

Regulatory Oversight of On-site Septic Systems for Washington State Child Care Programs Briefing Paper

Authored by the Washington State Child Health and Safety Advisory Committee

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Scope

A majority of the septic systems currently serving child cares were not designed for that particular purpose and thus have an increased risk of failing. Failing systems are an imminent public health hazard. Large water flows from handwashing, toileting, food preparation, general sanitation, laundry, and water play can easily exceed the design capacity of a residential septic system. Some septic systems are old and do not meet the current design standards, further increasing the risk of failure.

Washington State health agencies lack consistency in how they regulate, license, or otherwise attempt to manage child cares served by septic systems. Conflicting and vague regulations from the Department of Early Learning (DEL), the Department of Health (DOH), and the local health jurisdictions (LHJs) have perpetuated a system where some child care providers are governed by stringent enforcement while others have literally no wastewater oversight. Much of this problem is based on the lack of septic system expertise within DEL and the lack of child care experience within DOH and LHJs. The Snohomish Health District Child Care Program surveyed LHJ water and wastewater programs throughout Washington State in 2006. The survey results indicate substantial inconsistencies at the local level. However, most local health jurisdictions would like to resolve regulatory inconsistencies and find common ground between the agencies involved.

Background

DEL recognizes that it does not have the expertise or resources to effectively manage child care septic systems. In response, it has essentially given that authority over to DOH and the LHJs by way of the child care licensing regulations. For child care centers, WAC 170-295-5080 states that “If you have an on-site sewage system, you must have written verification that the system has been approved by the department of health or local health jurisdiction.” Thus, DEL child care licensors must rely on DOH or the LHJ to ensure the child care has an acceptable wastewater disposal system. There is a consistent lack of communication between DEL and health agencies and as a result, many of these child care centers are unknown to the health agencies and therefore unregulated. LHJs also interpret “approved” septic systems in different ways: some will consider the system acceptable until it shows signs of malfunction while others require detailed flow measurements and a corresponding septic design to match the intended use.

DEL licensing requirements for family home child cares addresses onsite sewage systems under WAC 170-295-1150. This WAC states, “Your home must discharge sewage and liquid wastes into a public sewer system or into an independent septic system maintained so as not to create a public health nuisance as determined by the local health authority.” There is no statewide requirement in the DEL licensing regulations for LHJ approval prior to opening a family home child care business. It is likely that this WAC was purposely written in a vague manner so that each LHJ could address the issue in a way that fits their mission, staffing, and budget.

By law the LHJ is the responsible agency for oversight of on-site septic systems and for enforcing the on-site sewage system WAC 246-272. This WAC does not specifically address family home child cares, but has requirements for expansions and changes of use. Ideally, this WAC should be applied to the entire public universally, including child care providers. However, if made to follow this regulation absolutely, most home child cares would not be able to operate. This fact, coupled with the lack of clear direction in the DEL licensing WAC created inconsistency statewide in how LHJs manage child cares served by septic systems. Some counties are providing septic guidance for child cares just as they would for a residential property owner while others are treating child care operations as a business, more closely adhering to WAC 246-272. Some counties have not addressed child care septic systems in any fashion. Still other

counties have developed specific evaluation and education processes for family home child care septic systems.

The lack of consistency from the state level down through the counties has not gone unnoticed by child care providers, their unions, and legislators. Many providers have become so frustrated by regulatory inconsistencies associated with waste water disposal that they have pursued this matter with the Washington State Legislature during the 2006 session by introducing a bill into session that would completely prevent interaction by health agencies. Such a restriction could lead to detriment to the health of the children, the value of the property, and the condition of the environment.

Child care providers generally are not well compensated and therefore have substantial concerns with cost and fee-based services when working with local environmental health departments. Most LHJs do not have adequate funding to provide these services at no cost. Additionally, child care service is in high demand across Washington State and DEL recognizes the need to keep child care providers in operation, including those in rural areas where public sewer is unavailable.

Child care providers, who have the perception of being over-regulated, frequently demonstrate great resistance regarding septic system oversight. This perception, in conjunction with the inconsistencies regarding septic system regulations and enforcement, has created political conflict with the involvement of the child care union and some local legislators.

Points of Contention

- Water usage in child care is typically high due to activities like handwashing, toileting, food preparation, and laundry. High water usage can increase the likelihood of septic system failure. Many child care centers and nearly all family child care homes are served by a septic system that was not designed or installed for the purposes of child care. The increased flows from the child care can surpass the design of the septic system, leading to a system failure and exposing children to disease-causing organisms in sewage.
- DEL licenses child cares but does not have the technical expertise or human resources to effectively manage child care septic systems. Conversely, DOH and LHJ's have technical expertise to manage septic systems but do not have the knowledge and experience of working with child care providers.
- Child care WACs 170-296-1150 and 170-295-5080 are ambiguous regarding septic systems. These regulations imply active LHJ or DOH inspection and monitoring of child care septic systems. Unfortunately, LHJs do not manage these systems consistently, if at all. Due to the shortage of LHJ involvement with child care septic systems and the lack of licenser knowledge about septic systems, licensors often discount the regulation altogether. The regulations should be revised to explicitly state what is required to demonstrate adequate wastewater disposal. LHJs must also have clear expectations about their role in the process and be provided with dedicated funding to ensure consistent oversight in all jurisdictions.
- Providers lack knowledge on how septic systems work and the risks involved in operating a child care on a septic system. Common problems encountered by LHJ staff who visit child cares include: using more water than the design capacity, lack of regular septic tank pumping, installing large playground structures over the drainfield, unfulfilled maintenance agreements for advanced technology septic systems, and lack of a reserve area. The majority of child care providers do not realize they are jeopardizing the integrity of the septic system.
- Child care providers often times lack the financial resources needed to correct or upgrade systems when out of compliance. Septic systems are costly to replace or expand. Many child care providers would be forced to close if septic systems were required to be redesigned for business use.

Conclusions

The need for DOH, DEL, and LHJs to find practical and reasonable solutions to the child care septic system issue is paramount. To effectively solve child care wastewater concerns in Washington State, a

comprehensive action plan that is consistently understood and enforced statewide is critical. The political sensitivity of the issue should not deter corrective regulatory action and enforcement. The regulatory interpretation, management, and enforcement must be reasonable, practical, and universally understood between all agencies involved with the need of protecting the health and safety of children in child care while recognizing the aim to keep child care business owners in operation.

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