plot layout, floor plans, building or specifications, type of material used, a list of food service equipment, the type of potable and waste water treatment systems and the type of heating and ventilation systems.

3.1.f. Applications for plan approval and permit shall be made at least forty-five (45) days prior to the date that construction is to begin.

3.1.g. The ~~state department~~ division of health shall deny permission to construct, extend,

alter, or modify the building or structure, if the information on the application, plans, specifications or supporting information is incomplete, inaccurate, false or misleading or indicates that the applicable provisions of this ~~regulation~~ rule cannot be met.

3.1.h. The child care center shall only be constructed, extended, altered or modified in accordance with the plans and specifications as approved by the ~~state department~~ division of health. Any deviation from the approved original plans or specifications ~~must~~ shall be submitted in writing to the ~~state department~~ division of health for review and written approval obtained before ~~such~~ the changes are made.

3.2. Permit to Operate.

4.2.1. 3.2.a. ~~On and after March 15, 1974, the date these regulations became effective, No person directly or indirectly shall in any manner conduct, control, manage, maintain, or operate a child care center unless said the person has in his or her possession a valid permit by the health officer to operate such a specific child care center.² The required permit to operate shall in no way affect or preclude the requirement that a license to operate a child care center must be obtained from the child care center licensing board, West Virginia department of welfare. Licenses are issued based upon approval of the facility by the state department of health, state fire marshal's office and state department of welfare.~~

3.2.b. An application for a permit to operate a child care center shall be made in writing to the health officer, on a form prescribed by the ~~state department~~ division of health, signed by the applicant or his or her authorized agent and shall contain ~~such~~ information as may be requested by the health officer to enable him or her to determine that the facility and its operation is in compliance with the applicable provisions of ~~these regulations~~ this rule.

3.2.c. The application for a permit shall be made at least fifteen (15) days before the actual or proposed operation of ~~said the~~ child care center is to be effected.

3.2.d. The health officer shall deny a permit if the information on the application form is incomplete, inaccurate, false or misleading or indicates that the applicable provisions of ~~these regulations~~ this rule cannot be met.

3.2.e. Only persons who comply with the applicable provisions of ~~these regulations~~ this rule are entitled to retain a permit.

3.2.f. Child care centers in operation at the time ~~these regulations became~~ this rule becomes effective, and ~~meeting which meet~~ all applicable prior ~~regulations~~ rules, shall be ~~deemed to be~~ eligible for a permit to operate. ~~Provided, that~~ Any construction, extension, modification or alteration taking place after the effective date of ~~these regulations~~ this rule in child care centers permitted under this subsection shall ~~be in compliance~~ comply with all applicable provisions of ~~these regulations~~ this rule.

² The permit issued under this rule is one of several approvals required in order for a child care center (a day care center, a family day care facility, or other type of child care center) to obtain a license or certification to operate issued by the division of human services.

64 CSR 21

3.2.g. Child care centers put into operation after the effective date of ~~these regulations~~ this rule shall comply in full with all applicable provisions of ~~these regulations~~ this rule.

3.2.h. Permits ~~shall~~ are not be transferable or assignable and ~~shall~~ automatically become invalid upon a change of ownership or upon suspension or revocation.

3.2.i. A permit to operate ~~shall expire~~ expires at midnight on the 31st day of December following the date of issuance.

3.2.j. In the event of an intended change or actual change in ownership of a child care center, an application for a permit to operate shall be made at least fifteen (15) days prior to the date the proposed or actual change is effected.

3.2.k. A permit may be suspended or revoked by the health officer, if it is found that the child care center is being maintained or operated in violation of ~~these regulations~~ this rule or any applicable law, rule or ordinance ~~applicable thereto~~.

3.2.l. A permit to operate shall not be reinstated until an inspection by the health officer determines that the child care center is in compliance with all applicable provisions of ~~these regulations~~ this rule and any orders, rules or instructions issued by the health officer.

3.2.m. Operational permits shall be posted in a conspicuous place within the child care center, and ~~said~~ the permit shall be readily available to the health officer.

