

WASHINGTON STATE BOARD OF HEALTH

Date: June 14, 2023

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 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)
- June 8, 2022 (filed as WSR 22-14-021 on June 24, 2022)

At its June 2022 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. Board staff also participated in meetings with the Department, Governor's Office, OSPI, Office

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

In the [2022 supplemental operating budget](#), funds were allocated to the Department to contract with the University of Washington (UW) to develop a report for the Legislature regarding the standing of school environmental health policies and standards. The report was due to the Legislature by December 31, 2022.

At the March 8, 2023, Board meeting, the Board received a briefing on this report and its findings titled, [Environmental Health and Safety Study in Washington's K-12 Schools](#). The Board also voted to draft another letter to the Legislature urging the removal of the proviso from the state operating budget. The letter was sent to the Legislature following the meeting.

During the 2023 legislative session, [Engrossed Substitute Senate Bill 5187](#), included the budget proviso. For this reason, the Board must file a new CR-103 before August 2023 to extend the effective date of the rules.

Today, Juan Gamez Briceño, the School Environmental Health and Safety and Indoor Air Quality Section Manager for the Department of Health's Office of Environmental Health & Safety, will offer a brief presentation and discussion of the background, history, and next steps regarding the school environmental health and safety rules.

The Board must further delay the effective dates for the school rules, leaving the outdated rules in chapter 246-366 WAC to remain 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 22-14-021, by filing a new CR-103, Order of Adoption, to delay the effective date of the new rules to August 1, 2024.

Staff

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