Response to DHS "Draft Revised Family Child Care Licensing Standards"

The Minnesota Department of Human Services recently shared their "Draft Revised Family Child Care Licensing Standards." These came at a cost of millions of tax dollars. This draft attacks the family child care profession with many nonsensical and subjective requirements that would be impossible in any home and are not feasible in family child care home settings. Compliance on a typical day would require hours of unnecessary tasks and documentation. They would significantly increase providers' costs that would, inevitably, need to be passed onto families in their care; thus, reducing the affordability of family child care for thousands of Minnesota's families.

These proposed changes turn our loving family child care HOMES into sterile and institutionalized environments. Children would no longer receive the love and individualized care they need under these stringent policies and practices. This proposal is too detailed and suggestive to be written into law. It micromanages the minutes, activities, and equipment of each day. We will lose our opportunity to provide Minnesota families with options that meet their expectations for their children's care and education. Families will lose their freedom to enroll their children in one of 5,000 unique family child care programs that best fits their needs based on our homes, policies, and childcare philosophies.

DHS claims that these changes will ensure children's health and safety; they WON'T. However, they WILL ensure the catastrophic loss of thousands of wonderful licensed family child care providers and, in turn, the loss of tens of thousands of child care slots for Minnesota's children. Minnesota has been facing a child care crisis since 2011 which we have adamantly warned about and shared many reasonable, no-cost recommendations to prevent. The passage of DHS' proposal would deal a devastating blow to Minnesota's children, families, family child care providers, and economy.

DHS falsely asserts this will modernize Rule 9502, which they say hasn't been updated since the 80's, misleading people into believing it is an archaic document with regulations that aren't protecting children. "Rule 2" HAS been revised many times when and where it's been necessary, but the basics of child care and children's health and safety haven't changed significantly since the 80's.

As self-employed small business owners, we have every right to run our programs in a manner that works for us and the families we serve. Anything beyond basic and reasonable licensing standards should be at the license holder's discretion since we aren't state employees.

DHS' proposal does NOT reflect input from stakeholders and should be stricken in its entirety. The process should be done transparently through a legislative process in which family child care providers can use their education, experience, and love for children to share what would actually ensure children's health and safety in home environments. However, we have taken the time to review every line of this rushed draft and are sharing our concerns, suggestions, and grammatical edits below. If you have any questions or would like more information, please contact us at info@MACCP.org.

Statute	Current Rule/Statute	Pages	Topic	MACCP Comments
245J.01	9502.0315	8	Definitions – Accessible to Children	The word “reasonably” is very subjective. The definition of “accessible” should sound like the opposite of “inaccessible.” It should read: “ ‘Accessible’ means capable of being reached or utilized by a child without the aid of a caregiver.”
245J.01	9502.0315	8	Definitions – Child	The age definitions should all have consistent language. In this case, “child” should say “a person younger than 11.”
245J.01	9502.0315	9	Definitions – Emergency Replacement	There should be a definition for “emergency replacements,” such as an adult who has not completed the training requirements under this chapter or the background study requirements under chapter 245C who supervises children in a family child care program due to an emergency.
245J.01	9502.0315	9	Definitions - Family child care	This definition should clarify that “all children on the premises” doesn’t include a family bringing in other siblings under their care while dropping off or picking up the child enrolled in the provider’s care.
245J.01	245A.02	9	Definitions – Toddler	The starting age is listed as 16 months, but it is currently 12 months. The proposed language would not define children from ages 12-15 months.
245J.01	245A.02	9	Definitions – School age	This language should be consistent with “child.”
245J.01	9502.0315	9	Definitions – Group family child care	This definition should clarify that “all children on the premises” doesn’t include a family bringing in other siblings under their care while dropping off or picking up the child enrolled in the provider’s care
245J.01	9502.0315	9	Definitions – Helper	The language should say “who assists the adult caregiver” or “who assists the provider” with the care of children. The proposed language of “license holder” doesn’t take into account the possible usage of substitutes or other adult caregivers.
245J.01	9502.0315	9	Definitions – Inaccessible	This definition should eliminate misinterpretations by licensors and confusion surrounding “inaccessible” as long as this is interpreted reasonably.
245J.01	9502.0315	10	Definitions – Licensed Capacity	We suggest adding the word “present” so that it reads: “When the program is located in a residence where the license holder lives, then all children 10 years of age and younger present in the residence count towards the capacity of the program.” We also want protection for a provider’s spouse, significant other, or other

				related adult who lives in the home to be able to take their child to another area of the home and, in doing so, reduce the provider's numbers and exempt that child from being restricted to licensed areas or activities if they aren't under the direct care of the provider anymore. For example, the barn may not be licensed, but a father should be able to take his daughter into it while the license holder is caring for the other children. This allows the license holder's family to spend quality time with their own children, just like parents "picking up" children from the child care.
245J.01		10	Definitions – Medication	The new definition of medication requires diapering products, sunscreens, hand sanitizer, lip balm, body lotion, and insect repellents to be approved by a physician or similar in most cases. Will we need a new form? This is just more paperwork and encroachment on family rights and common sense and ignores the fact that OTC meds are labeled and already vetted by many medical professionals.
245J.01		10	Definitions – Pets	New definition of pets includes all animals that have contact with children. This limits providers from having farm animals and wonderful visits from petting zoos, pony rides, reptile visits, and more. These experiences teach children science concepts, compassion, responsibility, and respect and affinity for nature. We suggest adding and so that it reads: "…means all animals housed within the residence and also have contact with children."
245J.01		10	Definitions – Primary Provider	The definition of "provider" should also be included.
245J.01		10	Definitions – Program	Once again, the definition of program seems to prevent adult family members from taking our own children to a different area of the home.
245J.01		10	Definitions – Related	The term "adoptive parent" is redundant because of the language before it.
245J.01		11	Definitions – Second Adult Caregiver	The language across definitions should say "adult" or "18 or older" to maintain consistency and prevent confusion.
245J.01		11	Definitions – Supervision	The new definition of supervision is offensive and ridiculous. The new language would require newborns to be within sight AND hearing, even when sleeping (no monitors would be allowed to meet this requirement). What if a provider needs to go to the bathroom or change a diaper, especially when the newborn is sleeping? It should say sight OR hearing for newborns.

				The definition also prevents any mechanical or electronic device from being used to help schoolagers get the provider for assistance, if needed. A monitor is better than nothing, and school-age children are currently allowed to play in backyards or off-site alone as long as the provider is available for assistance. Keep the current language in Rule 2 about supervision. Paragraphs d, e, and f in this section are incredibly detailed and unnecessary; they all should be removed. The sentence about children's needs and parental preferences can be an oxymoron because some of parental preferences can be quite detrimental to the children, like saying they shouldn't nap, even at 2 years old, or saying an infant should only drink 6 ounces of milk per day.
245J.01		11	Definitions – Toxic & hazardous materials	The last sentence has some grammatical errors. It should say: "or death if they are ingested, inhaled, absorbed, or come into contact…"
245J.01		12	Definitions – Variances	Ensure that previous variances will still be honored and that the ability to grant variances still remains with the county agencies. County licensors have firsthand knowledge of each program, so variances should not be decided by DHS.
245J.03		14-16	Community-based Child Care	Remove this section as it belongs in a different statute than family child care.
245J.04	9502.0335	17	Licensing Process	Subd. 1c and 1d: Remove references to private water supply and radon regulations. Subd. 2a: DHS skipped section "a" in their formatting.
245J.04	9502.0335	18	Licensing process – Ineligibility factors	Subd. 4a: We are concerned about DHS being the group or individual that determines if something "may have a negative effect on the ability of the license holder to give care." "May" is very subjective. Who determines that something MAY have a negative effect on the ability to give care. No one should abuse anything, but this section could easily be used by DHS to exert control and claim someone's prescription drug used by many may affect their ability to give care. Also, if someone had been drunk or under the influence of drugs during child care hours, how can DHS claim these changes are about children's health and safety when this section allows those

				providers to be licensed after 12 months of verified abstinence? We want statistics from DHS about how often they have even had providers abuse drugs or alcohol, including how many were found unsubstantiated or unable to determine. Moreover, this section is so poorly worded that it will likely cause confusion. Subd. 4b: We oppose this language for the same reasons listed above: it's very subjective and can allow DHS to use the placement of a provider's child in foster care as an excuse to shut a provider down without good reason. Adding the words, "to the children in their program" after "to give care" could provide a little clarification, but this section should not be added. Subd. 4c: The agency is biased. Having a child placed in residential treatment in the last 12 months for emotional disturbance or antisocial behavior doesn't necessarily mean the provider did anything wrong or that it reflects on their ability to give care. This paragraph gives a lot of power to DHS instead of psychological or mental health professionals or an independent agency who are mandated reporters and would have reported any concerns about the parent/provider to the state. Again, the standard is the ability to give care to the children in their program. Sub. 4d: This also needs to be removed as it sounds discriminatory and would discourage inclusiveness. A child with special needs may need more attention than other children; would DHS say that poses a risk to the other children? What if a household member requires an oxygen tank to breathe? Will DHS argue that is a risk to children as well?
245J.04	9502.0335	18	Variance standard	Subd. 5b: Should say 245J.19
245J.04	9502.0335	19	Change in license terms	Subd. 8a.1: Should say 245J.04 Subd. 8a.4: Should say "family child care program"
245J.04	9502.0335	20	Access to Program	Subd. 10d: The commissioner should only have the right to view and duplicate the records and documents directly related to the licensing of the family child care program.