3.3. Hearings, Notices and Orders.

3.3.a. Any person whose application for the construction, extension, alteration, or modification of a child care center has been denied may petition and shall be granted a hearing on the matter within ten (10) days after the ~~state director of health~~ officer has received a written petition requesting a hearing.

3.3.b. Any person whose application for a permit to operate a child care center has been denied, or whose permit has been suspended or revoked may petition and shall be granted a hearing on the matter within ten (10) days after the health officer has received written petition for ~~such~~ the hearing.

3.3.c. Notwithstanding the other provisions of ~~these regulations~~ this rule, whenever the health officer finds at a child care center insanitary or other conditions that may constitute an immediate or substantial hazard to public health, he or she may, without warning notice or hearing, issue a written order to the operator, citing ~~such~~ the conditions, specifying the corrective action to be taken and the time period in which ~~such~~ the action shall be completed. When ~~deemed~~ necessary, ~~such~~ the order shall state that the permit to operate is immediately suspended.

§64-21-4. Inspections.

4.1. Each child care center shall be inspected at least once each six (6) months. The health officer shall also make ~~such~~ additional inspections ~~as he deems necessary~~ needed to determine

64 CSR 21

satisfactory compliance with the provisions of ~~these regulations~~ this rule and any orders, notices, instructions, or specifications issued pursuant ~~thereto~~ to this rule.

4.2. Any consecutive violation of the same item or items of ~~these regulations~~ this rule, may be considered as just cause for the immediate suspension of a permit to operate.

4.3. A copy of the inspection report shall be posted within the child care center.

4.4. The owner, operator or person in charge of a child care center, shall provide the health officer with free access to the entire premises for the purpose of inspection, and shall furnish all requested information to make the inspection complete.

§64-21-5. General Requirements - Building.

5.1. Child care centers shall be located in a relatively noise and pollution free environment.

5.2. Child care center buildings or structures shall be of sound structure and maintained in good repair.

~~6.3. New installation shall not be located in a basement or below ground level without the expressed written consent of the state director of health.~~

5.3. Floors, walls and ceiling shall be of easily cleanable construction.

5.4. Toilet rooms and areas housing food service facilities shall have moisture-resistant, nonabsorbent floors.

5.5. Toilet rooms and areas housing food service facilities shall have water-resistant walls to a minimum level of four (4) feet above floor level.

5.6. Toilet rooms and areas housing food service facilities shall provide a coved juncture between the floor and wall.

~~6.8. All carpeting shall be of the type approved by the state fire marshal's office.~~

5.7. Carpeting shall not be used in toilet rooms or areas housing food service facilities.

5.8. All painted surfaces shall be free of lead pigment ~~or~~ and other toxic materials.

5.9. ~~Child care center housing shall not provide less than~~ Useable floor space of thirty-five (35) square feet per child shall be provided and available for children's activities, exclusive of halls, bathrooms, kitchen, office space, or storage areas.

5.10. All rooms shall have approved ventilation either by natural or mechanical means.

5.11. All plumbing shall meet the requirements of local plumbing codes or ordinances, or in the absence thereof, the ~~national plumbing~~ state building code.

64 CSR 21

- 5.12. Cross-connections and potential backsiphonage possibilities are prohibited.
- 5.13. Sewage and excreta disposal systems shall comply in full with ~~the state board of health applicable small sewage and excreta disposal systems regulations rules.~~
- 5.14. Sewage and excreta disposal systems shall be kept in good repair and properly maintained and operated.
- 5.15. All water supply systems shall comply in full with the current standards and requirements issued by the ~~state department~~ division of health.
- 5.16. Hot and cold running water, with a minimum pressure of twenty (20) p.s.i. shall be provided in all areas where food is prepared, at all hand washing facilities, and all other applicable areas.
- 5.17. Drinking fountains, if provided, shall be of the angle-jet type with a non-oxidizing mouth guard.
- 5.18. Drinking fountains shall be easily accessible to the children and the water pressure at ~~such~~ the fountains shall be properly regulated.
- 5.19. Drinking fountains, if provided, shall be at the ratio of one (1) per each forty (40) children or fraction thereof.
- 5.20. Drinking cups ~~must~~ shall be dispensed from an approved sanitary single service dispenser. This does not preclude the use of properly washed and sanitized glasses.
- 5.21. All buildings or structures shall be of rat-proof construction.
- 5.22. All doors opening to the outside shall be close-fitting. Screen doors or doors used in lieu thereof shall be self-closing.
- 5.23. All openings to the outer air shall be effectively protected against the entrance of insects.
- 5.24. The child care center shall be ~~kept~~ free of insects and rodents at all times.
- 5.25. Only those insecticides and rodenticides approved by the ~~state department~~ division of health shall be used in child care centers.
- 5.26. All garbage and refuse shall be stored in approved watertight and vermin-proof containers.
- 5.27. When not in constant use, ~~all such~~ garbage and refuse containers shall be covered with tight-fitting lids.
- 5.28. Garbage and refuse shall be removed from the premises weekly, or more often, if

