

RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 19, 2023

TIME: 2:20 PM

WSR 23-16-005

Agency: State Board of Health

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) 08/01/2024 _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain: Restrictions imposed by the 2009 legislature on the implementation of new or amended school facility rules are retained in the 2023-2025 supplemental state operating budget, prohibiting implementation of the rules through June 2024.

Purpose: This filing delays the effective date of new sections of chapter 246-366 WAC, Primary and Secondary Schools, and new chapter 246-366A WAC, Environmental Health and Safety Standards for Primary and Secondary Schools, one year due to legislative direction in the supplemental state operating budget (Engrossed Substitute Senate Bill 5187) prohibiting implementation until the legislature acts to formally fund implementation. The rules provide minimum environmental health and safety standards for schools.

New sections of chapter 246-366 WAC, Primary and Secondary Schools, and new chapter 246-366A WAC, Environmental Health and Safety Standards for Primary and Secondary Schools, were adopted by the State Board of Health (Board) on August 12, 2009, filed as WSR 09-14-136. The Board filed a Rule-Making Order (CR-103), WSR 10-01-174, on December 22, 2009 setting the effective date of the rules as July 1, 2010. However, in advance of the Board's actions, the 2009 Legislature adopted a proviso in the state operating budget (Engrossed Substitute House Bill 1244) suspending implementation of the rules until the Legislature acts to formally fund implementation. The proviso has been included in all subsequent state operating budgets, including the 2023-2025 supplemental state operating budget (ESSB 5187). In response, the Board has taken the following series of actions to delay implementation of the rules:

- Voted on March 10, 2010 to file an amended Rule-Making Order, filed as WSR 10-12-018 on May 21, 2010, to delay the effective date to July 1, 2011;
- Voted on April 13, 2011 to file an amended Rule-Making Order, filed as WSR 11-10-080 on May 3, 2011, to delay the effective date to July 1, 2013;
- Voted on March 13, 2013 to file an amended Rule-Making Order, filed as WSR 13-09-040 on April 11, 2013, to delay the effective date to July 1, 2015;
- Voted on March 11, 2015 to file an amended Rule-Making Order, filed as WSR 15-09-070 on April 15, 2015, to delay the effective date to July 1, 2017;
- Voted on June 14, 2017 to file an amended Rule-Making Order, filed as WSR 17-14-055 on June 28, 2017, to delay the effective date to August 1, 2019;
- Voted on June 12, 2019 to file an amended Rule-Making Order, filed as WSR 19-14-107 on July 2, 2019, to delay the effective date to August 1, 2021;
- Voted on June 9, 2021 to file an amended Rule-Making Order, filed as WSR 21-14-056 on July 1, 2021, to delay the effective date to August 1, 2022; and
- Voted on June 8, 2022 to file an amended Rule-Making Order, filed as WSR 22-14-021 on June 24, 2021, to delay the effective date to August 1, 2023.

Action by the Board in June 2023 extends the effective date of the new rules to August 1, 2024. The Board will continue to monitor the state budget and budget proviso suspending implementation of the new rules in the coming legislative sessions for possible implementation in 2024.

Citation of rules affected by this order:

New:
Repealed:
Amended:
Suspended:

Statutory authority for adoption: RCW 43.20.050

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 09-14-136 on 07/01/2009 (date).

Describe any changes other than editing from proposed to adopted version: See WSR 10-01-174

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: Andrew Kamali
Address: P.O. Box 47990, Olympia WA 98504-7990
Phone: 360-584-6737
Fax: N/A
TTY: 711
Email: andrew.kamali@sboh.wa.gov
Web site: www.sboh.wa.gov
Other: N/A

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

The number of sections adopted at the request of a nongovernmental entity:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
-----	----------	---------	----------	----------	----------

The number of sections adopted on the agency's own initiative:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
-----	----------	---------	----------	----------	----------

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
-----	----------	---------	----------	----------	----------

The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

Date Adopted: 7/19/23

Name: Michelle A. Davis

Title: Executive Director, Washington State Board of Health

Signature:

