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(d) In AS 47.05.300(a),

(1) “certified” means certified under 7 AAC 43.1090;

(2) “eligible to receive payments” has the meaning given “eligibility to receive payments” under (a) of this section.

7 AAC 10.1000

7 AAC 10.1000. Purpose and applicability.

(a) The purpose of 7 AAC 10.1000 - 7 AAC 10.1095 is to protect public health, safety, and welfare by establishing environmental health and safety standards for entities listed in (b) of this section that are in addition to the requirements of 7 AAC 50, 7 AAC 57, and 7 AAC 75, as applicable.

(b) Subject to (c) of this section, to be licensed by the department, the following entities are subject to the applicable requirements of 7 AAC 10.1000 - 7 AAC 10.1095:

(1) a residential child care facility, including a residential group home and a residential child care center;

(2) a foster home or a foster group home;

(3) a residential psychiatric treatment center;

(4) a maternity home;

(5) a child care facility required to be licensed under AS 47.32 and 7 AAC 57;

(6) an assisted living home.

(c) If an entity is licensed for more than one category of care listed in (b) of this section, the entity is subject to the most stringent requirements applicable to those categories of care, even if an exemption might apply if licensed separately.

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7 AAC 10.1002

7 AAC 10.1002. Caregivers.

For purposes of 7 AAC 10.1000 - 7 AAC 10.1095, a caregiver is an individual in an entity whose duties include care, contact, and supervision of adults or children in care. A caregiver does not include

(1) a parent or other relative of an adult or child in care, unless the parent or other relative is a caregiver or a member of the licensee's household;

(2) a parent's designee to drop off and pick up a child in care, unless the designee performs the duties of a caregiver;

(3) an official or individual providing support services to the entity or to an adult or child in care for fewer than five hours a week, such as an infant learning teacher, an attendant for a child identified as having special needs under 7 AAC 57.940, a licenser, a fire marshal, or a food service sponsor;

(4) an employee of a delivery service who makes deliveries to the entity;

(5) installation, maintenance, and repair service personnel who are present in the entity for less than two weeks;

(6) an individual with an ownership or management interest in the entity who makes only occasional visits;

(7) an occasional guest in the entity;

(8) an individual residing in any part of the premises that house an entity, if the individual remains or intends to remain in the residence for less than 45 days, in total, in any 12-month period, and does not perform the duties of a caregiver; or

(9) an individual coming into incidental contact with adults or children in care during an outing away from the entity.

7 AAC 10.1005

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7 AAC 10.1005. Pre-licensing inspection.

Subject to AS 47.32.050, before deciding whether to issue a license to an entity listed in 7 AAC 10.1000(b), the department may inspect the entity to determine whether the entity is maintained in a manner protective of life, health, safety, and welfare with respect to

(1) bedrooms for an entity licensed to provide 24-hour or overnight care;

(2) exits to the outside of the building;

(3) smoke detectors, carbon monoxide detectors, and fire extinguishers;

(4) storage and disposition of combustible waste material;

(5) portable heating mechanisms, if any; and

(6) other applicable requirements of this chapter or another applicable statute or regulation.

7 AAC 10.1010

7 AAC 10.1010. Life and fire safety.

(a) An entity listed in 7 AAC 10.1000(b) must comply with the applicable life and fire safety requirements of this section and any additional or more stringent applicable standards established by a municipality to which the state fire marshal has deferred building fire safety inspection and enforcement activities under 13 AAC 50.075(c).

(b) An entity must meet the requirements of (c) of this section if the entity provides

(1) 24-hour or nighttime care for six or more adults or children; in this paragraph, "nighttime care" means care between the hours of 10:00 p.m. and 6:00 a.m.; or

(2) less than 24-hour care for six or more children, including the caregiver's children who are under age 12 or of limited mobility.

(c) An entity described in (b) of this section must

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(1) meet the standards for life and safety specified in 13 AAC 50 and 13 AAC 55; the entity shall keep any information required by those standards available for department inspection;

(2) obtain any applicable state or municipal building code approval; that approval must also be obtained before making a modification to a licensed entity if the modification is one that requires that approval; for purposes of this paragraph, a state building code approval is an approval required under 13 AAC 50.027 and 13 AAC 55; and

(3) obtain a fire safety inspection report from each state or municipal authority responsible for those inspections, and continue to obtain those reports every two years, or more often if required by the authority; the entity is responsible for any fee charged by the authority for each inspection.

(d) At the time of licensing, the department will inspect an entity licensed to provide care for five or fewer adults or children to determine if the entity meets the applicable requirements of this section. Based on the inspection, or if the department determines that it is necessary for purposes of public health, safety, or welfare, the department will request an advisory inspection report from one or more state or municipal building or fire safety authorities. The entity is responsible for any fee charged by the authority for each inspection.

(e) An entity must have a disaster preparedness and emergency evacuation plan that

(1) includes evacuation procedures that will ensure the complete evacuation of

(A) children in care, including children with limited mobility, within 150 seconds; or

(B) adults in care, including adults with limited mobility, as follows:

(i) if the entity does not have an automatic sprinkler system, the plan must ensure complete evacuation will be accomplished within three minutes;

(ii) if the entity has a central fire alarm system and an automatic retardant sprinkler system, the plan must ensure complete evacuation will be accomplished within 13 minutes;

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(iii) if the entity has a central fire alarm system and an automatic suppressant sprinkler system, the plan must ensure evacuation will be accomplished as necessary under the circumstances;

(iv) if the entity has a central fire alarm system, and has a safe location that is remote or separated from the effects of any fire and to which the adults may be safely evacuated, the plan must ensure evacuation will be accomplished as required by the state or municipal fire safety authority responsible for inspecting the entity;

(2) describes in detail the procedures that will be followed for the complete evacuation of the entity, including specific procedures, as applicable, for

(A) children under 30 months of age;

(B) adults or children with limited mobility; and

(C) adults or children who otherwise may need assistance in an emergency, including an adult or child who is mentally, visually, or hearing impaired;

(3) includes procedures for other emergency situations or natural disasters that may affect the entity, including, as appropriate, tsunamis, flooding, and earthquake emergencies;

(4) provides for drills to be conducted as required by (f) of this section;

(5) requires

(A) training of all employees in implementing the plan; and

(B) participation of all employees who are on duty during the scheduled drill; and

(6) for an assisted living home, provides that the procedures developed in the plan will be reviewed with each adult in care or that adult's representative before the adult begins to receive care.

(f) An entity shall conduct emergency evacuation drills as required in this subsection. Subject to

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(g)(6) and (7) of this section, a drill may be postponed or modified during severe weather. The entity shall conduct a drill at least

(1) once each month if the entity is

(A) licensed to provide care for children younger than age 12;

(B) a residential child care facility; or

(C) a maternity home; or

(2) once every three months if the entity is

(A) a foster home where children in care are age 12 or older and have been in care at the entity for at least three months; or

(B) an assisted living home, for each shift at the assisted living home; complete evacuation of the home must occur at least once each year for each shift unless the entity conducts evacuations as described under (e)(1)(B)(iii) or (iv) of this section and has an emergency evacuation plan approved by the state fire marshal or a municipality to which the fire marshal has deferred building fire safety inspection and enforcement activities.

(g) An entity shall make and retain a record of each required evacuation drill and make the record available to the department upon request. The record must include

(1) the date and time of the drill;

(2) the name of each employee on duty at the time of the drill;

(3) the name of each adult or child in care who was present at the time of the drill but did not participate in the drill, and the reason for nonparticipation;

(4) the amount of time required to complete the drill;

(5) a critique of the drill as described in (h) of this section; the requirement for including a

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critique does not apply to a foster home or foster group home, but the home shall include a brief evaluation of the evacuation;

(6) documentation of the reason for any postponement under (f) of this section, and the rescheduled date to conduct the postponed drill; and

(7) documentation of the reason for any modification under (f) of this section, and a description of the nature of the modification.

(h) The critique required by (g)(5) of this section must include

(1) a review of actions taken by each employee;

(2) a review of responses by adults or children in care during drill;

(3) an evaluation of whether existing policies were followed and, if not, an explanation of why a policy was not followed;

(4) an evaluation of whether the policies followed were effective and, if not, a description of how any policy will be revised for future drills;

(5) for any critique that indicates a drill was ineffective in any way, an identification of factors contributing to an ineffective drill; and

(6) any suggestions for improving future drills.

(i) If an emergency affects an entity, the entity shall notify the department by telephone, facsimile, or electronic mail no later than the following working day and shall, within five working days, submit a detailed written report to the department that includes the following:

(1) the date and time of the emergency;

(2) a description of the nature of the emergency;

(3) a description of how the evacuation was achieved, including the amount of time

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necessary to achieve evacuation;

(4) a critique of the evacuation that includes the information required under (h) of this section; except as provided in 7 AAC 10.1000(c), the requirement for including a critique does not apply to a foster home or foster group home, but the home shall include a brief evaluation of the evacuation;

(5) if the entity is a residential facility, and if the emergency rendered any part of the facility unsafe for occupancy, a description of how the entity will protect residents until the facility is safe for occupancy.

(j) In addition to the first aid kit required under 7 AAC 10.1075, an entity shall maintain one disaster kit that includes

(1) at least one flashlight and batteries;

(2) at least one battery-operated radio and batteries;

(3) potable water;

(4) nonperishable food; and

(5) blankets.

(k) An entity that uses oil, wood, natural gas, or propane as a heating or cooking fuel shall ensure that an operating carbon monoxide detector is installed within each sleeping area, or no more than three feet from the entrance to that area, and is regularly inspected, tested, and serviced. In addition, if the entity is in a multi-level facility, at least one operating carbon monoxide detector must be installed on each level.

(l) An entity licensed to provide care for five or fewer adults or children shall ensure that

(1) the building occupied by the adults or children in care has at least two means of emergency escape that are remote from each other and that provide unobstructed access to the outside of the building; at least one means of emergency escape must be an exterior door; if one of the means of emergency escape is a window, the window must comply with

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the requirements of (3) of this subsection; an entity that is located in a single-family dwelling with only one exterior door may not provide care for more than five children, including children who are relatives of the administrator or foster parent unless the department approves an additional means of egress;

(2) the building occupied by the adults or children in care has at least one means of escape from any basement directly to the outside at or near ground level, if adults or children in care occupy the basement for any part of the day;

(3) unless prohibited by the state fire marshal for a window 20 feet or more above ground level, each bedroom has at least one fully-opening window that provides escape directly to the outside and that meets the following requirements:

(A) the finished sill height may not exceed

(i) 44 inches above the floor; the department will allow an entity to meet this requirement through the provision of a permanently installed step, the top of which is no more than 44 inches from the sill, if the step does not create a tripping hazard, block wheelchair access in the bedroom, or block a heating element; any request for a variance of the sill height requirement must be accompanied by written approval from the state fire marshal; or

(ii) 48 inches above the floor for a foster home or foster group home licensed under 7 AAC 50 on or before June 23, 2006, or an assisted living home licensed under 7 AAC 75 on or before June 23, 2006, if the home does not already meet the standard in (i) of this subparagraph; the home must meet the standard in (i) of this subparagraph if the bedroom is remodeled or a new bedroom is constructed;

(B) the net clear openable area must be a minimum of 5.7 square feet; for purposes of this subparagraph,

(i) the net clear openable height may not be less than 24 inches; if the height is 24 inches, the width may not be less than 34.25 inches; and

(ii) the net clear openable width may not be less than 20 inches; if the width is 20 inches, the height may not be less than 41.25 inches;

(4) a window screen is not used if it permanently prevents exit or if it cannot be easily

removed for exit;

(5) the entity is free of any accumulation of combustible waste material and other fire hazards in or around the premises;

(6) at least one AC primary powered smoke detection device with battery backup, or at least one monitored battery powered smoke detection device, is located in each bedroom; in addition, if the entity is in a multi-level facility, at least one smoke detection device must be installed on each level; each device required under this paragraph must be less than 10 years old, or newer if necessary to comply with the manufacturer's recommended replacement date; in this paragraph, "AC" means alternating current;

(7) at least one fully charged 2A:10BC dry chemical fire extinguisher is strategically located on each level of the facility, and is installed, inspected, tested, and serviced according to the requirements of 13 AAC 50.025(47);

(8) any flammable or combustible liquid is stored in a container with a tight-fitting lid specifically designed for holding flammable or combustible liquids, and ensure that these liquids are kept out of the reach of children, or adults with impaired judgment; and

(9) each heating device meets the applicable requirements of 7 AAC 10.1015.

#### 7 AAC 10.1015

##### 7 AAC 10.1015. Heating and heating devices.

(a) An entity shall ensure that room temperature in the facility is maintained at the following applicable draft-free temperature, adjusted as needed for the majority of adults or children in care to be comfortable:

(1) 65 degrees Fahrenheit for an entity licensed to provide care for children;

(2) 68 degrees Fahrenheit for an entity licensed to provide care for adults.

(b) The entity shall ensure that

(1) each heating device is installed and maintained in a safe and serviceable manner and is

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(A) vented to the outside if the device is fuel burning; vents or stacks leading from a heating unit must be air-tight at joints so that fumes, smoke, or unburned gases cannot pass from the device, vent, or stack into the entity;

(B) equipped with protective devices if presenting a hazard because of an exposed flame or heating element; heat sources must be shielded in a manner that prevents burn injury; the shield must be far enough from the heat source to prevent it from smoldering or burning; and

(C) not placed or located in sleeping quarters during sleeping hours, unless the entity does not have a separate sleeping area, or in exit ways or corridors at any time; and

(2) an open flame heater is not used, except for a fireplace that complies with 13 AAC 50, 13 AAC 55, and any applicable municipal building code; if a fireplace is used, it must have a protective screen or gate, and the area near the fireplace must be kept free of clutter and combustible or flammable material.

(c) The entity shall ensure that any portable electric heater is equipped with a tipover switch and is kept out of the reach of children, or adults with impaired judgment. A portable electric heater must be kept from flammable objects in accordance with the manufacturer's recommendations. The entity must develop and implement a policy that outlines the safe and proper use of portable heaters. Except as provided in 7 AAC 10.1000(c), the requirement to develop a policy does not apply to a foster home or foster group home.

7 AAC 10.1020

7 AAC 10.1020. Water supply.

(a) An entity shall provide an ample supply of potable water from a system that complies with applicable provisions of 18 AAC 80.

(b) An entity listed in 7 AAC 10.1000(b) that was licensed before June 23, 2006, has until June 23, 2007 to comply with the requirements of this section, if the entity was approved by the licensing agency to use a rain catchment system as its source of potable water.

7 AAC 10.1022

7 AAC 10.1022. Wastewater disposal.

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An entity shall provide a domestic wastewater system that complies with applicable provisions of 18 AAC 72.

7 AAC 10.1025

7 AAC 10.1025. Solid waste disposal.

An entity shall ensure that solid waste is conveyed, stored, and disposed of in a manner that

- (1) minimizes the development of odor;
- (2) prevents waste from attracting and harboring pests; and
- (3) complies with applicable provisions of 18 AAC 60.

7 AAC 10.1030

7 AAC 10.1030. Toilet facilities, sinks, showers, and bathing facilities.

(a) An entity shall ensure that plumbing in the entity is consistent with good public health practices. An entity located in a municipality with a population of 2,500 or more shall ensure that plumbing is sized, installed, and maintained as required by the applicable state plumbing code developed under AS 18.60.705 - 18.60.740, and by any applicable municipal plumbing code.

(b) Except as provided in 7 AAC 10.1000(c), the requirements of this subsection do not apply to foster homes. An entity shall provide at least the number of toilets, handsinks, and bathtubs or showers set out in the following table:

Minimum Plumbing Fixtures

Based on Average Number of Adults or Children in Care, Plus

Employees and Family Members in the Entity During Operation [FN\*]

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Type of Entity	Minimum Number of Toilets	Minimum Number of Handsinks	Minimum Number of Bathtubs or Showers
Child care center	One for 15 or fewer persons	One for 15 or fewer persons	For a center licensed to care for infants or toddlers, at least one bathtub, portable tub capable of being filled, dumped, and cleaned, or sink used only for the purpose of bathing
	Two for 16 to 30 persons	Two for 16 to 30 persons	
One additional toilet for each additional 15 or fewer persons	One additional handsink for each additional 15 or fewer persons		
Residential	One for every	One for every six	One for every six

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child care                      six persons                      persons                      persons

facility,

assisted

living home,

maternity home,

or foster group

home

[FN\*] This number is calculated based on the anticipated number of individuals who will be in the entity each day, using a six-month average. Infants are not included for purposes of calculating the number of persons in the entity.

(c) An entity shall provide and maintain clean and sanitary toilet facilities and ensure that in each toilet room

(1) at least one easily cleanable waste receptacle is provided; if soiled diapers are kept in a waste receptacle until disposed of, that waste receptacle must be covered;

(2) toilet tissue is provided from a wall-hung or protected container at each toilet;

(3) if one or more partitions are used between toilets, each partition is raised at least 12 inches from the floor and is smooth and easily cleanable;

(4) each step stool, if provided, has a nonslip tread made of a water-impervious, durable

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material;

(5) each floor and wall is covered with smooth, durable, nonabsorbent, easily cleanable material; except as provided in 7 AAC 10.1000(c), the requirements of this paragraph do not apply to a foster home or foster group home; and

(6) each toilet lid, seat, and handle and each handsink is kept clean and sanitary.

(d) The entity shall ensure that each portable tub, bedpan, and potty-chair, as applicable, is emptied into a toilet, and is cleaned and sanitized in a utility sink or another place approved by the department. The entity shall ensure that the utility sink or other area is used only for this purpose and is cleaned and sanitized after each use. Except as provided in 7 AAC 10.1000(c), the requirement of this subsection regarding segregated use of the utility sink does not apply to a foster home or foster group home.

(e) Except for a foster home or foster group home, or an assisted living home providing service for two or fewer residents, the entity shall ensure that each handsink is used only for its designated purpose and is equipped with soap and

(1) at least one accessible single-use towel dispenser or heated air hand-drying device; the entity shall ensure that towels are discarded after each use;

(2) cloth towels if each towel is laundered after each use; or

(3) individual cloth towels assigned to each adult or child in care if each towel is used only by that adult or child; the entity shall ensure that the towels are cleaned or laundered at least every seven days and before assignment to another adult or child in care.

(f) The entity shall ensure that a shower or other bathing facility is constructed with smooth, easily cleanable walls, and water-impervious, nonskid floors that slope uniformly to a drain. The entity shall ensure that the shower or other bathing facility is located in a room with mechanical or other adequate ventilation. Except as provided in 7 AAC 10.1000(c), the requirements of this subsection do not apply to foster homes or foster group homes.

7 AAC 10.1035

7 AAC 10.1035. Premises.

(a) An entity shall ensure that

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- (1) the premises and surrounding grounds are kept clean, sanitary, safe, and in good repair;
- (2) the entity is free of hazards, including splintered surfaces, sharp edges, protruding corners, broken or hazardous toys, steep stairways, ice on walkways, and unsafe play areas;
- (3) insects, rodents, and other pests are controlled and that the entity is kept free of conditions that are likely to attract or harbor pests; any pesticide use is subject to the notice and other applicable requirements of 7 AAC 10.1093; if the department determines that the entity is not adequately controlling pests, the department may require the administrator to hire a commercial pest control applicator certified under 18 AAC 90, or to take other appropriate action if a commercial pest control applicator is not available in the community;
- (4) outdoor areas are well drained and free from deep depressions that may collect standing water; if necessary to ensure the safety of adults or children in care, the department will require that an outdoor recreation area be enclosed with landscaping, a fence, or another effective barrier that prevents or deters access to a busy roadway or other potential hazard; except as provided in 7 AAC 10.1000(c), the requirements of this paragraph do not apply to a foster home or foster group home;
- (5) ventilation by natural or mechanical means is provided to keep air fresh and to prevent the accumulation of heat, steam, condensation, vapors, smoke, or fumes; openings to the outside must prevent the entrance of rodents, insects, and other pests; except as provided in 7 AAC 10.1000(c), the requirements of this paragraph do not apply to a foster home or foster group home;
- (6) walls and ceilings have smooth, durable, nonabsorbent, easily cleanable surfaces, except that rough-textured and acoustical tile ceilings are permitted in bedrooms and living rooms; except as provided in 7 AAC 10.1000(c), the requirements of this paragraph do not apply to a foster home or foster group home;
- (7) lead-based paint is not used, and any painted surface is free from flaking;
- (8) stairways and steps have handrails and nonslip treads or covering; except as provided in 7 AAC 10.1000(c), the requirements of this paragraph do not apply to a foster home or foster group home;

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(9) at any fixture that is accessible to adults or children, hot water temperature is no less than 100 degrees Fahrenheit, and no more than 120 degrees Fahrenheit;

(10) self-dispensing or metering faucets, if used, provide a flow of water for at least 10 seconds;

(11) an artificial light source is provided in each area of the entity; the light must be sufficient and appropriate for the activities performed in each area by employees, or by adults or children in care;

(12) cleaners, medicines, and other harmful substances are stored in a place that is inaccessible to children and to adults with impaired judgment; for an entity licensed to provide care for six or more adults or children, the entity must provide a closet, storeroom, or other area separate from the area where adults or children in care are present for the storage of janitorial equipment and cleaning supplies;

(13) furniture and equipment is durable, safe, easily cleanable, and is kept clean and in good repair; and

(14) at least two feet of floor space is provided between each crib, mat, or bed; except as provided in 7 AAC 10.1000(c), the requirements of this paragraph do not apply to a foster home or foster group home.

(b) An entity licensed to provide care for adults with dementia or a cognitive impairment, including adults with a history of wandering or attempting to run away, shall ensure that a method is in place to alert staff when someone exits the entity. To meet the requirements of this subsection, the entity shall install a 15-second delayed exit door with an alarm at each exit, use a wander alarm system, or use another method approved by the department. If the entity wishes to use a delayed exit door, the entity must obtain approval from the municipal fire marshal.

7 AAC 10.1040

7 AAC 10.1040. General cleaning and sanitation standards.

(a) Except as provided in (b) of this section, in addition to the other cleaning and sanitation requirements of 7 AAC 10.1000 - 7 AAC 10.1095, an entity shall ensure that

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(1) each table or highchair used for food is in good repair, is easily cleanable, and is cleaned and sanitized after each use;

(2) uncarpeted floors, low shelves, walls, door knobs, and other surfaces often touched by adults or children in care are cleaned and sanitized at a frequency to keep the surfaces clean and sanitary; in each carpeted area, the entity shall ensure that the carpet is vacuumed and shampooed at a frequency to keep it clean;

(3) each interior waste receptacle is kept clean and emptied as often as necessary to prevent overflow;

(4) any surface contaminated by a body fluid, including saliva, blood, mucus, vomit, urine, feces, and an injury discharge, is immediately cleaned and disinfected using universal precautions in accordance with 7 AAC 10.1045, including the use of gloves and the caregiver hygiene requirements of 7 AAC 10.1050(e);

(5) cleaning that may present a hazard to adults or children is done only when a room is not occupied by adults or children in care; and

(6) all bedding is laundered

(A) at least once every seven days;

(B) before assignment to another adult or child in care; and

(C) whenever soiled.

(b) Except as provided in 7 AAC 10.1000(c), the requirements of (a)(6) of this section do not apply to a foster home or foster group home.

7 AAC 10.1045

7 AAC 10.1045. Universal precautions.

An entity shall take precautions to reduce risk against the spread of a communicable, contagious, or infectious disease that could pose a significant threat to the health, safety, or welfare of adults or children in care. In addition to the applicable requirements of 7 AAC

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**10.1000 - 7 AAC 10.1095, precautions include**

- (1) seeking and complying with current medical and sanitation advice on communicable, contagious, or infectious diseases;
- (2) adopting universal precautions, including the use of gloves, to handle potential exposure to blood, blood-contaminating body fluids, and injury discharges;
- (3) training staff, if any, in universal precautions and in the prevention of communicable, contagious, and infectious diseases;
- (4) ensuring that the caregiver hygiene requirements of 7 AAC 10.1050 are met;
- (5) **encouraging children, or adults with impaired judgment, to wash their hands**
  - (A) **before food handling, preparation, serving, or table setting;**
  - (B) **before eating;**
  - (C) after toileting;
  - (D) after handling pets or other animals; and
  - (E) when hands are contaminated with a body fluid, including after nose wiping; and
- (6) encouraging children to wash their hands before and after participation in moist play, including molding clay or painting.

7 AAC 10.1050

**7 AAC 10.1050. Caregiver hygiene.**

- (a) A caregiver with a communicable disease, rash, or infection, or an acute respiratory infection, may not work in an entity in any capacity in which the caregiver likely could transmit that disease, rash, infection, or respiratory infection to an adult or child in care. The

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requirements of this subsection do not apply to a foster home or foster group home.

(b) Caregivers shall conform to good hygienic practices, including those described in 7 AAC 10.1045 and this section.

(c) A caregiver shall thoroughly wash the caregiver's hands with soap and warm running water and rinse with water

(1) before food handling, food preparation, food serving, eating, or setting a table;

(2) after toileting, diapering, or assisting with toileting or diapering;

(3) before and after assisting with toothbrushing;

(4) after handling animals, animal waste, or animal cages;

(5) before and after giving medication, except as provided in (d) of this section;

(6) before and after participation in moist play including molding clay, painting, and cooking; and

(7) whenever hands are contaminated with a body fluid, including after nose wiping.

(d) If the caregiver is administering medication to more than one adult or child and during the process touches the adult or child, or a surface that might be contaminated, the caregiver may use a bacteriocidal or viricidal hand rinse or hand dip between each administration instead of handwashing.

(e) If a caregiver uses gloves, the caregiver shall wash the caregiver's hands immediately after the gloves are removed even if the hands are not visibly contaminated. The use of gloves does not preclude or substitute for handwashing.

(f) If a caregiver provides toothbrushing assistance, the caregiver shall dispense the toothpaste from a shared container in a manner that will not contaminate the toothpaste container. The requirements of this subsection do not apply to a foster home or foster group home.

7 AAC 10.1055

Current through changes received by the publisher through December 5, 2013

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7 AAC 10.1055. Incontinence care.

(a) Except as provided in (b) of this section, an entity that provides incontinence care shall develop, and ensure that each caregiver follows, written incontinence care procedures that minimize the spread of disease and the risk of contamination to hands and surfaces. In addition, the entity shall ensure that

- (1) sufficient quantities of incontinence pads are available and neatly stored;
- (2) the entity has an adequate supply of additional bedding and mattress pads;
- (3) an impervious bag is used for the disposal of soiled pads; and
- (4) nonlatex gloves and handwashing supplies are available to prevent contamination, and are used in accordance with the universal precautions described in 7 AAC 10.1045.

(b) An assisted living home serving five or fewer residents, a foster home, and a foster group home are not required to have written procedures, but must ensure that procedures used minimize the spread of disease and the risk of contamination, and otherwise meet the requirements of this section.

7 AAC 10.1060

7 AAC 10.1060. Additional provisions for entities licensed to provide care for children.

(a) In addition to other applicable requirements of 7 AAC 10.1000 - 7 AAC 10.1095, an entity licensed to provide care for infants and children shall

- (1) if infants or toddlers are in care, install and use safety gates to prevent access to stairs;
- (2) install outlet covers in all electrical outlets that are not in use and that are accessible to children under age five; and
- (3) use safe and sanitary equipment and supplies for diapering and toileting, including easy accessibility for the caregiver to wash the caregiver's hands after changing a diaper or assisting a child with toileting.

(b) An entity that provides care for more than one child who uses bottles and pacifiers shall label the bottles and pacifiers with each child's name.

(c) An entity that reuses bottles, bottle caps, and nipples shall, before reuse,

(1) wash them in a dishwasher, using a long wash cycle with hot water, and a heated drying cycle; or

(2) boil them in water for at least five minutes.

(d) An entity that provides diapering shall develop, and ensure that each caregiver follows, written diaper changing procedures that minimize the spread of disease and the risk of contamination to hands and surfaces. Except as provided in 7 AAC 10.1000(c), a foster home or foster group home is not required to have written procedures, but must ensure that procedures used minimize the spread of disease and the risk of contamination.

(e) In addition to the requirements of (d) of this section, an entity other than a foster home or foster group home shall ensure that

(1) the diaper changing area

(A) is not located in a food preparation area and is not used for temporary placement or serving of food; and

(B) has one accessible handsink located in, or immediately adjacent to, that area;

(2) each surface used for changing diapers is smooth, durable, nonabsorbent, and easily cleanable;

(3) sufficient quantities of clean diapers are available and are neatly stored;

(4) nonlatex gloves and handwashing supplies are available to prevent contamination, and are used in accordance with universal precautions described in 7 AAC 10.1045;

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(5) for soiled clothing or cloth diapers, solid waste contents are disposed of by dumping the contents into a toilet and placing the diapers, without rinsing, in

(A) an impervious bag to be given to the parent for laundering, if applicable; or

(B) an easily cleanable container with a firmly fitted cover; the container must be

(i) lined with plastic;

(ii) designed to prevent the caregiver from contaminating the exterior surface of the container or the caregiver when inserting a soiled diaper;

(iii) provided within the caregiver's reach of the diaper changing area; and

(iv) emptied, cleaned, and sanitized daily;

(6) each diaper changing surface is cleaned and sanitized after each use; if a single-use, disposable cover is placed on the diapering surface before diapering, the entity shall ensure that the cover is disposed of immediately after diapering; the use of a single-use, disposable cover does not preclude or substitute for cleaning and sanitizing the surface or area after each use even if the surface or area is not visibly contaminated;

(7) after a soiled disposable diaper is removed, it is folded inward and resealed before disposal into a container described in (5)(B) of this subsection;

(8) if single-use, disposable wipes are used during diapering, the disposable wipes are discarded after use; if a nondisposable cloth is used, that cloth must be placed immediately, without rinsing, in

(A) an impervious bag to be given to the parent for laundering, if applicable; or

(B) a container described in (5)(B) of this subsection;

(9) diaper changing supplies, including containers of cream and lotion, are kept clean and sanitary; and

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(10) children do not handle diaper changing supplies.

(f) The entity shall ensure that individual cloth towels used for bathing, toothbrushes, and combs used by a child in care are stored separately to prevent contamination and are labeled with the child's name. If a storage rack is used, the rack must be cleaned and sanitized or replaced when visibly soiled and after contamination with blood or another body fluid. Except as provided in 7 AAC 10.1000(c), the requirements of this subsection do not apply to a foster home or foster group home.

(g) Except for toys brought by children for personal use, the entity shall ensure that

(1) toys used by children are kept clean and sanitary;

(2) if a toy has been mouthed or is otherwise contaminated, that toy is cleaned and sanitized before use by another child; except as provided in 7 AAC 10.1000(c), the requirements of this paragraph do not apply to a foster home or foster group home; and

(3) toys used by children age three or older are cleaned at least once every seven days or when soiled; except as provided in 7 AAC 10.1000(c), the requirements of this paragraph do not apply to a foster home or foster group home.

(h) If a water play table is used by children, the entity shall ensure that

(1) water in the table is maintained at 2 - 10 parts per million chlorine solution during use; the entity shall frequently use chemical test strips to ensure that proper chlorine concentration levels are maintained;

(2) each child using the table has hands washed before and after playing at the water play table;

(3) a child with open sores or wounds does not play at the table;

(4) water is discarded after each day of use; and

(5) the table is cleaned and sanitized after each day of use.

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(i) Except as provided in (k) of this section, an entity that provides a play area for use by children in care shall ensure that the play area is free of hazards that can cause injury, including

(1) selecting and maintaining play equipment so that it

(A) is securely anchored, unless it is portable and self supporting;

(B) is free of entrapment, pinch, or crush points;

(C) is free of sharp points, corners, or edges; and

(D) provides clearance between the equipment and any objects that may cause injury; and

(2) covering areas around and under play equipment that has a fall height of three feet or more with shock absorbing material such as pea gravel, sand, or sawdust; concrete or asphalt may not be used under play equipment; in this paragraph, "fall height" means the vertical distance between a play surface and the area around and under the play equipment.

(j) Subject to (k) of this section, an entity shall ensure that each crib, crib mattress, cot, mat, and play yard is cleaned and sanitized

(1) at least once every seven days;

(2) before assignment to another child in care; and

(3) whenever soiled.

(k) Except as provided in 7 AAC 10.1000(c), the requirements of (i) and (j) of this section do not apply to a foster home or foster group home.

7 AAC 10.1065

7 AAC 10.1065. Food service and preparation.

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(a) An entity for which a food service permit is required by the Department of Environmental Conservation shall meet the applicable requirements of 18 AAC 31. If that department has set minimum standards for an entity, the entity shall meet those minimum standards.

(b) Except for a foster home or foster group home, an entity providing care for children shall ensure that any meals or snacks brought from a child's home are labeled with the child's name and the date.

(c) An entity that is exempt under 18 AAC 31.012 or 18 AAC 31.014 from the requirements of 18 AAC 31 shall maintain sanitary facilities for the proper care, storage, refrigeration, and preparation of food. The entity shall ensure that

(1) for purposes of AS 17.20.020, food served is not adulterated; and

(2) fruits and vegetables are thoroughly washed with potable water before use.

7 AAC 10.1070

7 AAC 10.1070. Medications.

(a) Subject to 12 AAC 44.965, or another applicable statute or regulation, an entity listed in 7 AAC 10.1000(b) shall meet each applicable requirement of this section unless the entity has an onsite pharmacist and consequently follows a more stringent procedure for that requirement, including a procedure required under 12 AAC 52, or by federal law, and the department has been informed in writing of the more stringent procedure and has approved its use for purposes of this section.

(b) If, as part of health-related services provided in an assisted living home, the home supervises the self-administration of medications, supervision must be performed in accordance with AS 47.33.020.

(c) Except as provided in (d) and (g)(4) of this section, an entity subject to this section shall

(1) ensure that each stored medication, including each nonprescription medication, is in its original container and properly labeled with the name of the adult or child for whom it is intended, the name of the medication, the dosage, expiration date, and directions for administration; except as provided in 7 AAC 10.1000(c), the requirements of this paragraph do not apply to nonprescription medication used communally in a foster home or foster

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group home;

(2) store medications in a manner that prevents access by unauthorized persons;

(3) store controlled substances in a locked, permanently affixed storage container; for a controlled substance that requires refrigeration, the storage container must be locked; the entity shall establish written procedures for maintaining a record that accurately accounts for the receipt and each use of each controlled substance, and for periodically reconciling the record; except as provided in 7 AAC 10.1000(c), the requirements of this paragraph do not apply to a foster home, foster group home, or a child care facility;

(4) store medications, including controlled substances, in accordance with the manufacturer's recommendations; and

(5) ensure that nonprescription medications and health products, including nonaspirin fever reducers, naturopathic remedies, vitamin and mineral supplements, diaper ointments and powders, sunscreen, and insect repellent, are used only at the dose, duration, or method of administration specified on the manufacturer's label.

(d) The provisions of (c) of this section do not apply to a medication that a resident of an assisted living home is allowed to keep in that resident's room.

(e) The following entities subject to this chapter may be delegated the task of administration of medicine under 12 AAC 44.965:

(1) a foster home for an adult;

(2) a foster group home for adults;

(3) an assisted living home.

(f) An entity not listed in (e) of this section may administer medication if

(1) within the scope of the person's own license;

(2) under other legal authority; or

(3) under the supervision of another licensed health care provider.

(g) An entity authorized to administer medication may do so only under the following conditions:

(1) the entity must first obtain written permission for the administration of prescription medication from the adult or that adult's representative, or the parent of a child in care upon admission into the entity, or when a new medication is prescribed; if the department is the child's legal guardian, the entity must first obtain written permission from the department;

(2) the entity may administer prescription medication and special medical procedures only in the dosage, at the intervals, or in the manner prescribed by a physician or other person legally authorized to prescribe medication or medical procedures;

(3) if an entity providing care for children has not obtained written permission from the child's parent for the administration of a commonly used nonprescription medication or medication contained in the first aid kit required by 7 AAC 10.1075, the entity shall document telephone permission to administer that medication; a foster home, a foster group home, or an entity providing care for a child for whom the department is the legal guardian is not required to obtain permission from the child's parent for the administration of nonprescription medication, but shall administer nonprescription medication as authorized by the department in the placement agreement;

(4) the entity shall have a written policy for the use of any commonly used nonprescription medication for oral or topical use kept on hand by the entity for the communal use of any adult or child in care for whom the medication may be indicated; the requirements of this paragraph do not apply to a foster home or foster group home, or to an assisted living home serving two or fewer residents;

(5) prescription medicine must be kept in

(A) the original container showing the date filled, the expiration date, instructions, and the physician's or other medical professional's name; or

(B) medicine sets filled by a pharmacist, a licensed medical professional, or a resident's representative; the prescription date filled, the expiration date, instructions, and the

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physician's or other medical professional's name must be affixed to or stored with each medicine set;

(6) in an entity with one or more employees, only one designated employee in each shift may administer medication, the designated employee shall record and initial the time each dose is administered;

(7) unused medication must be returned to the parent of a child in care when the medication is no longer needed, except that a foster home, foster group home, or an entity providing care for a child for whom the department is the legal guardian shall discard the unused medication

(A) in a manner that prevents access by children in care; and

(B) in accordance with instructions from the manufacturer, if any;

(8) an assisted living home shall ensure that unused medication is properly discarded and shall notify the resident or resident's representative of the disposal of the medication.

(h) The entity shall ensure that medication requiring refrigeration is grouped together, stored in a manner to prevent contamination of food, and labeled as required by this section. A residential child care facility or an assisted living home that provides care for six or more residents shall keep medication in a separate refrigeration unit that is not used to store food.

(i) In addition to complying with the other requirements of this section, a residential psychiatric treatment center

(1) shall ensure that the record of the prescription and administration of prescription and nonprescription medications is kept in each child's files and in another master medications file arranged to show in chronological order the prescription and administration of medications to each child, with records sorted by each child's name, showing each diagnosis for each child;

(2) shall make the records described in (1) of this subsection available for department review for the purpose of identifying and preventing abuse, or inappropriate or unnecessary use of prescription or nonprescription medications;

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(3) may not use a medication for the purpose of sedating or controlling the behavior of a child; however, subject to 7 AAC 50.870, a medication may be used for chemical restraint in a residential psychiatric treatment center; in this paragraph, "chemical restraint" has the meaning given in 7 AAC 50.990;

(4) may not administer a psychotropic or neuroleptic class medication to a child unless the use of the medication is part of the child's treatment plan developed under 7 AAC 50.840 and use of the medication has been consented to by the child's parent, Indian custodian, or guardian after both the clinical director and the prescribing physician have given sufficient information and counseling to the parent, Indian custodian, or guardian to ensure that the parent, Indian custodian, or guardian can give an informed consent to or refusal of the use of the medication; the information and counseling must discuss the option of not using the medication, the potential benefits and disadvantages of the medication, and alternative medications or therapies that might reasonably be used to treat the same condition; and

(5) may not discharge or threaten to discharge a child because the child's parent, Indian custodian, or guardian declines to give consent to the use of any recommended medication.

(j) In this section,

(1) "controlled substance" means a drug, substance, or immediate precursor included in the schedules set out in AS 11.71.140 - 11.71.190;

(2) "Indian custodian" has the meaning given in 25 U.S.C. 1903(6).

7 AAC 10.1075

7 AAC 10.1075. First aid kit and procedures.

(a) An entity shall review, and shall post or make readily available, first aid procedures. The entity shall post and keep current emergency telephone numbers, including the number for the poison control center, near one or more telephones in the entity. The entity shall maintain

(1) at least one first aid kit described in (c) of this section that is kept at the entity;

(2) at least one additional first aid kit described in (c) of this section for field trips or outings away from the entity; and

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(3) an abbreviated first aid kit for a neighborhood walk of 30 minutes or less; the requirements of this paragraph do not apply to an assisted living home; an entity may use the kit described in (2) of this subsection for a neighborhood walk if the kit is not needed for a field trip or outing, and if a kit described in (c) of this section is kept at the entity; for purposes of this paragraph, an abbreviated kit must contain, at a minimum, the following:

(A) disposable nonporous, nonlatex gloves;

(B) tweezers;

(C) adhesive bandages;

(D) bandage tape;

(E) sterile gauze pads;

(F) a cold pack;

(G) a CPR barrier device or mask;

(H) potable water;

(I) for an entity providing care for children, the emergency child record information required by 7 AAC 57.400(a);

(J) medication that may be needed on the walk.

(b) The entity shall restock each first aid kit after use to ensure compliance with this section.

(c) Except as provided in (a)(3) of this section, each first aid kit must include at least the following items, checked regularly to ensure that any expiration date is not exceeded, and kept within a container that will hold all of the items:

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- (1) disposable nonporous, nonlatex gloves;
- (2) sealed packages of alcohol wipes or antiseptic for thermometer cleaning only;
- (3) scissors;
- (4) tweezers;
- (5) a thermometer;
- (6) adhesive bandages;
- (7) bandage tape;
- (8) sterile gauze pads;
- (9) flexible roller gauze;
- (10) triangular bandages;
- (11) safety pins;
- (12) an eye dressing;
- (13) a note pad with a pen or pencil;
- (14) activated charcoal, for use only under the direction of a poison control center or another medical professional;
- (15) a cold pack;
- (16) a current American Academy of Pediatrics or American Red Cross standard first aid text or equivalent first aid guide;

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(17) a CPR barrier device or mask;

(18) the telephone number for the poison control center;

(19) potable water;

(20) splints, including small child-size splints if children are in care;

(21) soap;

(22) a working flashlight;

(23) for a field trip or outing away from a child care facility, other than a foster home or foster group home, and for each child participating in the trip or outing,

(A) the emergency child record information as required by 7 AAC 57.400(a); and

(B) written permission for use of medication; only medication that is or may be needed during a field trip or outing may be included in first aid kit, and only for the length of the field trip or outing.

7 AAC 10.1080

7 AAC 10.1080. Firearms and ammunition.

(a) Firearms and ammunition are prohibited in an assisted living home licensed for six or more residents, and in a child care center, a residential child care facility, and a maternity home.

(b) An entity that is not subject to (a) of this section shall ensure that any firearms are unloaded and stored in a locked gun safe or other locked place that is not visible or accessible to adults or children in care. The entity shall ensure that ammunition is stored separately from the firearms in a place inaccessible to adults or children in care.

(c) The entity shall inform each adult in care or that adult's representative, parents of children in care, or social workers, care coordinators, or case managers, as applicable, if firearms are

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present in the entity.

(d) Before a foster home allows a child to handle a firearm, the home shall submit a firearms safety plan acceptable to the department that addresses the firearms safety instruction approach the home will use.

7 AAC 10.1085

7 AAC 10.1085. Smoking.

(a) In addition to the applicable requirements of AS 18.35.300 - 18.35.365, an entity listed in 7 AAC 10.1000(b) is subject to the applicable requirements of this section.

(b) Smoking is prohibited in a child care center, a residential child care facility, and a maternity home.

(c) Smoking in a foster home or foster group home must be limited to outside the home, or in a well-ventilated area away from the immediate living area, and only after submitting a plan acceptable to the department that addresses how children in care will be protected from smoke.

(d) Smoking is prohibited in a child care home and a child care group home while children are in care. The home must ensure that, while children are in care,

(1) cigarettes or other smoking products, and ashtrays, lighters, or other smoking accessories are not visible or accessible to children; and

(2) the home does not smell of smoke from cigarettes or other smoking products.

(e) Any vehicle used to transport children must be smoke-free.

(f) If smoking is allowed in an assisted living home, a designated smoking and a nonsmoking area must be provided. A designated smoking area may not be in a common area. The designated smoking area must be separated from common areas by a closed door or partition that protects nonsmokers from smoke. The designated smoking area must be provided with natural or mechanical ventilation sufficient to provide fresh air and to prevent the accumulation of smoke and smoke odor.

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7 AAC 10.1090

7 AAC 10.1090. Animals.

(a) An entity shall ensure that any animal kept in the entity has no communicable disease, has immunizations required under state and federal law, and is free of internal and external parasites. The entity must show proof of compliance with required immunizations to the department upon request.

(b) The entity shall inform each adult in care or that adult's representative, parents of children in care, social workers, care coordinators, and case managers, as applicable, if any animal is present in the entity.

(c) Psittacine birds may not be kept in a child care center.

(d) A psittacine bird may be kept in an assisted living home if the bird

(1) receives prophylactic antibiotics before introduction into the assisted living home; and

(2) is isolated at least 45 days in a room separate from a room occupied by any other birds in the home.

(e) Except for a child care center subject to (c) of this section, a parakeet, pigeon, or other similarly small-sized psittacine bird may be kept in another entity listed in 7 AAC 10.1000(b) only if the bird

(1) receives prophylactic antibiotics before introduction into the entity; and

(2) is isolated at least 45 days in a room separate from a room occupied by any other birds in the entity.

(f) Ducklings and chicks may be incubated or hatched in an entity, except in a room where infants or toddlers are present, if

(1) children do not handle the ducklings or chicks; and

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(2) the ducklings and chicks are removed from the entity when hatched.

(g) Amphibians, ferrets, reptiles, and wild, poisonous, or predatory animals may not be kept in an entity listed in 7 AAC 10.1000(b). A foster home or foster group home, or an assisted living home serving two or fewer residents, may have amphibians, ferrets, or reptiles, if approved by the department. The prohibition of this subsection on predatory animals does not apply to domestic dogs and domestic cats.