necessary.

5.29. A concrete platform or a metal rack ~~shall be~~ is required for outside storage of garbage and refuse containers.

5.30. Garbage and refuse containers shall be cleaned after each emptying.

5.31. If garbage can cleaning operations are conducted outside, then a frost-proof hose bibb shall be provided.

~~6.17.7. Disposal of garbage and refuse must be in compliance with the state board of health solid waste regulations.~~

5.32. Child care centers shall be equipped with approved heating units sufficient to provide and maintain a temperature of 68 - 70°F at floor level in all applicable rooms.

Ed. Note: An alternate temperature range of 65 degrees to 68 degrees is under consideration.

5.33. Unguarded open-face heaters are prohibited.

5.34. Oil and gas fired heating devices shall be properly vented to the outside air.

5.35. Shielding or other effective means shall be used to protect the children from direct contact with radiators, registers, hot water pipes and similar hazards.

5.36. ~~Thermometer shall be provided in~~ All rooms used by children ~~and shall be~~ shall have a thermometer which shall be located approximately thirty (30) inches above floor level. Thermostats are not acceptable in lieu of thermometers.

5.37. Play and activity surfaces shall have a minimum of fifty (50) foot candles of illumination at floor level. All other areas shall have at least thirty (30) foot candles of illumination at floor level.

5.38. Lighting may be by either natural or artificial means or both.

5.39. All light bulbs and fluorescent tubes ~~must~~ shall be protected by effective shields.

5.40. Toilet rooms shall be provided and shall be easily accessible to children.

5.41. One (1) flush toilet and one (1) lavatory shall be provided for each fifteen (15) children or fraction thereof.

5.42. Toilet fixtures shall be sized so that they may be used by children without assistance, ~~or Provided: step stools that are properly constructed for safety and cleanability~~ which are safely constructed and can be cleaned easily may be used in lieu of ~~proper~~ specially sized toilet fixtures.

64 CSR 21

~~6.20.4. Toilet room shall not open directly into any room housing food service facilities.~~

~~6.20.5. Toilet room doors shall be self closing.~~

~~6.20.6. Toilet room doors, if louvered for make-up air, shall be screened with 16 mesh or finer screen, or the louver constructed in such a manner as to prevent the entrance of insects and vermin.~~

5.43. Lavatories shall be provided in or immediately adjacent to all toilet rooms. Each lavatory shall have mixing faucets, or be provided with tempered water. All lavatories shall be provided with soap and single service sanitary towels.

5.44. Waste receptacles shall be provided for used paper towels adjacent to lavatories.

5.45. ~~Adult employee~~ If provided, separate adult employee restrooms shall have a minimum of one (1) flush toilet. At least one (1) lavatory shall be located within the toilet room or immediately adjacent thereto.

5.46. Adult employee restrooms shall meet requirements of Sections 5.43 through 5.44 of this rule.

5.47. All restrooms shall have a covered waste container.

5.48. If night time care is provided, a bathtub or shower shall be provided as well as age appropriate bathing facilities for children of toddler age or younger. No child under age six (6) shall be left unsupervised while bathing. Soap and clean, individual washcloths and towels shall be provided for each child.

5.49. Diaper changing, ~~if applicable,~~ shall be done in an area where approved hand washing facilities are readily accessible.

5.50. Diaper changing shall be done in an area and on an approved surface provided with a clean cover prior to each use. Diapers shall be changed on a clean, safe surface. The surface shall be sanitized after each use or shall be covered with a disposable paper sheet which is disposed of after each diapering. After diaper changing, both the child's and the employee's hands shall be washed.

5.51. Feces from soiled diapers shall be disposed of through the regular sewage disposal system.

5.52. Soiled diapers, if reusable, shall be stored in nonabsorbent, easily cleanable covered containers with plastic liners. ~~Said~~ The containers shall be emptied, cleaned and disinfected daily, or more often if conditions warrant.

5.53. Soiled disposable diapers shall be stored in a nonabsorbent, easily cleanable covered container with a plastic liner. ~~Said~~ The container shall be emptied, cleaned and disinfected daily or ~~oftener~~ more often, if necessary to keep it covered. The plastic liner containing the diaper

shall be disposed of along with garbage and refuse in a manner acceptable to the health officer.

5.54. Toilet training chairs, ~~where applicable,~~ shall be of easily cleanable construction and shall be thoroughly cleaned and disinfected after each use. Approved facilities for emptying, cleaning, and disinfecting toilet training chairs shall be provided and used.

5.55. Approved storage facilities shall be provided for, but not limited to the following items: food stuffs, utensils, toys, work materials, cleaning supplies, clothing, linens, medicines, toxic materials, and all items which may be hazardous to children. Poisons and other potentially hazardous items shall be kept in locked cabinets. Empty food containers shall not be used for storing ~~of~~ toxic materials, poisons, medicines, and similar items.

5.56. All activity equipment shall be free of safety hazards, shall be of smooth construction and where applicable, easily cleanable. Activity equipment shall include, but not be limited to, toys, furnishings, tables, chairs, cots and similar equipment.

5.57. ~~Outdoor activity areas shall be well drained, free of safety hazards, and shall be enclosed by a fence or other suitable barrier. Usable outdoor play space of seventy-five (75) square feet per child shall be provided on the premises or within walking distance of the facility. Play times may be staggered and space may be based on the number of children using the area at one (1) time. Outdoor play spaces shall be well drained, free of safety hazards, and shall be fenced or have natural barriers such as hedges or stationary walls at least three (3) feet high.~~

5.58. Supports for equipment used for climbing and similar play activities shall be securely fastened to the ground.

5.59. Wading pools ~~shall be~~ are prohibited unless they are an integral part of a swimming pool ~~meeting the state board of health swimming pool and bathing place regulations which meets the division of health's rule, Swimming Pool and Bathing Beach, 64 CSR 16.~~

5.60. All areas and equipment of the child care center shall be kept clean and in good repair and in a neat and orderly condition at all times.

5.61. Rooms shall not be routinely cleaned while occupied by children.

§64-21-6. Food Service Facilities.

~~6.1. Food service facilities~~ Child care centers shall comply with the ~~state board~~ the division of health's rule, Food Service Sanitation Rules, 64 CSR 17, except as specified in Section 6.2 of this rule.

6.2. Family day care facilities may use an on-site kitchen which complies with the following requirements:

6.2.a. All food preparation, service and storage areas, and all equipment and utensils shall be kept clean and in good repair;

64 CSR 21

6.2.b. Food contact surfaces of equipment and utensils shall be non-toxic, easily cleanable, and cleaned and sanitized after each use;

6.2.c. Dish washing facilities shall be provided and methods utilized to effectively remove food soil and sanitize dishes, utensils and equipment. Except for fixed equipment and utensils too large to be cleaned in sink compartments, dishes, utensils and equipment shall be washed in an automatic dishwasher, or washed in a hot detergent solution, rinsed free of detergent and abrasives, and sanitized by one of the following methods:

6.2.c.1. Immersion for at least thirty (30) seconds in water at a temperature of one hundred degrees (100°) Fahrenheit;

6.2.c.2. Immersion for at least one (1) minute in water at a temperature of at least seventy-five (75) degrees Fahrenheit and containing fifty (50) parts per million of available chlorine (approximately one (1) tablespoon liquid household bleach per gallon of water); or

6.2.c.3. Immersion in a clean solution containing any other approved chemical sanitizing agent;

6.2.d. Dishes, utensils and equipment shall be air dried;

6.2.e. Food shall be in sound condition, free from spoilage, filth or other contamination and shall be obtained from approved sources. Home-canned food is prohibited except for jams, jellies, preserves, apple butter, syrup and honey. Fluid milk and milk products shall be pasteurized and packaged in an approved milk processing plant;

6.2.f. Adequate refrigeration equipment shall be provided and used for perishable foods and shall be capable of maintaining food temperatures at forty-one (41) degrees Fahrenheit or below;

6.2.g. Food shall be prepared in a sanitary manner and protected at all times from potential contamination, including dust, insects, rodents, unnecessary handling, coughs and sneezes, overhead leakage, and unclean equipment and utensils;

6.2.h. Potentially hazardous foods, such as beef, poultry, and eggs, shall be thoroughly cooked;

6.2.i. Prepared foods shall be served immediately, refrigerated, or held at one hundred forty (140) degrees Fahrenheit or above;

6.2.j. Food service workers shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting to work, during work as often as is necessary to keep them clean, and after smoking, eating, drinking, or using the toilet; and

6.2.k. Food service workers shall employ good hygienic practices, shall wear clean clothing and hair restraints, and shall not use tobacco products in the food preparation and service areas.

§64-21-7. Laundry.

7.1. Laundry, if done on the premises, shall be done in a separate room designed for that particular purpose. Laundry may not be done in children's activity areas or in food preparation, service or storage areas.

7.2. Soiled laundry shall be stored in nonabsorbent easily cleanable covered containers.

7.3. Soiled and clean laundry shall not be stored or placed in the same container or on a common table or shelf.

7.4. Washing machines shall be installed so that no backsiphonage possibilities exist.

7.5. Clean laundry shall be stored in ~~such a manner so as not to become~~ to protect it from being soiled or contaminated prior to use.

7.6. ~~Laundry shall be done in wash water having a temperature of at least 140°F. A chemical sanitizer shall be added to the rinse water and the laundry air dried; or if the laundry is done by automatic/mechanical washer and dryer, washing shall be accomplished at a temperature of 140°F or higher and the laundry tumble dried at 160°F or higher until dried. Laundry shall be: mechanically washed and dried; or mechanically washed, rinsed in a chemical sanitizing solution, and air-dried.~~

§64-21-8. Bedding and Sleeping Area.

~~9.1. Individual cribs or cots, mattresses and bedding shall be provided for each child. (See department of welfare standards.)~~

~~9.2. Bedding shall be kept clean and sanitary at all times.~~

~~9.3. If mattresses are used, mattress pads and water proof covers shall be required.~~

~~9.4. Individual bedding shall be changed once per week or more often if necessary.~~

~~9.5. Cribs, cots, or mattresses shall be a minimum of twenty-four (24) inches apart on all sides while in use.~~

~~9.6. Double decker beds are prohibited.~~

~~9.7. Each child's bedding shall be properly identified and used only for that particular child.~~

8.1. Each child who naps shall be provided with an individual bed, sturdy cot, crib, couch, baby bed, playpen, or mat. In family day care facilities, siblings may share double beds.

8.2. For infants who are not yet able to climb, separate cribs shall be provided. Cribs shall be spaced a minimum of twenty-four (24) inches apart on all sides. Bars on cribs shall be no farther apart than two and three-eighths (2 3/8) inches, and crib sides shall be secure and high enough to prevent accidents.

64 CSR 21

8.3. Individual sheets and covers shall be provided for each child and shall be laundered at least weekly or whenever soiled or prior to use by another child.

8.4. Mattresses, mats, cots, and other sleeping surfaces shall be water-proof or a water-proof cover shall be used.

8.5. Double decker beds are prohibited.

§64-21-9. Safety.

9.1. All necessary precautions shall be taken to insure an accident-free environment for the children. ~~Such precautions shall include, but not be limited to the following:~~

9.2. Children shall be ~~closely~~ supervised at all times, indoors and out, in accordance with the requirements with the requirements of the division of human services.