245J.06	9502.0355	23	Caregiver Qualifications – Physical and Behavioral Health	Subd. 2c: Remove this paragraph. DHS has added “mentally capable” to the current requirement of being physically able to care for children. Who determines this? Of course, we don’t want mentally unstable people caring for children, but this is highly subjective. We want statistics about how often anything related to physical or behavioral health of a family child care provider (or their helpers) has come up because this new section can compel us to provide proof of our physical or behavioral health on their form. If we challenge DHS on things, they could put us on their list and falsely accuse us/question our health without justification. Would providers be blind-sided and forced to close at the last-minute? Proof of physical and mental health signed by professionals at initial licensure should be sufficient Licensed medical and mental health professionals are mandated reporters who would report concerns about a provider to licensing without DHS changing this language.
245J.06	9502.0355	23	Additional group family child care requirements	Sudd. 3b.2: This should be removed as a way to avoid the one-year of licensed family child care experience required before being licensed as a group family child care because being a licensed practical nurse or registered nurse is nothing like being a licensed family child care provider. It doesn’t provide you with the experience that comes from working in child care settings.
245J.07	245A.50	26	License Holder and Second Adult Caregiver Training Requirements	Subd. 1f.4: The language should be changed to say: “License holders and second adult caregivers must maintain record of the most recent training.” DHS’ proposed language would be one more thing they could use to be punitive as it doesn’t specify a time period to keep documentation of training and doesn’t clarify that electronic records would be allowed as proof of training.
245J.07	245A.50	27	License Holder and Second Adult Caregiver Training Requirements	Subd. 1i.3: Under the training about child restraints in vehicles, they had added “and the driver” to our current requirements. The training is about safely installing and using car seats, booster seats, and seat belts with children. It has nothing to do with driving, so adding “drivers” is pointless. Only people who place children in the restraint need to take this class. Most providers don’t own a vehicle large enough to accommodate all children in care, so parents will volunteer to help transport their own children for field trips. The provider is the one who places all children into car seats in all

				vehicles. Requiring the training wouldn't allow parents to be as involved in field trips with their children. They've also added a requirement that trainers be approved through Develop. This is incredibly limiting as there is already a shortage of these professional trainers, the training is already high-quality, and approval through Develop doesn't mean a training is better. Most of the trainers are with county human services or health organizations, so this will increase the shortage of trainers and reduce accessibility to this class.
245J.07	245A.50	28	License Holder and Second Adult Caregiver Training Requirements	Subd. 1k.1 and 1k.2: Requiring us to train ourselves and all caregivers about our policies and procedures. We should be allowed to review the policies with them before they begin working for us and update them with any changes. This new proposal says they need "training," which could mean a lot more time, and that they must initial any changes within 10 days of the change and document each training on site. This creates more cumbersome paperwork and requires more time. The language should be stricken in both. If 1k.1 stays, it should be changed to read, "If there are changes to any of the policies and procedures, the license holder must review them with each second adult caregiver."
245J.07	245A.50	28	License Holder and Second Adult Caregiver Training Requirements	Subd. 1l: We don't oppose the requirement of a training on the reporting of suspected abuse, neglect, or maltreatment of children prior to licensure or caring for a child. However, it should only be required once, offered for free, and available online in a 1-hour format.
245J.07	245A.50	29-31	License Holder and Second Adult Caregiver Training Requirements	Subd. 2d: Preventing providers from repeating a class more than once every 5 years is extremely limiting. Providers sometimes repeat a class without realizing it was one they took a few years prior. Maybe a provider feels they need a refresher or would improve by taking a class again. There are great trainings where the titles don't change, but the content changes frequently, like taxes and record-keeping, licensing forums, and open dialogues. This change would prevent them from taking these classes more than once every 5 years. Remove this change. Subd. 2e: Would require all trainings to be Develop-approved because it lists all the KCF content areas. Right now, county

				licensors can choose to count other classes towards licensing hours, like a class at a psychology conference, a class by Lakeshore Learning, an early childhood conference in another state, etc. This change would prevent it. The “KCF content area #” references should be removed to maintain the language currently in statute that only lists the topic descriptions. Subd. 2f.3: The language here is unclear if it includes all training topics in paragraph 2e or only in KCF VII.A and KCF VII.B. Providers who are approved trainers in Develop should be able to count each hour of training they present, not including a repeat of the same class in the same calendar year, towards their licensing requirements. Other professions give 50-100% credit for every class they present that’s related to their profession. Family child care providers should be given the same amount of credit. Trainers are required to put many hours of research and preparation into developing a training, in addition to presenting it, and should be given credit for those hours. Any DHS-developed training requirement that they present should also count towards the training requirement. Subd. 2h.: Remove the first sentence that limits a training to cover only one training requirement because some trainings are longer than 2 hours and cover multiple content areas.
245J.07	245A.50	32	License Holder and Second Adult Caregiver Training Requirements	Subd. 3a.: Change sentence to say “License holders and second adult caregivers must maintain record of the most recent training.” The rest of the language is already in rule/statute and is, therefore, redundant. DHS didn’t note that CPR training is required every 2 years. This is a huge omission. Subd. 3b.1: This is already included on page 26. Remove and renumber. Subd. 3b.4: Should read: “License holders and second adult caregivers must maintain record of the most recent training.”

				Subd. 3d: Do not add the training requirement for drivers, as we explained above regarding page 27. Subd. 3d.2: Do not require trainers who present the child restraint safety classes to be approved in Develop, as explained regarding page 27.
245J.08	245A.50	33	Substitute and Intermittent Caregiver Training Requirements	Subd. 1d.4: Language should say: “Substitutes and intermittent caregivers must maintain record of the most recent training.”
245J.08	245A.50	35-37	Substitute and Intermittent Caregiver Training Requirements	Subd. 1h: Drivers should not need to take a class about child restraints. The person placing the children in the safety restraints in vehicles should be the only one required to take the training. Subd. 1j: Do not require substitutes and intermittent caregivers to have training on our policies and procedures, especially since DHS is proposing to double their length with this new language. DHS also excluded the intermittent caregiver in this language. If this proposed change is accepted, the language should say, “If there are changes to any of the policies and procedures, the license holder must review them with any substitutes and intermittent caregivers.” Subd. 1l: We have the same comments for substitutes and intermittent caregivers about the class regarding the reporting of suspected abuse, neglect, or maltreatment. This information should be combined with the Basics of Family Child Care class for substitutes while keeping the class length the same or shorter. Subd. 3: Language should say: “Substitutes and intermittent caregivers must repeat pediatric CPR training every two years, and record of the most recent training must be maintained by the family child care provider.” Taking the training is the important part, but this would require providers to pay $25 or more to get a card from the ARC or AHA, as well. Subd. 3c.1: This language is redundant. Subd. 3d: Remove “and the driver” from the training requirement.

				Subd. 3d.2: Remove this to allow anyone certified to teach the child restraint system class.
245J.08	245A.50	38	Helper Training Requirements	Subd. 1e: How long is the class about reporting abuse, neglect, or maltreatment? Again, we don't oppose this in concept, but we do want reasonable limits attached to the requirement.
245J.10	245A.53	40	Substitute Caregivers and Replacements	DHS forgot to call them "Emergency Replacements."
245J.11	245A.149	42	Supervision of Family Child Care License Holder's Own Child	Subd. 1a.1: Remove the limit of a designated caregiver, helper, or substitute for the licensed program. This would allow spouses, significant others, etc. who may occasionally help in the program, but aren't at that moment, to take their own child or relative on or off the premises with the license holder's permission. Otherwise, it really infringes on parental and familial rights.
245J.12	9502.0365 9502.0367	43	Licensed Capacity, Child and Adult Ratios, Age Distribution Restrictions	Subd. 1: Move Subd. 1b to this section (after removing "preschoolers" because they are not specified in age distribution restrictions) and modify the language because they are redundant. Subd. 1a: This sounds like providers would be over their capacity any time a sibling comes in with their parent (and stays under their supervision) to drop off the child enrolled in their care. It should be clarified to say that their capacity must include all children present in the program who are under their care at any one time during child care hours. Strike the last sentence. Subd. 5: Remove reference to community-based care. The language should say, "A license holder must be the primary caregiver in the licensed child care program unless a substitute is being used. The use of a substitute…" Adding the word "primary" acknowledges the fact that there can be other caregivers in the program with the license holder. There is no need to say that children in care must be supervised by a caregiver because this commonsense statement is already covered by the definition of "supervision." This also says that all caregivers must be awake while providing child care services. This doesn't take into account that sometimes another adult isn't needed due to children in care at the time, so the

				second adult caregiver or helper could technically nap if needed, as long as they were within licensing ratios. The main issue is that there is no exception for providers who provide 24-hour/overnight care. If all the children are sleeping at night, the provider should be able to sleep; this is currently allowed by Rule 2.
245J.12	9502.0365 9502.0367	44-45	Licensed Capacity, Child and Adult Ratios, Age Distribution Restrictions	Subd. 6 a, b, and c: These should read “Children Younger than School Age” instead of “Under School Age.” Subd. 6b: Under the Specialized Infant and Toddler Family Child Care License, we propose adding a B3 license that would allow a capacity of 8 with no more than 6 children younger than school age, a maximum of 2 infants, and no more than four children younger than 2 years old. This would significantly help families who need infant and toddler care while encouraging providers to continue in this profession. Some counties are already granting this variance now. Subd. 7: Remove “adult-to-child” from this language and add the allowance for a C2 provider to operate as a C2 or C1 program on the days when the ratios allow them to operate at a lower capacity.
245J.13	9502.0395	46	Reporting to Agency	Subd. 1: Does “immediately” mean reporting within 24 hours? It would be best to clarify this so it isn’t open to a wide range of interpretations. Subd. 2a: DHS should not need to be informed about anyone moving out of our homes. Regardless, this proposal changes the notification from 30 days to only 10 days after someone moves out of a provider’s home. Subd. 2d: This change would require the provider to notify licensing immediately (again, this means different things to everyone) about any fire that requires the service of the fire department. They should only need to be notified if a fire occurred during child care hours. A small toaster fire after hours might make someone call the fire department, even though it wasn’t necessary; that would have no bearing on someone’s license and, therefore, should not need to be disclosed to DHS. If a provider has a serious fire, he or she isn’t

				going to be thinking about much else, but they likely aren't planning to reopen soon. After a trauma like that, immediately reporting to licensing might be the last thing on their mind. It is bad enough that DHS is trying to micromanage everything we say, do, and provide during operating hours, but this and other sections are micromanaging our homes and time outside of child care operations. Subd. 2e: This paragraph would require providers to immediately notify licensing after any serious injury. This should be clarified. Current DHS policy says providers need to report it within 24 hours. DHS also did not include any statement about a reportable injury occurring during child care hours. Despite their claims that these proposed changes are about children's health and safety, they omitted "or death of a child." This is a serious omission by DHS. The language should read "…or death of a child during child care hours while in the child care program."
245J.14	9502.0395	47-48	Behavior Guidance	Remove all new language. The proposed language micromanages our independent small businesses and homes down to every action. Maintain the language in current Rule 2. Subd. 4d: This would prevent providers from canceling an activity for a group due to the behavior of one or more children. If an activity would be dangerous due to the behavior of one or more children, the provider should be able to cancel. If children are hurting each other or being disrespectful, why would a provider seem to reward it with an ice cream or pizza party? Even a small situation like not being able to take the children outside because two children don't have all their winter gear might be considered a "behavior" by DHS. We must keep children safe and can't allow some inside and some outside; it's a lose-lose situation with this proposed language. Children would be rewarded for negative behaviors. Logical consequences would be very limited by this language, despite the fact that they are encouraged by most childhood experts. Remove this section. Subd. 4f: The language could prevent logical consequences for children "failing to complete an activity" such as cleaning up after themselves. DHS might use the word "punishment" to mean an

				unpreferred thing for a child, such as being quiet during naptime or not playing in the nap area. Remove this section. Subd. 4j: This new language limits the use of mechanical restraints as a means of discipline. We oppose mechanical restraints for discipline. However, DHS also says they can't be used for "convenience of caregivers," including swings, high chairs, infant carriers, walkers, or cribs. The use of these items by parents and providers is typically for convenience and the reason manufacturers produce them. When a provider is cooking lunch, they can't hold an infant while near a hot stove or removing items from the oven. It is convenient and prudent to place an infant in a secure piece of equipment to ensure their safety and the ability of the provider to care for the other children. When a provider actually gets the chance to use the bathroom, s/he can't hold an infant while doing so. Therefore, placing the infant in one of these devices is necessary to ensure his/her health and safety. Remove this section. Subd. 4m: This would prohibit "punishing or shaming a child for the actions of a parent" including failure to pay fees, provide appropriate clothing, failure to provide materials for an activity, or any conflict between the provider and parent. Providers don't want to shame or punish children. However, DHS might claim a child gets punished if we terminate their care due to the actions of their parents, such as not paying fees, consistently failing to provide basic necessities, or being disrespectful, swearing, or threatening to the provider ("conflict"). If a child doesn't have appropriate clothing to play outside in the winter, would DHS claim it's a punishment to have the child play away from the snow? This paragraph could be twisted to prevent providers from terminating care for very good reasons, including ones that protect the health, safety, and development of the other children in care. Remove this section.

245J.14	9502.0395	48-49	Behavior Guidance - Persistent unacceptable behavior	Subd. 5: The whole section about “persistent unacceptable behavior” needs to be stricken. Subd. 5a: Providers want to help families, but what if a parent is leaving for vacation or going through a tough time. Why would providers want to burden them with something like “Your child hit child Y on the arm” when we work through those issues in our homes before the end of the day? Providers would need to notify them within 24 hours. If it isn’t serious, it’s easy to forget in the busyness of pickup times or finding a way to talk with them when others aren’t around, especially if they’re in a rush. Providers want to address and fix unacceptable behaviors, so they talk with parents when needed. This is OUR choice. Otherwise, some parents would hear a non-stop barrage of complaints about a child’s negative behaviors; this would have a negative effect on both the parent and the child. Remove this section. Subd. 5b: Being forced to develop a behavior plan is just one more hoop to add to all the other burdensome regulations they have for us. Moreover, there are major data privacy issues involved with us being required to develop a plan in consultation with the child’s parent, all caregivers, and other professionals involved in the child’s care and treatment. This might include teachers, therapists, social workers, and/or a whole IEP team. Providers will likely choose to terminate care instead of having to complete this unproductive rigmarole. Remove this section.

245J.14	9502.0395	48-49	Behavior Guidance - Separation time from the group	Subd. 6a: This does not allow for the varying differences in situations and the unique amount of time each child may need to gain self-control in each situation. The words “and rejoin the group” need to be removed, at least, because children should be able to choose when they’re ready to return to the group. Also, if a child chooses to separate for longer in order to gain self-control, this language limits it to 10 minutes. Some children need more time to “cool off,” and family child care providers work to help children identify their feelings, providing coping tools, and help children take control of their feelings. Some children need only a few minutes, some need only 10, and some need more. Subd. 6b: This additional documentation requirement for beginning and end times of a child’s separation should be removed. Subd. 6c: Current language specifies that infants must not be separated from the group as a means of behavior guidance. The proposed language adds “toddlers.” If toddlers have a tantrum or act in a way that threatens the safety of others, as well as themselves, separating them from the group to help them “take a break” is best practice. Remove “and toddlers.” Subd. 6e: Remove the first clause so that the sentence starts with “The caregiver…” because providers review the reason for the separation and discuss expected behavior with the child BEFORE they return to the activity or group. DHS’ language would be setting children up to have more mistaken behaviors.
245J.14	9502.0395	48-49	Behavior Guidance - Additional provisions	Subd. 7a: Remove all of this new language as the proposed 245J.16 should be removed, or at least most of it should be removed.

245J.15	9502.0405	50	Admissions; License Holder Records; Reporting	Subd. 1: The new language would require providers to answer constant messages and/or calls by parents at all times. While providers often help educate parents, too, the state shouldn't force this. Additionally, the discussions about the child should occur based on the needs of the child. Remove "on-going, routine basis" and the needs of the "parent or license holder." Subd. 1a: Remove this section as it contains ADA and data privacy issues. We encourage and celebrate inclusion. However, we worry this will make providers hesitant to enroll children with special needs and limit choices for quality care for them. Parents already share the information providers typically need to care for their children because they want the best for their children. Family child care providers don't need a law for this. Subd. 3: This language would allow the parents of children enrolled in our care to come into our program at any time while their child is in care, even if they just want to observe or have difficulty separating from their child. This is not in the best interests of the children in care. Providers are already required to allow parents access to their child, so they do not need additional access to our program. This violates the rights of the provider and the other children in their care. Subd. 4: Remove this language. First, attendance records didn't prevent the millions of dollars in CCAP fraud in our state in just the last 5 years. This would create extra time and paperwork for providers and extra hassle for families. Many providers have their children outside during pickup times. Providers don't want to carry a clipboard around with an attendance sheet for parents, and they don't want to complete anything when they are trying to rush out the door. If providers want to do this, it's their choice, and it can be a benefit to them, but the state shouldn't dictate this. We don't oppose it being required for those accepting CCAP and Early Learning Scholarships as the state currently requires.

245J.15	9502.0405	51	Admissions; License Holder Records; Reporting - License holder policies	This section addresses all the policies DHS wants us to include in our policies we provide to families and to licensing. The additions they want will add at least 10 more pages to each provider's policies. Policies aren't meant to include exhaustive lists of licensing requirements. They are meant to be the policies providers choose related to their program and are between them and the families enrolled in their care. Subd. 5b: Remove the word "written" as providers should be able to share their policies in written or electronic format, especially since the DHS requirements would add more costs for printing many pages of policies. Subd. 5b.3: Change the language to: "All fees, including payment schedule." Remove all other language as the list is cumbersome and not exhaustive. Subd. 5b.13: Despite DHS' insistence that the proposed language is about health and safety, it's ironic that they would allow school-age children to carry their own medications and topical products when we're supposed to keep those things inaccessible to children. This could be dangerous for some children, and it certainly presents a risk to the provider for liability and licensing sanctions. This should be left up to the provider or clarified.

245J.15	9502.0405	52	Admissions; License Holder Records; Reporting - License holder policies	Subd. 5b.17: Remove this section. This would require providers to list all the situations that may require termination of care or expulsion (providers typically refer to it as termination). Providers can't predict all the different scenarios that might warrant termination. Most experts recommend reserving the right to terminate at any time, with or without notice, though 2 weeks is the general standard. But if a parent is swearing at or threatening a provider in front of other children, the provider might be forced–based on the proposed language–to risk everyone's safety by allowing the parent to return. Subd. 5b.18: The redundant language should be changed to say, "plans for use of a helper and plans for use of a substitute." Subd. 5b19: Providers would be required to notify families 14 days prior to the introduction of a new pet in the program. Providers don't take the decision to bring a pet into their lives lightly. What if it was unexpected, such as the death or injury of a family member which required someone to care for a pet? Or what if they are a foster provider for a rescue; the provider won't always have 14-days' notice. This is the right of the provider, just as it is the right of parents to choose to have their children in a home with or without pets, or with a certain type of pet. Keep language currently in Rule 2 about the presence of pets, and remove the proposed language. Subd. 5b20: Remove this language because providers are already required to notify parents of a child whose skin is broken by an animal bite or scratch. Subd. 5b.21: Remove this language because providers are already required to notify about a child who is bitten by an animal. The language is also poorly written and unclear. Subd. 5b.22: This would require a written policy about screen time, including caregiver education and screen time use. How does a provider's education relate to screen time in child care settings? Any policy about screen time is between providers and parents and should not be required by law. Remove this section.

245J.15	9502.0405	52-53	Admissions; License Holder Records; Reporting - License holder policies	Subd. 5b.23: Requires providers to share a copy of their liability insurance coverage info. This will just entice sue-happy families or people looking for providers with high limits for scams. Providers already must disclose whether they have liability insurance and the renewal or expiration date. Families can already ask to see a copy of their provider's coverage; providers are then required to show it to them. Subd. 5b.24: This addresses smoking, vaping, etc. It misses an important aspect of children's health, though: smoking in any vehicle used for transporting children outside of childcare hours. That can be hazardous to children's health, too. "Tobacco products" of any kind would also be banned, but they are already required to be inaccessible to children. If someone smokes in their yard outside of child care hours, it doesn't affect the children and should not require families to be notified. The last sentence should read: "…program smokes or vapes inside the residence or any vehicle used for transporting children outside of child care hours." Subd. 5b.25: Keep current Rule 2 language as it already prohibits us from abusing or being under the influence of anything that affects our ability to care for children. Remove new language. Subd. 5b.26: This language about parental access to their children is already required by current and proposed language on page 50. Subd. 5b.27: Providers shouldn't be required to list the locations or who has access to video surveillance systems in the program unless people besides the provider and background-checked household members have access. This is a safety issue as providers use them for security; it mitigates risk for everyone by having them and if providers don't share their location with all the families in their care. The language could say: "If video surveillance systems are used in the program, enrolled families must be notified that video equipment or monitoring is not permitted in bathrooms." Subd 5b.28: Keep current Rule 2 language and remove all proposed language. Providers already need to follow laws about the storage of firearms and ammunition being locked, separate

				from each other, and inaccessible by children. MACCP would like to see statistics about any incidents with firearms in a licensed family child care program.
245J.15	9502.0405	53-54	Admissions; License Holder Records; Reporting - Records for each child	Subd. 6: Remove “reviewed at least annually by the parent and” because parents are already required to notify us about any changes to the information they provide at enrollment. Subd. 6a.9: Keep current Rule 2 language about the liability insurance notification on the admission and arrangement form. Remove proposed language. Subd. 6b: This adds a requirement for providers to follow any special instructions or a plan about toilet training, eating, sleeping, medical or health needs, allergies, and “developmental, behavioral, cultural, social emotional information, or any other relevant information.” Following some requests by parents could be detrimental to children and fundamentally alter the family child care program. Moreover, this covers a wide breadth of information that is very subjective. Some parent requests go against expert

				recommendations and common sense such as preventing their young child from napping, not allowing a child to play with certain children, serving treats to their child at every meal, etc. It wouldn't matter how harmful the request because the proposed language would require providers to adhere to every request. Subd. 6f: Remove the last sentence requiring annual review of the pickup authorization information. Providers already update it as needed.
245J.16	9502.0405	55-56	Children with Special Health Care Needs or Disabilities	Remove the entire chapter. This will make it tougher for children with special needs to find high quality care (or possibly any care). The intent might be to encourage inclusion, but this would ruin that. Providers would be scared to take children with special needs because of the huge increase in paperwork, time, and liability from these pages. Providers would be required to follow instructions from the parents, physician, or therapist, even if they are not based on best practices. Providers would need signed statements from the parents allowing providers to share with these people and for them to share with us. The Americans with Disabilities Act (ADA) already covers most of this and protects people with special needs with clearer language. The "individual care plan" sounds similar to an IEP; we are not schools and do not have the staff that they have needed to hire just to handle IEP-related paperwork. Keep current wording in statute about allergies and nondiscrimination.

245J.17	9502.0415	57	Activities and Equipment - General Activities	Keep language in current rule and strike all new language in this chapter. Subd. 1a.1: Remove the word “daily” as there may be reasons for a provider not to take children out besides weather, such as icy conditions, a child not having appropriate winter gear, a planned indoor activity, etc. Subd. 1a.2: Remove the requirement to utilize weather advisory and air quality notifications when determining if children can play outside. Would DHS add a documentation requirement every day the provider doesn’t take children outside? Subd. 1b.1: Remove “For any infant over twelve months of age” because, by DHS’ own definition, those children are “toddlers.” Subd. 1b.2: Keep Rule 2 language about indoor gross motor play. The proposed language should not specify possible ideas for gross motor play such as climbing, running, jumping, yoga, etc. Subd. 1b.5: The language should say “adult-directed” instead of “license-holder-directed” to be inclusive of all adults who may assist in a family child care program.
245J.17	9502.0415	57-58	Activities and Equipment - Equipment	Subd. 2: Keep current language in Rule 2. The proposed language seems to promote worksheets, is redundant, and is highly subjective. Subd. 2.a: Change to: “The license holder must have equipment sufficient in quantity for the number and ages of children in care.” Subd. 2b: Remove this language because you can’t measure satisfaction of individual, developmental, and cultural needs. Subd. 2c: Providers are prohibited from using hazardous materials. There is no need to list lead, PVC, soft, flexible plastics, Styrofoam, phthalates, and bisphenols. PVC is used for many fun math and science activities such as marble mazes and water walls. Children aren’t scratching or eating them. How will providers verify all the materials in a product if it isn’t listed by the manufacturer or the

				provider buys it used? Providers don't want to endanger children's lives, but DHS is threatening their creativity and depriving them of wonderful learning opportunities through this language. Remove this language. Subd. 2d: Change "program-made" to "homemade." Subd. 2e: This would require equipment to be used in accordance with manufacturer's instructions. Many items are purchased without instructions; what if the provider doesn't have them? This language seems to prohibit the use of loose parts, a STEM concept that encourages creativity, boosts fine motor skills, hones engineering skills, increases math comprehension, and more. Remove the proposed language. Subd. 2f: This is redundant language; remove it.
245J.17	9502.0415	58-59	Activities and Equipment - Newborn or infant activities	Subd. 3a.: Keep current Rule 2 language. If proposed language is considered, change to: "Newborns or infants must be held or fed sitting up for bottled feedings until the infant can hold his or her own bottle. A bottle cannot be propped up for a newborn or infant." Subd. 3b: Remove all new language as it belongs in a resource manual for providers. Subd. 3c: Remove new language. The proposed language is redundant. Subd. 3d: Remove new language. Subd. 3e-h: The language is unnecessary; keep the current language in Rule 2. DHS should have written: "Provide activities for the newborn or infant that develop the child's manipulative, fine and gross motor skills, self-awareness, and social-emotional skills. Subd. 3i: This section about tummy time doesn't clarify that the newborn or infant should be awake. It explains the benefits of tummy time which, like many sections of this draft, does not belong in law.

245J.17	9502.0415	59-60	Activities and Equipment - Newborn or infant equipment	Remove all of the proposed language. Subd. 4b: Change “documentation” to “record” regarding crib inspections. The proposed language would require providers to share crib inspection reports with the commissioner and parents when requested. Keep current language. Subd. 4c-f: This specifies 22 types of items and activities that are required in family child care homes for newborns and infants. It does not even clarify that these items aren’t needed if an infant is not in care.
245J.17	9502.0415	60	Activities and Equipment - Toddler activities	Subd. 5: Keep current language in Rule 2, except change “which” to “that” in section c. Subd. 5f: It is offensive that DHS chose to list social and emotional development activities as if providers don’t know that children need opportunities for singing, dancing, and imaginative play. Remove this.
245J.17	9502.0415	60-62	Activities and Equipment - Toddler equipment	Subd. 6: Keep current language in Rule 2. Subd. 6a: The added language about cleaning sleeping equipment is already covered in the section about cleaning and disinfecting. Subd, 6b-e: The proposed language requires providers to provide a minimum of 3 block accessories, puppets or dolls, pieces of play furniture, play telephones, nesting cups, puzzles, animals, toy people, dress-up accessories, toy people (in different races, genders, and ages), bead mazes, sets of 10+ blocks, and more. Ironically, this so-called modernization project would require providers to have CDs, records, or tapes; maybe they plan to require digital materials in another 40 years. DHS also doesn't clarify that these materials aren’t necessary if a toddler is not in care and doesn’t account for having only 1 or 2 toddlers in care. DHS chose to create division in art supplies by requiring “colored and white paper;” providers offer paper in a variety of colors, so specifying which ones is an excessive overreach. Their requirement to offer modeling clay or play dough is concerning because some modeling clay is toxic.

245J.17	9502.0415	62	Activities and Equipment - Preschooler activities	Subd. 7d: The language should be changed to say, “Give assistance in toileting, provide time to carry out self-help skills, and provide opportunity to be responsible for activities like putting away play materials and helping around the home.”
245J.17	9502.0415	62-64	Activities and Equipment - Preschooler equipment	Subd. 8a: The added language about cleaning sleeping equipment is already covered in the section about cleaning and disinfecting. Subd. 8b-h: The proposed language requires providers to provide a minimum number of blocks, block accessories, puppets or dolls, pieces of play furniture, play telephones, toy people (in different races, genders, and ages), puzzles (but they can’t be missing any pieces), animals, dress-up clothing, books (without any torn or missing pages; they don’t specify if the tears could be taped), and more. Ironically, this so-called modernization project would require providers to have CDs, records, or tapes; maybe they plan to require digital materials in another 40 years. They would require music played through a device without clarifying that it should not play all the time according to experts. DHS also doesn't clarify that these materials aren’t necessary if a preschooler is not in care and doesn’t account for having only 1 or 2 preschoolers in care. DHS chose to create division in art supplies by requiring “colored and white paper;” providers offer paper in a variety of colors, so specifying which ones is excessive overreach. Their requirement to offer modeling clay or play dough is concerning because some modeling clay is toxic, and some of the required collage materials are ones DHS has claimed are choking hazards. This conflicting language could be used to entrap providers. Laws are not meant to include exhaustive lists of suggested items.
245J.17	9502.0415	65	Activities and Equipment - School-age activities	Keep current language in Rule 2.
245J.18	9502.0425	66-68	Physical Environment and Space Requirements – Outdoor learning environment and play space	Subd. 2: Remove all proposed language. Subd. 2b: A requirement that every outdoor play space must have shaded areas (plural) ignores the fact that some providers have smaller spaces that don’t have multiple shaded areas and some

				providers go outside for shorter periods throughout the day. Remove this language. Subd. 2c Remove all of this language because it's repeated in other sections of the statute, doesn't account for bussing for children coming to and from the program, and is subjective. Subd. 2d: The proposed language would require almost every provider to install a fence, continuous natural barrier, or a combination of the two because almost every provider lives near "traffic" or "nearby hazards," including urban, suburban, and rural areas. The costs for this will be impossible for most providers who don't already have one. DHS proposes a gate requirement for self-closing and positive self-latching closure mechanisms that are also child proof by height or lock; this means gates would need to be at least 6 feet tall or the provider would need to put a lock on each gate that the children could not unlock. These fence and gate requirements are moot with the current supervision requirements. Subd. 2d.4: The new language should be stricken as providers can't prevent someone from walking by their yard and throwing a cigarette butt or walking their dog without cleaning up any feces. On trash days, debris can easily blow into a provider's yard. Current and proposed language should be related to "The play area and equipment actively in use…" Subd. 2e: Requiring constant visual inspections of the outdoor areas and equipment is not practicable. Would the provider need to tell the children to wait in one spot for 10 minutes while he/she inspects the outdoor play area? Remove new language. Subd. 2f: This section requires equipment to be designed by the manufacturer to meet the developmental needs of the age groups using the space. However, manufacturers rarely note how a piece of equipment meets children's developmental needs. This also doesn't account for modified equipment that can still be very safe; the manufacturer may not have designed it to meet children's needs like the provider did. Remove new language.

				Subd. 2g: This section is concerning for multiple reasons. First, paragraph 1 says all gyms, swings, slides, etc. must be “out of the path of the area’s main traffic patterns.” What is considered “out of the path,” and what constitutes the “main traffic patterns?” This seems like an area that will lead to many correction orders because there is no clarification. We want to see statistics about injuries from these things in licensed family child care programs. No one wants to set these things up in dangerous locations, but the wording here is vague. Also, metal can rust with repeated exposure to water; paragraph 5 will be problematic for many as there is likely rust on many screws and bolts on swing sets, but it is typically cosmetic. The presence of rust doesn’t necessarily mean something is unsafe. This section also forbids holes and cracks. The natural nature of wood can have cracks and holes, and some holes are intentional. Almost every residential swing set has an open area for them to enter the “fort” after climbing up the ladder or rock wall, yet paragraph 8 requires protective barriers on all platforms 30” or higher. Remove all new language. Subd. 2h: This references “fall zones,” but the CPSC doesn’t mention this term anywhere on its website or in its home child care or commercial playground handbooks. They talk about “use zone” and “fall height.” Family child care providers have planned their spaces and expenses for their existing structures and have kept children safe for 1-40 years. It’s ridiculous to add the additional expense of a minimum of 9” of mulch or sand or 6” of protective surfacing six feet away from every elevated surface, plus requiring constant raking and addition of more layers; injury statistics for licensed family child care don’t support this. This significant additional cost and, in many cases, impossibility with limited space, will make many providers quit. There is also a greater risk of choking with pea rock or mulch than the risk of falling on grass. Remove this language. Subd. 2i: Bare soil wouldn’t be allowed–despite the difficulty of growing grass under swings or at the bottoms of slides—without lead testing by a specific national laboratory. Mud kitchens wouldn’t be allowed unless the provider pays for lead testing. Remove this language.

245J.18	9502.0425	68	Physical Environment and Space Requirements – Portable Wading Pools ("wading pools" should be lowercase to keep consistency in the document)	Subd. 4b: Put quotation marks around "Wading Pool Safety for Parents." Subd. 4d-e: Clarify that this relates to a wading pool <u>with water</u>.
245J.18	9502.0425	69-71	Physical Environment and Space Requirements – Swimming pools	Update statute references in this section. Spell out Department of Human Services instead of using "department." Add "when" before "children" in section 6. Update section number to 11 in section 9. Section 11 should use 2 and 5 instead of spelling out the numbers.
245J.18	9502.0425	71	Physical Environment and Space Requirements – Water hazards	Subd. 6b: Remove proposed language. Do splash pads fall under this section? Subd. 6d: Remove the new language as this is redundant and doesn't define what is a body of water. They do imply that a water table is a body of water simply by excluding it from the requirements. Would they claim a bucket of water used for toy squirters or paintbrushes is a body of water? What about a bucket of bubbles?
245J.18	9502.0425	71	Physical Environment and Space Requirements – Water Play (make "play" lowercase to keep consistency)	Subd. 7: Keep language currently in rule. Clarify that it's about water retention and not about standing water. Many providers can have standing water after a heavy rain, but retaining water is very different. Change to, "Splash pads or sprinklers that retain water are considered wading pools…"
245J.18	9502.0425	71-73	Physical Environment and Space Requirements – Ventilation, heating, and cooling systems	Subd. 9a: Change "the" HVAC to "any" HVAC as some providers may not have all of these components. This would require any HVAC system to be inspected by a licensed contractor before being initial licensure. Subd. 9b: Strike the new language that would require both annual inspection and maintenance of the HVAC system by a licensed, qualified contractor. Both of these unnecessary requirements would cost providers hundreds of dollars each year.

				Subd. 9c: Language should be changed to say, “Inspections by licensed, qualified HVAC contractors must be obtained…” for alterations or additions to the system. This removes the reference to family child care homes as a facility. Subd. 9l: The proposed language states “the source of harmful and unpleasant odors including urine and pet waste must be removed to the extent possible by removing the source of the odor or by removing odors through cleaning and ventilations.” Who determines what odors are unpleasant or harmful? Children are normally the source of the unpleasant odors in child care; that’s the reality of working with young children with typical bodily functions. Is DHS saying providers should remove a child from their homes any time the child has a dirty diaper or passes gas? Remove all new language. Subd. 9m: The proposed changes prohibit aerosol sprays, incense, moth crystals or moth balls, chemical air fresheners, or toilet deodorizer blocks, and all scent-enhanced products (candles, essential oils, and air fresheners)—even natural ones–so removing the so-called “unpleasant” odors will be nearly impossible. Fans can only do so much. Diaper disposers can only mitigate smells to an extent. Cleaning is normally not a way to remove odors. This also seems very disrespectful to the cultures and/or socioeconomic status of some people who don’t or can’t shower. This language encourages children to be treated like pariahs if they cause “unpleasant” odors. When have natural air fresheners and essential oils caused issues in family child care homes? This decision should be left up to providers and parents. Remove all new language.
245J.18	9502.0425	73	Physical Environment and Space Requirements – Temperature	Subd. 10: The temperature requirements are going to increase every provider’s costs The current language requires the areas for children in care to be at a minimum of 62º. The proposed changes would require us to keep the temperature between 68º and 82º. Many providers keep their homes below 68º in the winter as they and the children are more comfortable and save a lot of money that way. What happens if the A/C or furnace break during child care hours? A provider would easily be in violation within hours on most days in the winter and summer. To add to the nonsense, DHS would require our relative humidity to be maintained between 30

				and 50%. Providers would be adjusting their thermostat all day to stay perfectly in line with this requirement! Few people have humidistats with their systems. Homes will have varying humidity and temperature differences between levels unless they have dual or triple zones and humidistats (rare and very expensive). We live in Minnesota. The second they step outside they'll face much higher humidity levels in the summer. Providers try their best to keep their homes at comfortable levels, but basements tend to have higher humidity levels, and providers can't feasibly run dehumidifiers while the children are around because they're loud. Remove the new language.
245J.18	9502.0425	73	Physical Environment and Space Requirements – Sewage disposal	Change "Day care residences" to "Family child care homes."
245J.18	9502.0425	73	Physical Environment and Space Requirements – Fire extinguisher	DHS proposes a requirement to move fire extinguishers from all "cooking areas" of our homes to "near the exit door of cooking areas" What is the justification for the change? Most keep theirs under the sink, conveniently located next to the stove. Putting it near the nearest exit door might move it further away from the stove; thus, endangering more lives. The new language would also require documentation of annual service of fire extinguishers. We oppose additional requirements as the tag placed on each extinguisher when it's serviced should be enough. Remove the new language.

245J.18	9502.0425	74	Physical Environment and Space Requirements – Infant and newborn sleeping space	Move this entire section to 245J.17, Subd. 4 with the equipment requirements for newborns and infants.
245J.18	9502.0425	74	Physical Environment and Space Requirements – Stairways	Remove references to millimeters as we officially use inches for measurement.
245J.18	9502.0425	75	Physical Environment and Space Requirements – Locks and latches	Subd. 20c: Change “where” to “for which.” Subd. 20d: Remove the prohibition of locks or door chimes in place of supervision because the definition of supervision is sufficient.
245J.18	9502.0425	75	Physical Environment and Space Requirements – Tobacco products, vaping, drugs, and alcohol use prohibitions	Subd. 21c: Clarify that this doesn’t apply to parents in our program. Wording should be changed to say, “...on the premises if anyone smokes or vapes in the home outside of child care hours.” This section should be moved to 245J.15 to keep similar topics together.
245J.19	245A.146	76	Crib Safety	Subd. 1: Update reference from 245A to 245J. Subd. 2: Remove the section about commissioner inspection because this is a requirement for the commissioner and not for providers.
245J.20	245A.147	77	Infant Sleep Supervision Requirements	Remove all new language. Subd. 1: Update reference to 245A to 245J. Subd. 2a.2: This would require providers to check on all sleeping newborns and infants every 15 minutes in person, regardless of their proximity to the infant. This is excessive and unnecessary. Are there statistics showing recent problems with sleeping infants in family child care? A good monitor helps providers check on sleeping babies more often. Under the proposed language,

				providers would be required to bring all children from infants-age 4 with them as they check on a sleeping infant due to supervision requirements. It would be impossible to expect the other children to be quiet, not to sneeze, etc. while checking on sleeping infants. Remove this language. Subd. 2a.3: In addition to this, providers would need to use monitors when infants are sleeping in a separate room out of their direct supervision. However, a concerning proposed change would prohibit the use of music or sound equipment (like fans or noise machines) if the infant is sleeping in a separate room. Those sounds help many infants sleep while allowing the other children in care to use their normal voices. Providers can still hear infants through a monitor, even with a sound machine or music. Change the proposed language to say, “Functioning audio or video monitors must be used when infants are sleeping away from the supervision of the provider. When in use, the monitors must meet the following conditions: be able to pick up the sounds of the infant being monitored, and the primary provider or caregiver must actively monitor the equipment at all times.” This provides clarification and eliminates wordiness. Subd. 2a.4: Remove this language that prohibits the use of music, sound machines, or fans within three feet of a sleeping infant or in a sleeping room out of the direct supervision of the caregiver. Subd. 2a.5: Remove reference to using mirrors for supervision.
245J.21	245A.51	78-79	Health and Safety Requirements	Subd. 1: Move reference to the disposal supplies to the first-aid kit since some of these are already listed for it. Subd. 2a.8: Modify emergency preparedness plan language under 8 to say “accommodations for any infants and toddlers in care” because some providers don’t have them in care and, therefore, shouldn’t need to include them in the emergency plan.

				Subd. 2b: Remove new language that would require documentation of annual training on the emergency preparedness plan. Subd. 3b: Remove new requirement to take each child's medical and parental contact info during emergency drills. Add "off-site activities" because DHS removed this health and safety measure. Suggested language: "The emergency phone numbers of each child's parents, physician, and dentist, if applicable, must be readily available within the home and taken on off-site activities or emergency evacuations." Subd. 3c: Remove new language requiring providers to listen to the Emergency Alert System or local alerting systems during severe storms and tornadoes. Change language to say "must stay updated for current emergency information and instructions." Many providers stay updated using their phones for the most accurate info, so requiring them to use a different system may jeopardize the safety of the children. Subd. 3d: DHS removed the requirement to have a designated place to meet outdoors, but a requirement to have a designated place to meet outside the child care home should be added to ensure children's safety. Subd. 3e: Remove new requirement to document on the monthly fire and storm drills log the name of the caregiver who conducted the drill and the length of time to evacuate. Most providers are the sole caregivers; there is no purpose in this requirement. Providers evacuate using different routes so the children learn them well and are prepared in case of emergency. Evacuation times will appear skewed depending on where the evacuation starts, progresses, and ends. This is just more unnecessary documentation. We also support removing the current (but fairly new) requirement to document the time of the drill. Subd. 4: Transportation requirements are repeated in a few sections; combine and condense into one section.

				Subd. 4c: Change “which” to “that.” Subd. 4d: Add comma after “state,” and change “motor vehicle s” (typo) to “driver’s” license.
245J.22	245A.148	81-84	Cleaning, Sanitizing, and Disinfecting	Remove all new language in this statute. All references to “body fluids” should say “bodily fluids.” Providers strive to maintain clean and safe homes, but this language would be impossible to follow in typical homes. Providers would need to spend additional hours each day on cleaning, disinfecting, and sanitizing. The over-sterilization and elimination of germs on everything is only going to weaken everyone’s immune systems. Subd. 2c Sanitizers must be effective against viruses. The current statute lists 3 specific ones. This new language might imply all viruses. This will be tough, and none of them can guarantee 100% effectiveness. For all of DHS’ purported concern about using natural, safer, products in some areas, this language seems to eliminate their use as possible sanitizers. Subd. 2d-e: Providers would need to sanitize everything that touches food, hands, mouths, eyes, noses, and exposed skin. That would mean sanitizing every pen, pencil, marker, shelf, cubby, door handle etc. Subd. 2h: Providers would need to use test kits daily for any sanitizers that require mixing. Subd. 3f: This language says, “Toys, food, or body contact surfaces that become contaminated with high-hazard body fluids must be disinfected, washed, rinsed, and sanitized before [being] returned to use.” Family child care homes are not commercial facilities. Washing and disinfecting should be the only two things needed in these situations. DHS should share any statistics they have about issues requiring more sanitizing and disinfecting in family child care programs.

				Subd. 3g: Providers would need to use chemicals or steam to clean carpeting, rugs, and upholstery that have been contaminated by bodily fluids. The language does not specify if natural products would meet the “chemical” requirement. Subd. 3j: Providers would need to use test kits daily for any disinfectants that require mixing. Subd. 4b: Cleaning frequency spells out the excessive amount of time providers would need to spend cleaning each day. Some of it is already required, but DHS added sanitizing to every eating utensil, bottle, drinking equipment, and dishes. Are faucets included in “drinking equipment?” Subd. 4b.4: Appliances used to prepare food must be cleaned after each use and sanitized daily or more often as needed. Some of them can’t be sanitized, and using chemicals on food appliances can cause other issues. Subd 4b.5-6: These changes also require refrigerators to be cleaned and sanitized at least monthly and freezers to be cleaned and sanitized at least quarterly. Providers clean their appliances by choice, and sanitizer shouldn’t be necessary. Again, using bleach or other chemical sanitizers can cause more issues than using natural ones or just soap and water. Subd. 4b.7: Infant and toddler toys must be cleaned and sanitized at least daily. The language doesn’t exclude ones that weren’t used that day. Regardless, it would take many hours each day to thoroughly clean and sanitize every single toy in a program that was possibly used by a child. All other toys must be cleaned and sanitized at least weekly. Since these proposed changes would require providers to add many items to their programs, their cleaning and sanitizing time will astronomically soar. Subd. 4b.8: Furniture and equipment must be cleaned at least monthly. There is no exception for cleaning outdoor equipment in

				the middle of winter; this would be nearly impossible, especially if water or sanitizers are required. Subd. 4b.10: Bedding must be laundered and sanitized at least weekly. However, most providers send them home with the parents and don't know if they cleaned and sanitized them. Many washing machines don't have a sanitizing cycle, and adding a chemical sanitizer puts children at risk. Subd. 4b.14: Floors must be cleaned at least once per day with a damp mop or vacuuming. DHS doesn't list caveats if they aren't used or aren't dirty. They wouldn't even allow sweeping to meet this requirement. Most providers don't allow shoes in their homes beyond their entryways, so very little dirt gets tracked anywhere. Subd. 4b.15: "Large area rugs or carpets must be cleaned at least once every six months, or when visible dirt or stains are present, using a carpet shampoo machine, steam cleaner, or other method that minimizes the exposure of children in care to pathogens and allergens." Every typical home, including family child care homes, will have at least one stain on a rug or carpet that is permanent. That doesn't mean it's dirty. But requiring carpet shampooing or steam cleaning will be cost-prohibitive for many providers, and it's time-consuming if done right. If children don't wear shoes on the carpets, this isn't necessary. Subd. 4b.16: Small area rugs would need to be shaken outdoors or vacuumed daily and laundered as needed.
245J.23	8592.0435	85-86	Health Policies	Remove all new language. Subd. 1: Our homes "must be free from accumulations of dirt, food and beverage debris, rubbish, peeling paint, and hazardous clutter, and pet waste. Parents and children can track dirt in, even in small amounts. Would this be a violation every time that happens? A child dropping crumbs on the floor or table could mean a violation if it isn't immediately cleaned up. What constitutes "hazardous clutter?" When children play, they may have toys all over the room.

				Does this fall under their unspoken definition of “clutter?” Remove addition of “food and beverage debris.” Subd. 2: Pets are already discussed in other sections; keep the language together. We want to ensure the limits to “pets” does not affect farm animals; these provide wonderful opportunities for children to learn compassion, responsibility, gain scientific knowledge, and have fun. Subd. 2a-b: It is not licensing’s job to ensure all pets are properly housed, cared for, licensed and inoculated. It’s not their job to ensure compliance with local licensing or other requirements for pets. Requiring rabies shots and tags is in current language and should remain, but the new language should be stricken. Subd. 2c: Adds a notification requirement to parents about any new pets in the program. Subd. 2f: Requires providers to keep animal hair and feathers out of all areas accessible to children and keep them free of offensive or unpleasant animal odors. Children and adults can bring animal hair in on their clothes and backpacks, even if the provider doesn’t have animals in the home. Most pets naturally shed, so providers would need to wrap them in bubble wrap, attach a Dust Buster to their tail to clean up hair as they walk, shave all their fur off, or risk a violation. Every time a bird flies near a provider’s home, there is a risk of one dropping in an area accessible to children. Some people are sensitive to odors; who sets the standard for what is offensive or unpleasant. This is highly subjective and, as we mentioned before, providers wouldn’t be allowed to use anything that would alleviate any odors. Remove all new language. Subd. 2.g and h: Since DHS likes this subjective phrase so much, we suggest changing “immediately” in these sections to notification “as soon as practicable.” The new language does not clarify the meaning of “immediately.” Remove new language. Subd. 3: Remove all new wording regarding pest control. Pest control requirements are added in this proposal, including