(h) **The entity shall ensure that**

(1) any birds, fish, and other animals allowed by this section are kept in appropriately designed cages or aquariums; the requirements of this paragraph do not apply to domestic dogs and domestic cats;

(2) the area around a cage or aquarium is smooth, nonabsorbent, impervious to water, and easily cleanable, and is cleaned and sanitized at a frequency to keep the area clean and sanitary;

(3) animal waste is removed daily, or at a frequency to prevent odor or contact with adults or children in care;

(4) each cage is lined with an impervious material and is cleaned at a frequency necessary to prevent a health risk to adults or children in care;

(5) bowls used for providing food and water for animals are cleaned at a frequency necessary to prevent a health risk to adults or children in care; and

(6) **cleaning of animal waste**

(A) is conducted when adults or children in care are not present; except as provided in 7 AAC 10.1000(c), the requirements of this subparagraph do not apply to a foster home or foster group home; and

(B) **is not conducted in an area used for food preparation or service.**

(i) The entity shall

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(1) disclose to the department information regarding any animal in the entity, if that animal has

(A) been the subject of a past contact with an animal control official because of aggressive behavior or biting; or

(B) a history of aggressive behavior or biting, regardless of whether the animal has been the subject of a past contact with an animal control official;

(2) notify the department within 24 hours of any occurrence of aggressive behavior or biting by an animal in the entity, including whether the occurrence resulted in a contact with an animal control official;

(3) immediately remove from contact with adults or children in care, an animal described in (1) or (2) of this subsection; and

(4) permanently remove from the entity an animal described in (1) or (2) of this subsection, if the department determines that the animal is a threat to the life or safety of adults or children in care.

(j) In this section, “psittacine bird” means a bird classified as part of the family Psittaciadae, including parrots, macaws, and parakeets.

7 AAC 10.1093

7 AAC 10.1093. Pesticide use and notification.

(a) An entity shall, whenever practical, use a nonchemical method, including good sanitation practices, structural repair, and window screens to control pests. Pesticide use, including the use of a certified applicator if required, is subject to applicable requirements of the Department of Environmental Conservation under 18 AAC 90. The requirements of (b) - (g) of this section do not apply to a foster home or foster group home, but the home must notify the department before any major fumigation or other application that would require residents of the home to be temporarily relocated.

(b) Except as provided in (e) and (f) of this section, at least 24 hours before the application of a pesticide to any area of an entity used by or accessible to adults or children in care, an entity

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that provides care for six or more adults or children shall notify each adult or that adult's representative, each parent of a child in care, social workers, care coordinators, and case managers, as applicable, regarding the application. A notice under this subsection must include

- (1) a description of the area where the pesticide will be applied;
- (2) the date and approximate time of application; if the application will be outdoors, the notification must include three dates in chronological order in case an application is cancelled due to weather;
- (3) the common or brand name of each pesticide to be used;
- (4) the targeted pests to be controlled by the pesticide;
- (5) a contact name and telephone number at the entity; and
- (6) a statement that, upon request, the entity will provide
  - (A) a list of each active ingredient in the pesticide;
  - (B) the EPA registration number; and
  - (C) the telephone contact number, if any, on the label of the pesticide for additional information about each pesticide.

(c) The notification required by (b) of this section may be made by individual notice delivered by telephone, face-to-face oral communication, electronic mail, postal mail, or facsimile. The entity may develop a registration system to provide this notification only to those persons who wish to receive notification. If the entity develops a registration system, the entity shall provide written notice at the time of admission or enrollment that pesticides may be used in or around the entity and explain how to register to be notified at least 24 hours before a pesticide treatment. If written notice is given, the notice may not be included with a notice being provided on another matter.

(d) Except as provided in (f) of this section, immediately before application of a pesticide, the entity shall post the area where the pesticide is to be applied with a sign that is at least 8 1/2 x

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11 inches and that reads "Pesticide Treated Area: KEEP OUT" in block letters at least one inch high. The entity shall ensure that the sign remains posted and that children, or adults with impaired judgment, are kept out of the treated area for at least 24 hours or until the reentry interval, if any, on the pesticide label has expired, whichever period is longer.

(e) An entity may authorize an immediate pesticide treatment without prior notification if the administrator determines that an emergency exists. An emergency includes an immediate and unanticipated threat to the health or safety of adults or children in care. The provisions of (d) of this section must be met.

(f) The following pesticide applications are not subject to the notification or posting requirements of (b) - (e) of this section:

- (1) the application of an antimicrobial pesticide;
- (2) an application during which the entity remains unoccupied by adults or children in care for a continuous 72-hour period after the application;
- (3) the application of a rodenticide in a tamper-resistant bait station, or in an area inaccessible to children or to adults with impaired judgment;
- (4) the application of silica gels and other ready-to-use pastes, foams, or gels that will be applied in an area inaccessible to children or to adults with impaired judgment.

(g) An entity shall keep records of pesticide applications for at least two years after application. Records required to be kept under this subsection must be made available for department review and must include

- (1) a copy of each notice issued under this section, if a child care center authorizes a pesticide application under (f) of this section, the information required under (b) of this section must be included in the record;
- (2) the date of the application;
- (3) the name and employer of the individual who applied the pesticide, including the individual's certification number;

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- (4) the rate of the application;
- (5) the concentration of the pesticide applied; and
- (6) the total amount of pesticide product used.

(h) In this section,

- (1) “active ingredient” has the meaning given in 18 AAC 90.990; the definition of “active ingredient” in 18 AAC 90.990, as revised as of May 17, 2006, and as amended from time to time, is adopted by reference;
- (2) “antimicrobial pesticide” has the meaning given in 18 AAC 90.990; the definition of “antimicrobial pesticide” in 18 AAC 90.990, as revised as of May 17, 2006, and as amended from time to time, is adopted by reference;
- (3) “label” has the meaning given in 18 AAC 90.990; the definition of “label” in 18 AAC 90.990, as revised as of May 17, 2006, and as amended from time to time, is adopted by reference;
- (4) “rate of application” has the meaning given in 18 AAC 90.990; the definition of “rate of application” in 18 AAC 90.990, as revised as of May 17, 2006, and as amended from time to time, is adopted by reference;
- (5) “rodenticide” has the meaning given in 18 AAC 90.990; the definition of “rodenticide” in 18 AAC 90.990, as revised as of May 17, 2006, and as amended from time to time, is adopted by reference.

7 AAC 10.1095

7 AAC 10.1095. Toxic substances; poisonous plants.

(a) An entity shall ensure that

- (1) each cleaning material, detergent, aerosol can, pesticide, poison, and other toxic material is

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(A) stored in the original labeled container; the requirement in this subparagraph does not apply to a spray bottle that contains a commercial sanitizing solution or a bleach-water solution used to sanitize toys, tables, counters, and other surfaces throughout the day, if that bottle is appropriately labeled and is stored as provided in (B) of this paragraph;

(B) inaccessible to children or to adults with impaired judgment, and stored separately from medication and food;

(C) used

(i) according to the manufacturer's instructions;

(ii) for the intended purpose;

(iii) in a manner that will not contaminate a play surface, a food service area, or a food preparation area; and

(iv) in a manner that is not a hazard to adults or children in care;

(2) only nontoxic arts and crafts materials are used; and

(3) a poisonous plant is not in an entity where children, or adults with impaired judgment, are in care, except as provided in (b) of this section.

(b) The department may allow a poisonous plant that is a common household plant, including a poinsettia, a dieffenbachia, an English ivy, a mother-in-law, and a philodendron, to be present in an entity described in (a)(3) of this section, if the department finds that children in care or adults with impaired judgment will be protected from harm. The entity shall submit to the department a written list of all poisonous plants maintained in the entity, and a description of how the entity will protect children, or adults with impaired judgment, from being harmed by the plants. If the department allows one or more poisonous plants to be present in the entity, the entity shall inform each adult's representative, parents of children in care, social workers, care coordinators, and case managers, as applicable, of any poisonous plant present in the entity, and describe how the entity will protect children, or adults with impaired judgment, from harm.

(c) In this section, "poisonous plant"

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(1) means a plant, tree, or shrub that can cause injury or death, if a portion of that plant, tree, or shrub is ingested or touched; and

(2) includes certain

(A) flower garden plants, including autumn crocus, bleeding heart, chrysanthemum, daffodil, four-o'clocks, foxglove, hyacinth, hydrangea, iris, jonquil, lily of the valley, morning glory, narcissus, and snow on the mountain;

(B) house plants, including bird of paradise, castor bean, dumbcane (also known as dieffenbachia), English ivy, holly, jequirty bean (also known as rosary pea), Jerusalem cherry, mistletoe, mother-in-law, oleander, philodendron, poinsettia, and rhododendron;

(C) trees and shrubs, including black locust, boxwood, chokecherry, elderberry, English yew, horse chestnut, buckeye, juniper, oak, water hemlock, and yew;

(D) vegetable garden plants, including asparagus, sprouts and green parts of potato, rhubarb leaves, and green parts of tomato; and

(E) wild plants, including belladonna, bittersweet, buttercups, Indian hemp, jack-in-the-pulpit, jimson weed, larkspur, monkshood, certain mushrooms, nightshade, poison hemlock, poison ivy, poison oak, poison sumac, tobacco, and skunk cabbage.