9.3. Stairways, walks, corridors and all other areas of the child care center shall be free of ice, snow, physical obstructions, or any other item which may be a safety hazard.

9.4. A first aid kit shall be provided on the premises and shall be readily available at all times. Minimum contents shall include, but not be limited to, an approved disinfectant, sterile cotton and gauze bandages, and adhesive tape.

§64-21-10. Animals.

10.1. ~~With the following limitations,~~ Animals ~~may be~~ are permitted on child care premises.

10.2. Animals and their quarters shall be kept in a clean condition at all times.

10.3. Wild, dangerous or obviously ill animals are prohibited.

10.4. If animals are kept indoors at night, the area in which they are kept shall be maintained at a minimum temperature of sixty (60) degrees Fahrenheit.

10.5. Animals kept indoors shall be kept in the children's activity room or other areas approved by the health officer.

10.6. Aquariums ~~shall be~~ are permitted. ~~Provided:~~ Aquariums ~~are~~ shall be under the supervision of the child care staff, ~~are~~ located in the activity areas and ~~are~~ kept out of reach of children.

~~11.1.6. Dogs and cats may be~~ are permitted. ~~Provided:~~

a. ~~There is only one dog or one cat per child care center;~~

10.7. ~~The dog is~~ Dogs shall be at least six (6) months old and ~~the cat~~ cats at least three (3) months old. ~~and both are~~ Both dogs and cats shall be currently vaccinated against rabies,

distemper, hepatitis, and leptospirosis.

10.8. The outdoor quartering areas of ~~the dog or cat is~~ both dogs and cats shall be complete and separate from children's outdoor activities areas.

10.9. Live animals, including birds and turtles, shall be excluded from food preparation, storage, serving areas, and in-use dining areas. This exclusion does not apply to edible fish, crustacea, shellfish, or to fish in aquariums. Animal litter boxes may not be located in food preparation, storage, or serving areas, or in reach of children.

§64-21-11. Employee Health Requirements.

11.1. All staff members shall wear clean outer garments, maintain a high degree of personal cleanliness, and conform to good hygienic practices while on duty.

11.2. Staff members shall wash their hands thoroughly in an approved lavatory before starting work, after diaper changing activity, and otherwise as often as ~~may be~~ necessary to remove soil and prevent contamination.

11.3. No staff member shall resume work after visiting the toilet room without first washing ~~their~~ his or her hands.

11.4. Staff members shall not use tobacco in any form while engaged in any food service activities, ~~or while feeding children or administering to their~~ the children's needs.

11.5. Smoking is prohibited in children's living and activity areas.

11.6. No staff member while affected with any disease in a communicable form, or while a carrier of such a disease, or while affected with boils, infected wounds, sores, or a respiratory infection shall work in any capacity in which there is likelihood of ~~such~~ the persons ~~staff member~~ transmitting disease to other persons; and no person known or suspected of being affected with any ~~such~~ disease or condition shall be employed in any ~~such~~ area or capacity.

11.7. All persons engaged in food service activities shall have valid food handler permits.

~~§64-21-13. Repeal of Former Regulations.~~

~~All regulations, previously adopted by the state board of health, which are in conflict with the provisions of these regulations, are hereby repealed.~~

~~§64-21-14. Severability.~~

~~If any provisions of these rules or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions or the application of these rules which can be given effect without the invalid provisions or application, and to this end the provisions of these rules are declared to be severable.~~

§64-21-12. Penalty for Violating Provisions of Regulations.

12.1. Any person who violates any provision of ~~these regulations~~ this rule shall be is guilty of a misdemeanor and shall upon conviction be punished by a fine of not more than two hundred dollars (\$200) or by imprisonment for not more than thirty (30) days or both fine and imprisonment.

12.2. Each day's failure to comply with any applicable provision of ~~these regulations~~ this rule constitutes a separate offense.

§64-21-13. Administrative Due Process. -- Those persons adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so as prescribed in the division of health's administrative rule, Rules of Procedure for Contested Case Hearings and Declaratory Rulings, 64CSR 1.

§64-64-14. Severability. -- The provisions of this rule are severable. If any provision of this rule is held invalid, the remaining provisions remain in effect.