				documentation of all steps to remove or exterminate any pests if found in the licensed space (this includes yards). Any time a provider or child steps on an ant, they eliminate a “pest;” they would need to complete the asinine documentation. Providers would also need to take steps to prevent attracting pests. Unfortunately, some people live in areas that have many of them, and there aren’t always great options for prevention beyond keeping food put away. This section also adds a requirement to notify parents any time pesticides are used, what will be applied, where, and when. Providers would also be required to add a pest control policy to their existing policies. They could only use baits and traps instead of spray treatments, but those might be accessible to the children in order to keep pests away. It seems like there would be a violation no matter what a provider does. Subd. 5a: Remove “likely or capable” from “to cause injury…” because DHS could argue that almost anything is capable of causing injury. Subd. 5c: Toys and equipment with chipped, cracked, or peeling paint must be removed from the program. The current law requires providers to test for lead if paint is chipped, cracked, or peeling. Some items require frequent painting because paint gets scratched off, but that doesn’t mean they are unsafe. Keep language in current Rule 2.
245J.23	8592.0435	87-89	Health Policies	Subd. 5d: Requires monthly checks of the CPSC for lead warnings and recalls of all play equipment, toys, jewelry, imported vinyl mini-blinds, bibs, lunchboxes, and other food contact products (“website” isn’t mentioned, but that is implied). This will be very time-consuming as these items fall under different categories and are often 10+ years old. Providers may not know the name of a product, especially if they acquired it when it was used or bought it many years ago. The last sentence should read: “If the provider finds items that have lead or have been recalled, they must be removed immediately.” Remove the new language. Subd. 6: Remove this language. Providers don’t need a law to know that “Art and science materials must be used safely.” What

				was the impetus for this language? This subdivision also prohibits the use or storage of “carcinogenic materials, toxic organic solvents, aerosol products, and materials with heavy metals…” It does not allow for usage after operating hours or storage in a garage or area that is inaccessible to children. Would products like WD-40 be included? What about mineral spirits or other chemicals that aren’t used often, but might be used or stored nonetheless? Subd. 7: Remove the new language. The section about firearms would require bows, arrows, paintball guns, airsoft guns, Nerf guns, and any device that shoots projectiles to be unloaded and inaccessible to children. Toys for young children are very different from firearms. Providers would also be required to notify parents prior to admission about the presence of any of these items in their homes or if ownership changes. If a provider buys a Nerf bow for a child’s birthday, they would be required to notify parents of their presence and after it changes ownership when the gift is given. Subd. 8: Keep current language regarding accessibility of the first-aid kit. Put “medical tape” on a separate line from bandages. Do not require a specific type of thermometer. Remove the addition of a mouthpiece for giving CPR as this is a benefit to the provider, but not necessary. Subd. 10.: remove “single-service drinking cups or individual” so that the term “drinking cups” remains. Subd. 11: Remove all new language as it’s already covered in statute. Subd. 12b.1-5: Remove all new language regarding cloth diapers. Subd. 12c: Remove requirement that clothes be worn over diapers because emergency situations or extenuating circumstances might exist that would prevent this. Subd. 12f: Remove new language regarding changing tables and pads.

				Subd. 12i: Remove the requirement to dispose of diapers only in the diaper changing area or directly outside in a garbage can. Providers will dispose of diapers in the best place possible at that time. This should not matter to anyone else. Subd 12j: Requiring the removal of the contents of a diaper receptacle “if odor is present.” Odor is always present in a diapering area in some way, especially if someone is sensitive. Subd. 12l: Keep current language regarding diapering area disinfection. Subd. 13: This language is repeated in 245J.22. Remove. Subd. 14: Change license holder to caregiver as others are allowed to assist children with hand washing.
245J.23	8592.0435	90	Health Policies – Care of sick children	Subd. 15: Remove all new language. DHS removed references to fever, vomiting, diarrhea, and rash for some reason. Schools still have these exclusions, so why was this removed for licensed family child care homes? These limits help ensure children’s health and safety. Subd. 15 a & c: These seem to limit or don’t protect the rights of the family child care provider to have stronger illness policies than the state lists. This would be harmful to children and cause the spread of many diseases (coxsackie/HFM, lice, pink eye, strep, etc.). As small business owners, providers can set their illness policies to exceed state requirements and ensure the health and safety of the children in care, as well as their own families. Section c says that the commissioner’s infectious disease guidelines (which can always change), a healthcare provider, OR a child’s ability to participate in routine activities without more staff supervision determine the exclusion period for reportable diseases. If that was the case, children would rarely be excluded because doctors frequently send children back with communicable diseases

				because “it’s just a virus” or “the child doesn’t have a fever.” A fever is not the gauge for whether someone is contagious. Subd. 15a.3: Remove requirements to have a policy about the notification to parents about exposure to a reportable disease. The requirement is on the provider and should not be an addition to provider policies.
245J.23	8592.0435	90-91	Health Policies – Medication administration requirements	Subd. 16: Remove all new language. Medication administration has concerning language because DHS defined “medication” on page 10 as all prescription and OTC medications, lip balms, hand sanitizers, and diapering products (they excluded non-prescription sunscreens and insect repellents as long as providers receive written parental consent). The other items require written permission from a medical professional before their use. These restrictions for lip balms, hand sanitizers, diapering products, and OTC meds, such as children’s fever reducers, encroach on parental rights. They increase regulation without justification and don’t consider if the items are kept out of the reach of children, used only with supervision, or are natural and non-toxic. Subd. 16c: Change wording to say, “...prior to administering any prescription medication.” Subd. 16e: Remove the new language prohibiting the use of essential oils or herbal remedies. Family child care providers could not use them unless a “script” was provided by a licensed physician, physician assistant, advanced practice registered nurse, certified nurse practitioner, or dentist. Many Western Medicine practitioners won’t sign this, even if the parents want it. We want to see statistics or any evidence of problems with their use in family child care homes.
245J.24	9502.0445	92-93	Food and Nutrition	Remove all new language. Subd. 1: This section about feeding prohibits the use of any plastic in a microwave. It requires all bottles and sippy cups to be glass with a silicone sleeve, stainless steel, or plastic labeled with 1, 2, 4,

				or 5 recycling codes. What if a parent doesn't have and can't afford these items? Parents and providers can choose what they want. Subd 3: The section about meals and snacks is not clear. Part-time providers who serve only 1 snack per day should not be held to the requirement to serve food from each food group. Even if a provider is not on the food program, the proposed changes would override parental and provider rights and require any meals served to include food from every food group except for cultural, religious, or medical reasons. Parents might have different reasons for wanting their child to eat something different on a certain day. That can be worked out between the provider and the parents; it doesn't need over-regulation by the state. Subd. 3d: Change the wording to say, "The provider must accommodate flexible feeding schedules for infants and toddlers while also following their usual diet and feeding schedule." Subd. 3e: Remove new language. Every liquid shouldn't need children's first and last names. The first name should be sufficient for family child care providers. Subd. 3f: Remove new language requiring bottles to be sent home with the child each day because many providers wash and keep them in their homes. Subd. 4b: Remove this language because providers know what foods are perishable foods and how to safely store them. Subd. 4c: The new language does not make an exception for family-style meals as far as refrigerating liquids until they are served. Subd. 4f: This should be reformatted to 4e. Keep existing language about fresh and frozen food. add, "with the exception of fresh and frozen food."

245J.25	N/A	94-96	Environmental Health	Remove all new language. Subd. 1: This language regarding bare soil and expensive lead testing was duplicated on page 68. Remove it from here. Subd. 2: Remove all new language regarding water testing. This requirement would create major issues for providers in areas where their municipal water supply isn't up to the new EPA standards. However, the children in care are likely drinking that same water at their own homes. Requiring those providers to install expensive systems to clean the water, buy bottled water, use a water cooler, or close the program is not fair. The state should be responsible for working with the municipality that is in violation. Subd. 3: Remove this new section about radon testing. Information about radon can continue to be presented through Develop-approved trainings and a "best practices" manual for providers. Section f does not seem logical because it requires testing for those without a radon mitigation system to test every 5 years and those with one to test every 2 years. Those with radon mitigation systems typically have meters on their systems that constantly show the radon levels, so testing isn't necessary. They certainly shouldn't need to test more often than those who don't have one of these systems. Eliminate the new requirement to document and keep the results of every radon test on file and available for review.

Remove all references to community care programs and place them in a separate chapter of statutes because they are not family child care HOMES, even if most of their language will be the same. This will eliminate confusion and differentiate between family child care homes and other child care settings that are very different (appears on pages 13, 14, 15, 16, 17, 43, 81, and 97).

In most cases throughout the proposed changes, references to "program" should keep their current reference to "provider" or "home."

If a new statute will be assigned to us, and since "245F" for "family child care" is already taken, we propose "245K" for "kids" and "kindness" be assigned to family child care.

Laws are not meant to be exhaustive lists of recommendations or "best practices." DHS should take this opportunity to compile a reference guide of "best practices" based on a wide variety of research-based, evidence-based input from licensed family child care providers and other early childhood and school-age experts.