7 AAC 10.9500

7 AAC 10.9500. Purpose and applicability.

(a) Except as provided in (b)(2) and (3) of this section, the purpose of 7 AAC 10.9500 - 7 AAC 10.9535 is to provide a process for determining whether a general variance, if requested, should be granted for a requirement of

(1) AS 47.32;

(2) this chapter; or

(3) another regulation applicable to an entity referred to in 7 AAC 10.015.

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(b) The provisions of 7 AAC 10.9500 - 7 AAC 10.9535

(1) apply to the entities referred to in 7 AAC 10.015;

(2) do not apply to a temporary variance to admit a child for care in an assisted living home under 7 AAC 75.415; and

(3) do not apply to a request for a variance from a provision of 7 AAC 10.900 - 7 AAC 10.990 (Barrier Crimes, Criminal History Checks, and Centralized Registry), 7 AAC 41.205 (Child Protection and Criminal History Check Requirements), or 7 AAC 57.315 (Child Protection and Criminal History Check Requirements).

7 AAC 10.9505

7 AAC 10.9505. General variance.

(a) Subject to 7 AAC 10.9500(b)(2) and (3), and (b) of this section, the department may grant a general variance if

(1) the applicable requirements of 7 AAC 10.9500 - 7 AAC 10.9515 are met;

(2) an alternative means, acceptable to the department, satisfies the purpose of the requirement for which the variance is sought; and

(3) the health, safety, and welfare of recipients of services are protected.

(b) The department may grant an assisted living home a general variance from a requirement of AS 47.32, 7 AAC 75, or this chapter to allow the home to

(1) meet the goals of AS 47.32, 7 AAC 75, and this chapter in a way that differs from the methods set out in AS 47.32, 7 AAC 75, or this chapter;

(2) promote aging in place to minimize the need for a resident to move from the home; or

(3) integrate mentally, developmentally, and physically disabled residents into the community to reach their highest level of functioning.

7 AAC 10.9510

7 AAC 10.9510. Request for a general variance.

An entity seeking a general variance under 7 AAC 10.9500 - 7 AAC 10.9535 must submit to the department, on a form supplied by the department, a request for a general variance as required by this section. A request must contain the following:

- (1) the requirement from which the variance is sought;
- (2) the reasons why the entity is unable to comply with the requirement, a description of how the entity is not in compliance, and the extent to which compliance with the requirement will impose any substantial economic, technological, programmatic, legal, or medical hardship on the entity or recipients of services;
- (3) the period of time for which the variance is requested;
- (4) the proposed alternative means of satisfying the purpose of the requirement for which the variance is sought;
- (5) a statement as to how the health, safety, and welfare of recipients of services will be protected during the period of the variance;
- (6) the plan for achieving compliance before the variance expires;
- (7) assurance that the conditions at the entity do not present an imminent danger to the health, safety, or welfare of recipients of services;
- (8) if the request for a variance involves fire safety or another state or municipal requirement, evidence that the request has been reviewed by the appropriate authority;
- (9) for a licensed entity, the names of the recipients of services who would be affected by the variance, and the names and addresses of any representatives of those recipients of services; the requirements of this paragraph do not apply to a child care facility subject to 7 AAC 57 unless this information is requested by the department;
- (10) for an assisted living home, assurance that the notice requirements of 7 AAC 10.9515 will

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be met;

(11) any additional information requested by the department to determine the effect of a variance on the health, safety, and welfare of recipients of services.

#### 7 AAC 10.9515

7 AAC 10.9515. Notice requirements for general variance requests for assisted living homes.

(a) If an assisted living home is requesting a general variance for a state statutory or regulatory licensing requirement, the home shall deliver to each affected resident or the resident's representative, no later than five days after submitting a request for a variance, a

(1) copy or summary of the request; and

(2) notice that states

(A) that the resident or representative has the right to submit comments to the department regarding the request; and

(B) the date by which any comments must be received by the department.

(b) The home shall provide to the department a statement indicating compliance with (a) of this section.

(c) The department will consider any timely comments received under this section in determining whether to grant a general variance.

#### 7 AAC 10.9520

7 AAC 10.9520. Evaluation of a request for a general variance.

The department will evaluate a request for a general variance by

(1) investigating the statements in the request form;

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(2) inspecting the entity, if appropriate; and

(3) taking one or both of the following actions:

(A) conferring with the applicant or licensee regarding the request;

(B) discussing the request with the affected recipients of services or their representatives, as appropriate, to determine whether they support granting the variance.

#### 7 AAC 10.9525

7 AAC 10.9525. Grant or denial of a general variance.

(a) The department's decision to grant or deny a request for a general variance will be issued in writing and will be delivered to the person who made the request.

(b) Subject to (c) of this section, the department may grant a general variance, for a period that does not exceed one year, if the department determines that the entity

(1) is unable to comply with the requirement from which the variance is sought;

(2) has an effective plan for achieving compliance during the term of the variance; and

(3) is able to adequately provide for the health, safety, and welfare of recipients of services during the term of the variance.

(c) The department may grant a general variance for a longer period than allowed under (b) of this section if the department determines

(1) that

(A) strict compliance with the requirement from which the variance is sought cannot be accomplished without a substantial economic, technological, programmatic, legal, or medical hardship; or

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(B) the variance will maintain or improve the quality of services for recipients of services; and

(2) that the entity has an effective plan for meeting the goal of the requirement from which the variance is sought, and that the plan adequately protects the health, safety, and welfare of recipients of services and otherwise meets all applicable statutory or regulatory standards.

(d) A decision to grant a request for a general variance will identify the statutory or regulatory requirement involved by section number and subject matter and state the duration, terms, and conditions of the variance, including the steps the entity must take to achieve compliance before the variance expires.

(e) A decision to deny a request for a general variance will be in writing and will state the reasons for the denial. The entity may reapply for a variance, addressing the department's stated reasons for the denial or may request reconsideration under 7 AAC 10.9535.

(f) If an entity violates a condition of a general variance granted under this section, the department will send written notice to the entity that the variance is revoked. The notice will advise that the entity may request reconsideration under 7 AAC 10.9535.

#### 7 AAC 10.9530

##### 7 AAC 10.9530. Posting of a general variance.

(a) If the department grants a request for a general variance, the entity shall post a copy of the general variance decision in a conspicuous place, with the entity's license as required by AS 47.32.080, during the period the variance is in effect, and shall make it available to any person who wishes to review it. A general variance remains in effect for the duration stated, unless the department revokes the variance under (b) of this section.

(b) The department will revoke a general variance if the department finds that the entity is not following its plan for achieving compliance, or is no longer able to adequately provide for the health, safety, and welfare of recipients of services during the term of the variance. If the department decides to revoke a variance, it will provide written notice of revocation to the entity, setting out the reasons for the department's decision. The department will advise the entity of its right to request reconsideration under 7 AAC 10.9535. A notice of revocation issued under this subsection is effective 30 days after it is received by the entity unless a request for reconsideration is submitted. Nothing in this subsection precludes the department from issuing a notice of immediate revocation if the department finds that the life, health, safety, or welfare

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of recipients of services is threatened.

#### 7 AAC 10.9535

7 AAC 10.9535. Request for reconsideration of denial or revocation of a general variance.

(a) If the department denies or revokes a variance subject to 7 AAC 10.9500 - 7 AAC 10.9535, the entity may submit a written request to the department for reconsideration of that decision.

(b) A request under (a) of this section must be submitted within 30 days after the entity receives the denial or notice of revocation, and must include

(1) the requestor's name, mailing address, telephone number, and, if available, electronic mail address and facsimile number;

(2) a summary of the department's decision to be reviewed; and

(3) a clear and concise statement of the reason for the request, including

(A) a statement of the nature and scope of the requestor's interests, and an explanation of how and to what extent those interests would be directly and adversely affected by the decision;

(B) the contested terms and conditions of the department's decision, and proposed alternatives; and

(C) copies of any documents or data that would assist the department in its review.

(c) After reviewing a request for reconsideration, the department will notify the entity in writing within 30 days after receiving the request, and will state the reasons for the department's final decision.

#### 7 AAC 10.9600

7 AAC 10.9600. Inspections and investigations.

The department will conduct announced and unannounced inspections and investigations of an entity or individual service provider that is subject to AS 47.05.300 - 47.05.390, AS 47.32, or this

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chapter

- (1) for purposes of AS 47.05.300 - 47.05.390 and AS 47.32.110;
- (2) to determine compliance with AS 47.05.300 - 47.05.390, AS 47.32, this chapter, and any other applicable statute or regulation; and
- (3) to determine whether an enforcement action should be taken under AS 47.05.300 - 47.05.390, AS 47.32.130, or 47.32.140.

7 AAC 10.9610

7 AAC 10.9610. Plan of correction.

(a) The plan of correction required under AS 47.32.140(b) must contain the following information for each violation identified in the report issued under AS 47.32.120(a):

- (1) each action that will be taken to correct the violation;
- (2) each measure that will be taken or change that will be made to ensure the violation does not recur;
- (3) how the entity will monitor each corrective action to ensure the violation is cured and will not recur;
- (4) the date on or before which the violation will be cured.

(b) The plan of correction must be signed by the administrator or another person responsible for operation of the entity.

