

# WASHINGTON STATE BOARD OF HEALTH

**Date:** June 8, 2022

**To:** Washington State Board of Health Members

**From:** Keith Grellner, Board Chair

**Subject:** Effective Date Extension – Primary and Secondary Schools, chapter 246-366 WAC, and Environmental Health and Safety Standards for Primary and Secondary Schools, chapter 246-366A WAC

## **Background and Summary:**

Under the authority of RCW 43.20.050, the State Board of Health (Board) revised its environmental health and safety standards for primary and secondary schools on August 12, 2009. The adopted rules reflect the Board's intent to have chapter 246-366A WAC supersede chapter 246-366 WAC to promote safe and healthy school environments. The new rules have not been implemented due to restrictions enacted by the Legislature related to concerns with the financial impact of the new rules.

The 2009 – 2011 Washington state operating budget bill included a proviso prohibiting the Washington State Department of Health and the Board from implementing new or amended school rules until the legislature takes action to fund implementation. Based on that directive, the Board filed a Rule-Making Order (CR-103) on December 22, 2009, specifying a July 1, 2010 effective date for the new rules. The Board agreed to review the actions of the legislature at the end of each session to determine whether any portions of the rules could be implemented and to amend the CR-103 accordingly.

Each subsequent biennial budget has included the proviso prohibiting implementation of the new rules and has provided no implementation funding. The Board voted to continue to delay the effective date at the following meetings:

- March 10, 2010 (filed as WSR 10-12-018 on May 21, 2010)
- April 13, 2011 (filed as WSR 11-10-080 on May 3, 2011)
- March 13, 2013 (filed as WSR 13-09-040 on April 11, 2013)
- March 11, 2015 (filed as WSR 15-09-070 on April 15, 2015)
- June 14, 2017 (filed as WSR 17-14-055 on June 28, 2017)
- June 12, 2019 (filed as WSR 19-14-107 on July 2, 2019)
- June 9, 2021 (filed as WSR 21-14-056 on July 1, 2021)

At its June 2021 meeting, the Board elected to extend the effective date by one year and authorized the Board Chair to send a formal letter to the Governor, Office of the Superintendent of Public Instruction (OSPI), Department of Health (Department), and other interested parties to indicate these chapters of rule need to be updated. The Board participated in meetings with the Department, Governor's Office, OSPI, Office of

(continued on the next page)

Washington State Board of Health  
June 8, 2022 Meeting Memo

Financial Management, and certain members of the Legislature to discuss the school rules.

During the 2022 legislative session, the [House-proposed supplemental operating budget](#) revised the proviso to allow implementation of the school rules after the Department submits a report to the legislature that describes the general condition of schools and health and safety concerns identified through school plan reviews, inspections, and complaint investigations conducted by local health jurisdictions. Proposed revisions to the budget proviso were not included in the final 2021-2023 Washington state supplemental operating budget passed by the Legislature ([Engrossed Substitute Senate Bill 5693](#)). For this reason, the Board must file a new CR-103 before August 2022 to extend the effective date of these chapters.

Separately, the supplemental operating budget did allocate funding to the Department to contract with the University of Washington to develop a report to the Legislature regarding school environmental health policies, recommendations, and standards. The report must include:

- A review of policies and regulations for environmental health in K-12 schools in other states;
- A literature review and recommendations for exposure standards and remediation levels protective of student health and safety in schools;
- A summary of activities (e.g., inspections, management, control levels, and remediation) of a variety of contaminants and issues including PCBs, lead, asbestos, poor ventilation, and mold; and
- Recommendations for next steps for policies and standards in Washington schools.

This report is due to the legislature by December 31, 2022.

While the Board must further delay the effective dates for the school rules, this does not mean there are no school health and safety rules in place. Existing chapter 246-366 WAC remains in effect.

#### Recommended Board Actions:

The Board may wish to consider and amend, if necessary, the following motion:

The Board directs staff to amend the effective date of new sections of chapter 246-366 WAC and new chapter 246-366A WAC, as filed in WSR 21-14-056, by filing a new CR-103, Order of Adoption, to delay the effective date of the new rules to August 1, 2023.

#### Staff

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To request this document in an alternate format or a different language, please contact Kelie Kahler, Washington State Board of Health Communication Manager, at 360-236-4102 or by email at [kelie.kahler@sboh.wa.gov](mailto:kelie.kahler@sboh.wa.gov). TTY users can dial 711.