



PROPOSED RULE MAKING

CR-102 (June 2024)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: April 21, 2025

TIME: 3:42 PM

WSR 25-09-121

Agency: State Board of Health

☒ Original Notice

☐ Supplemental Notice to WSR

☐ Continuance of WSR

☒ Preproposal Statement of Inquiry was filed as WSR 24-13-117 ; or

☐ Expedited Rule Making--Proposed notice was filed as WSR _____; or

☐ Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

☐ Proposal is exempt under RCW _____.

Title of rule and other identifying information: Primary and Secondary School Environmental Health and Safety Regulations. The State Board of Health (board) is proposing to amend WAC 246-366-005 and repeal WAC 246-366-160 and chapter 236-366A WAC.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
6/4/2025	2:30pm	In-person location: Washington State Department of Health Building: Town Center 2 (room 166/167) 111 Israel Road S.E. Tumwater, WA 98501 Virtual: To register https://us02web.zoom.us/join/register/WN_DiQ17FVFSSutlhHlzCvdRw	The rules hearing is hybrid; individuals may attend either virtually or in-person.

Date of intended adoption: 6/4/2025 (Note: This is **NOT** the effective date)

Submit written comments to:

Name Andrew Kamali
Address PO Box 47990, Olympia WA 98504-7990
Email andrew.kamali@sboh.wa.gov
Fax N/A
Other
<https://airtable.com/appJiTDL3le6UZnqt/pagTJ82PAzuV6pThL/form>
Beginning (date and time): date and time of filing
By (date and time): 5/21/2025 at 11:59pm

Assistance for persons with disabilities:

Contact Melanie Hisaw
Phone (360) 236-4104
Fax N/A
TTY 711
Email Melanie.Hisaw@sboh.wa.go
Other
By (date) 05/23/2025

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The board is proposing to amend WAC 246-366-005 and repeal WAC 246-366-160 and chapter 246-366A WAC. By amending and repealing these sections of rule and chapter, the board will prevent the implementation of rules that are out-of-date and obsolete. Current requirements in chapter 246-366 WAC will remain in effect.

<p>Reasons supporting proposal: The purpose of adopting chapter 246-366A WAC was to modernize the standards in chapter 246-366 WAC to include provisions for water quality sampling, indoor air quality, and safety in areas such as playgrounds, labs, and shops. Chapter 246-366A WAC was organized to provide clarity for those provisions related to construction and those related to operation and maintenance. Chapter 246-366A WAC was adopted 15 years ago but never implemented due to lack of funding. The requirements in chapter 246-366A WAC have now become outdated.</p> <p>During the 2024 legislative session, the Legislature directed the board to develop new rules for minimum health and safety standards for K-12 Schools. The board and a school technical advisory committee have developed proposed chapter 246-370 WAC as a new draft rule to align with modern science and best practices. At the Legislatures direction, chapter 246-370 WAC will not be proposed under this rulemaking, but may be considered for adoption under a future rulemaking. In the meantime, the board is proposing to amend WAC 246-366-005 to remove references to chapter 246-366A WAC and repeal WAC 246-366-160 and chapter 246-366A WAC. The remaining requirements in chapter 246-366 WAC will remain in effect and will not change the existing requirements for schools. Repealing chapter 246-366A WAC alleviates adopting outdated and unfunded rules that would ultimately be replaced by proposed rule chapter 246-370 WAC.</p>																			
<p>Statutory authority for adoption: RCW 43.20.050 (2)(d)</p>																			
<p>Statute being implemented: RCW 43.20.050 (2)(d)</p>																			
<p>Is rule necessary because of a:</p> <table style="width: 100%;"> <tr> <td style="width: 80%;">Federal Law?</td> <td style="width: 10%; text-align: center;"><input type="checkbox"/> Yes</td> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/> No</td> </tr> <tr> <td>Federal Court Decision?</td> <td style="text-align: center;"><input type="checkbox"/> Yes</td> <td style="text-align: center;"><input checked="" type="checkbox"/> No</td> </tr> <tr> <td>State Court Decision?</td> <td style="text-align: center;"><input type="checkbox"/> Yes</td> <td style="text-align: center;"><input checked="" type="checkbox"/> No</td> </tr> </table> <p>If yes, CITATION:</p>				Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No							
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State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No																	
<p>Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None</p>																			
<p>Name of proponent: (person or organization) State Board of Health</p> <p>Type of proponent: <input type="checkbox"/> Private. <input type="checkbox"/> Public. <input checked="" type="checkbox"/> Governmental.</p>																			
<p>Name of agency personnel responsible for:</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 30%;">Name</th> <th style="width: 40%;">Office Location</th> <th style="width: 20%;">Phone</th> </tr> </thead> <tbody> <tr> <td>Drafting</td> <td>Andrew Kamali</td> <td>101 Israel Rd SE, Tumwater, WA 98501</td> <td>(360) 584-6737</td> </tr> <tr> <td>Implementation</td> <td>Andrew Kamali</td> <td>101 Israel Rd SE, Tumwater, WA 98501</td> <td>(360) 584-6737</td> </tr> <tr> <td>Enforcement</td> <td>Andrew Kamali</td> <td>101 Israel Rd SE, Tumwater, WA 98501</td> <td>(360) 584-6737</td> </tr> </tbody> </table>					Name	Office Location	Phone	Drafting	Andrew Kamali	101 Israel Rd SE, Tumwater, WA 98501	(360) 584-6737	Implementation	Andrew Kamali	101 Israel Rd SE, Tumwater, WA 98501	(360) 584-6737	Enforcement	Andrew Kamali	101 Israel Rd SE, Tumwater, WA 98501	(360) 584-6737
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<p>Is a school district fiscal impact statement required under RCW 28A.305.135? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If yes, insert statement here:</p> <div style="border: 1px solid black; padding: 10px; margin-top: 10px;"> <p>The public may obtain a copy of the school district fiscal impact statement by contacting:</p> <p>Name _____</p> <p>Address _____</p> <p>Phone _____</p> <p>Fax _____</p> <p>TTY _____</p> <p>Email _____</p> <p>Other _____</p> </div>																			
<p>Is a cost-benefit analysis required under RCW 34.05.328?</p> <p><input type="checkbox"/> Yes: A preliminary cost-benefit analysis may be obtained by contacting:</p> <p style="margin-left: 20px;">Name _____</p> <p style="margin-left: 20px;">Address _____</p> <p style="margin-left: 20px;">Phone _____</p> <p style="margin-left: 20px;">Fax _____</p> <p style="margin-left: 20px;">TTY _____</p> <p style="margin-left: 20px;">Email _____</p> <p style="margin-left: 20px;">Other _____</p> <p><input checked="" type="checkbox"/> No: Please explain: The proposed rule changes, by definition, are not considered a “significant legislative rule” under RCW 34.06.328(c)(iii). The proposed rule amendments will repeal rules that were adopted, yet never implemented which will retain the existing rules currently in effect.</p>																			

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570](#)(2) because it was adopted by a referendum.

☐ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025](#)(3). Check all that apply:

☐ [RCW 34.05.310](#) (4)(b)
(Internal government operations)

☐ [RCW 34.05.310](#) (4)(e)
(Dictated by statute)

☐ [RCW 34.05.310](#) (4)(c)
(Incorporation by reference)

☐ [RCW 34.05.310](#) (4)(f)
(Set or adjust fees)

☐ [RCW 34.05.310](#) (4)(d)
(Correct or clarify language)

☐ [RCW 34.05.310](#) (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☐ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025](#)(4). (Does not affect small businesses).

☐ This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

☐ The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.

☐ The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

☒ The rule proposal: Is not exempt. (*Complete section 3.*) No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?


☒ No **Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs.**

The proposed rule repeals rules that were adopted and never implemented. Eliminating rules that were never implemented will not impose any costs to those entities that would be subject to the rules.

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name Andrew Kamali
Address PO Box 47990, Olympia, WA 98504-7990
Phone (360) 584-6737
Fax N/A
TTY 711
Email andrew.kamali@sboh.wa.gov
Other

Date: April 21, 2025 Name: Michelle Davis Title: Executive Director, State Board of Health	Signature: 
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AMENDATORY SECTION (Amending WSR 10-01-174, 10-12-018, 11-10-080, 13-09-040, 15-09-070, 17-14-055, 19-14-107, 21-14-056, 22-14-021, 23-16-005, and 24-14-089, filed 12/22/09, 5/21/10, 5/3/11, 4/11/13, 4/15/15, 6/28/17, 7/2/19, 7/1/21, 6/24/22, 7/19/23, and 6/28/24, effective 9/1/25.)

WAC 246-366-005 Purpose. The purpose of this chapter is to maintain minimum environmental health and safety standards for school facilities until legislative action allows for full or partial implementation of ~~((chapter 246-366A WAC. To the extent the legislature funds or otherwise allows for its implementation, chapter 246-366A WAC is))~~ new standards, intended to replace or supersede this chapter.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-366-160 Severability.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 246-366A-001	Introduction and purpose.
WAC 246-366A-003	Implementation.
WAC 246-366A-005	Applicability.
WAC 246-366A-010	Definitions.
WAC 246-366A-015	Guidance.
WAC 246-366A-020	Responsibilities—General.
WAC 246-366A-030	Site assessment, review, and approval.
WAC 246-366A-040	Construction project review.
WAC 246-366A-050	Preoccupancy inspection of construction projects.
WAC 246-366A-060	General construction requirements.
WAC 246-366A-065	General operation and maintenance requirements.
WAC 246-366A-070	Moisture control, mold prevention, and remediation.
WAC 246-366A-080	Safety—Animals in school facilities.
WAC 246-366A-090	Heating and ventilation—Construction requirements.
WAC 246-366A-095	Heating and ventilation—Operation and maintenance requirements.
WAC 246-366A-100	Noise control—Construction requirements.
WAC 246-366A-105	Noise control—Operation and maintenance requirements.
WAC 246-366A-110	Lighting—Construction requirements.
WAC 246-366A-115	Lighting—Operation and maintenance requirements.
WAC 246-366A-120	Restrooms and showers—Construction requirements.
WAC 246-366A-125	Restrooms and showers—Operation and maintenance requirements.
WAC 246-366A-130	Water quality monitoring—Lead.
WAC 246-366A-135	Water quality monitoring—Copper.
WAC 246-366A-140	Water quality monitoring—Other drinking water contaminants.
WAC 246-366A-150	Playgrounds—Construction and installation requirements.
WAC 246-366A-155	Playgrounds—Operation and maintenance requirements.
WAC 246-366A-160	Laboratories and shops—Construction requirements.

WAC 246-366A-165	Laboratories and shops—Operation and maintenance requirements.
WAC 246-366A-170	Variances.
WAC 246-366A-175	Temporary emergency waivers for disaster situations.
WAC 246-366A-180	Appeals.
WAC 246-366A-190	Complaints.
WAC 246-366A-200	Severability.