(c) If the department determines that any recipients of services were affected by a violation, the department may also require the entity to describe

- (1) each corrective action that will be taken with regard to those recipients; and

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(2) how the entity will identify other recipients of services who might be affected by the violation, and what corrective action will be taken.

(d) The entity may request that the plan of correction also act as the allegation of compliance required under 7 AAC 10.9615 if each violation listed in the report has been corrected before submission of the plan of correction.

(e) The department will review a plan of correction submitted under (a) - (d) of this section to determine whether the plan is acceptable. If the department determines that the plan is unacceptable, the department may

(1) request additional information regarding one or more corrective actions described in the plan;

(2) require the entity to amend the plan as directed by the department;

(3) require the entity to comply with a plan of correction developed by the department under (g) of this section.

(f) If the department finds that an entity has failed to correct a violation of an applicable statute or regulation within the time specified by the department under AS 47.32.140(a), has failed to submit a plan of correction for department approval under AS 47.32.140(b), or has submitted an unacceptable plan, the department may require the entity to participate in a plan of correction developed by the department under (g) of this section.

(g) In a plan of correction developed by the department, the department will describe each violation, specify each corrective action the entity must take to correct the violation, and specify the date on or before which the entity must cure the violation. The department will notify the entity in writing of a decision to require compliance with a plan of correction developed under this subsection, and will provide a copy of the plan of correction with the notice. In the notice, the department will describe any enforcement action under AS 47.32.140(d) and (f) that the department intends to take, regardless of whether the violation is cured.

(h) The department may conduct a follow-up inspection to determine compliance with the plan of correction.

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(i) The entity shall keep on the premises a copy of each inspection document described in AS 47.32.180(b) for at least three years from the date of inspection and shall make each document available to any interested person upon request.

7 AAC 10.9615

7 AAC 10.9615. Allegation of compliance.

An allegation of compliance required under AS 47.32.140(c) must describe each action that was taken by the entity to correct each violation, and must include the date the violation was corrected. The allegation must be signed by the administrator or another person responsible for operation of the entity. The department will review the allegation to determine whether it provides enough detail to establish that each violation was corrected by any applicable deadline. The department may also conduct a follow-up inspection to validate the allegation of compliance.

7 AAC 10.9620

7 AAC 10.9620. Hearings.

An enforcement action taken by the department under AS 47.32 or this chapter, or another state statute or regulation applicable to an entity subject to AS 47.32 and this chapter, is subject to the applicable hearing requirements of AS 47.32.150.

7 AAC 10.9990

7 AAC 10.9990. Definitions.

In this chapter, unless the context indicates otherwise,

(1) “adequate” or “adequately” means that which is necessary to accomplish the intended purpose in keeping with good public health practices;

(2) “administrator” means a person who controls, operates, manages, supervises, or conducts activities described in this chapter, or the person performing the duties of the owner, operator, manager, or supervisor;

(3) “adult” means an individual 18 years of age or older;

(4) “adult with impaired judgment” means an adult in care who has dementia or a cognitive

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impairment;

(5) “approved” means acceptable to the department, based upon conformance with applicable federal, state, or municipal standards and good public health practices;

(6) “assisted living home” has the meaning given in AS 47.32.900;

(7) “caregiver” means an individual identified as a caregiver in 7 AAC 10.1002;

(8) “child” has the meaning given in

(A) 7 AAC 50.990 if referring to a child for whom services are provided under 7 AAC 50; or

(B) 7 AAC 57.990(b) if referring to a child for whom services are provided under 7 AAC 57;

(9) “child care center” has the meaning given in 7 AAC 57.990(a);

(10) “child care facility” has the meaning given in

(A) 7 AAC 50.990 if referring to a child for whom services are provided under 7 AAC 50; or

(B) 7 AAC 57.990(b) if referring to a child for whom services are provided under 7 AAC 57;

(11) “child care group home” has the meaning given in 7 AAC 57.990(a);

(12) “child care home” has the meaning given in 7 AAC 57.990(a);

(13) “clean” or “cleaned” means made free of soil, or to make free of soil by

(A) washing in warm, soapy water and rinsing; or

(B) using another approved method if use of water is inappropriate for the item being cleaned;

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(14) “communicable disease” means a disease or condition that is contagious or transmissible;

(15) “contaminate” or “contamination” means contact with or from

(A) dust, insects, rodents, or other pests;

(B) unsanitary equipment or utensils;

(C) a body fluid, including saliva, blood, mucus, vomit, urine, feces, or an injury discharge;

(D) unnecessary handling;

(E) flooding, draining, leakage from overhead, or condensation;

(F) poisonous or toxic materials; or

(G) any substance or organism that might threaten human health;

(16) “CPR” means cardiopulmonary resuscitation;

(17) “department” means the Department of Health and Social Services;

(18) “disinfect” and “disinfected” means the destruction, through use of an appropriate disinfection agent, of disease-causing microorganisms on an inanimate object or surface that renders the object or surface safe for use or handling;

(19) “easily cleanable” means having surfaces that are readily accessible and designed so that residue may be effectively removed by normal cleaning methods;

(20) “entity” means the administration, program, and physical plant of a business or other premises subject to the applicable provisions of this chapter; “entity” includes other parts of the building housing the entity and adjoining grounds over which the administrator has direct control;

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(21) "EPA" means United States Environmental Protection Agency;

(22) "food" means a liquid or solid substance consumed by humans, including water or another beverage, a confection, condiment, food ingredient, food additive, or ice, or a substance that enters into the composition of these things, whether simple, blended, mixed, or compounded;

(23) "foster group home" has the meaning given in 7 AAC 50.990;

(24) "foster home" has the meaning given in AS 47.32.900;

(25) "general variance" means a variance described in 7 AAC 10.9500;

(26) "gloves" mean a device made of natural rubber, vinyl, or synthetic material such as neoprene, polyvinyl chloride, or styrene butadiene, worn on the caregiver's hands to prevent contamination between the caregiver and the person receiving care;

(27) "handsink" means a lavatory

(A) equipped to provide hot and cold running water in a manner that meets the requirements of 7 AAC 10.1035(a)(9) and (10); and

(B) used solely for washing hands, face, arms, or other portions of the body;

(28) "imminent danger" means a condition with the potential to adversely affect public health, safety, or welfare; "imminent danger" includes

(A) the extended loss of a potable water supply;

(B) an extended power outage;

(C) a sewage backup into the entity;

(D) a natural disaster;

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(E) a disease or illness associated with the operation of the entity; and

(F) a major insect or rodent infestation;

(29) “impervious bag” means a bag designed to prevent transfer, seepage, or flow of moisture into or from the bag;

(30) “in care” means receiving care at an entity;

(31) “infant” has the meaning given in 7 AAC 57.990(a);

(32) “insect” has the meaning given in 18 AAC 90.990; the definition of “insect” in 18 AAC 90.990, as revised as of May 17, 2006, and as amended from time to time, is adopted by reference;

(33) “maternity home” has the meaning given in AS 47.32.900;

(34) “parent” means a birth or adoptive parent or a legal guardian of a child;

(35) “pest” has the meaning given in 18 AAC 90.990; the definition of “pest” in 18 AAC 90.990, as revised as of May 17, 2006, and as amended from time to time, is adopted by reference;

(36) “pesticide” has the meaning given in 18 AAC 90.990; the definition of “pesticide” in 18 AAC 90.990, as revised as of May 17, 2006, and as amended from time to time, is adopted by reference;

(37) “potable water” means water that is safe for drinking, culinary, and other domestic purposes;

(38) “premises” means a place or location used in conjunction with the activities of an entity; “premises” includes all or portions of structures, land, vehicles, equipment, supplies, water supply, wastewater system, and plumbing;

(39) “recipients of services” means individuals receiving care or services in an entity;

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(40) "residential child care facility" has the meaning given in AS 47.32.900;

(41) "residential group home" has the meaning given in 7 AAC 50.990;

(42) "residential psychiatric treatment center" has the meaning given in AS 47.32.900;

(43) "sanitize" means to reduce the numbers of microorganisms on cleaned surfaces and equipment to a safe level by application of an appropriate sanitizing agent;

(44) "single-use" means designed to be used once and then discarded, as with disposable diapers, disposable wipes, and disposable paper products;

(45) "toddler" has the meaning given in 7 AAC 57.990(a);

(46) "toilet" means a plumbing fixture designed to receive solid and liquid human waste; "toilet"

(A) includes a

(i) water closet that conveys waterborne waste through an integral trap seal; and

(ii) nonflushing toilet, including an incinerating, composting, or humus toilet or vault privy; in this sub-subparagraph, "vault privy" means a holding tank with a seat or seats, or other appurtenances attached, that allows for excretion of human wastes directly into the tank; and

(B) does not include a pit privy; in this subparagraph, "pit privy" means a structure that

(i) is not a vault privy as defined in (A)(ii) of this paragraph;

(ii) receives urine and excrement that is not waterborne; and

(iii) is the final disposal site and not a temporary storage facility;

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(47) “universal precautions” means the infectious control precautions that are recommended by the United States Department of Health and Human Services, Centers for Disease Control and Prevention, to be used to prevent the transmission of blood-borne germs such as human immunodeficiency virus and hepatitis B virus;

(48) “water play table” means a table designed for play that can be filled with water;

(49) “working day” means a day other than Saturday, Sunday, or a state holiday.