



STATE OF WASHINGTON  
**WASHINGTON STATE BOARD OF HEALTH**

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October 8, 2008

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

**FROM:** Environmental Health Committee, State Board of Health—  
Keith Higman, Karen VanDusen, and John Austin

**SUBJECT: PROPOSED REVISION OF SCHOOL ENVIRONMENTAL HEALTH AND  
SAFETY RULES: CHAPTER 246-366A WAC**

**Background and Summary**

At its August 27 meeting, the Washington State Board of Health opened a public hearing on a proposal to revise the Board's rules on school environmental health and safety. The proposal, filed July 23 with the Office of the Code Reviser and published in the Washington State Register as WSR 08-15-174, would repeal chapter 246-366 WAC and replace it with a new chapter 246-366A WAC. The hearing continued on September 10 and was again continued until today. The official comment period closed at midnight on September 10. Today's continuation will allow the Board to conclude its deliberations and decide on a course of action.

The staffs of the Board and the Department have jointly reviewed all the comments received on this proposal for rule making, including some received after the September 10 hearing, and have prepared a listing indicating portions of the published rule they recommend be amended. The Board's Environmental Health Committee has reviewed the list and supports the suggested changes. Ned Therien, SBOH Staff, will highlight some of the major changes. In your packets under Tab 12 are the following: a chart listing comments and staff recommendations; suggested amendments to rule text; the proposed rule (CR-102); the Preliminary Small Business Economic Impact Statement; the Preliminary Significant Analysis; and comments received after the September hearing.

**Recommended Board Action**

Testimony has closed and since a vote has been requested by some Board members, a motion to adopt the rule would be in order. That motion could incorporate the changes recommended by staff or those changes could be considered as amendments and voted on separately. Other changes desired by Board members could also be proposed, discussed, and voted on as amendments to the original motion.

Depending on the Board's discussions, the Board may choose to consider, amend if necessary, and adopt the following motion:

*The Board adopts chapter 246-366A as published in WSR 08-15-174 with amendments considered and approved by the Board today, including those described in the Suggested Amendments for Board Consideration document recommended by staff.*

Alternatively, a member could move to table the motion to adopt (or consideration of the rule) and direct staff to file a supplemental CR-102 reflecting any desired amendments so the rule could be considered again in 2009.

### **Discussion**

The rule proposal intends to update the Board's existing school environmental health and safety rules. It was developed following one of the most extensive stakeholder processes of any Board rule. Many stakeholder groups have testified that the proposal is better than the existing rule.

The original goals the Board set for this major revision of its school environmental health and safety rules were the following:

1. Proactively protect children's health
2. Be based on the best available science
3. Ensure accountability between school districts, their communities, and local health jurisdictions
4. Support and promote current school health and safety programs that work
5. Present the least burdensome regulatory structure
6. Be compatible and consistent with existing related regulations (such as building codes)
7. Be realistic about resource limitations of schools and local health jurisdictions

One focus for our deliberations today might be whether the draft before us adequately achieves those goals.

During this rule revision process, some members of the Legislature have shown an unusually strong level of interest. At the request of several of them, the Board organized an additional stakeholder workgroup and held work sessions this spring to help assure clarity in the rule language. Some legislators are now asking the Board to delay consideration of adoption until after the coming legislative session has allowed them to consider potential financial impacts of the rule proposal. The rule proposal has had a significant impact on legislative discussions about funding school repairs and improved health and safety. However, the outcome of legislative discussions about school funding appears uncertain. The Board takes these legislative requests very seriously. Funding for both schools and public health programs is a major concern.

Another focus of the Board's deliberations may be whether adopting the rule without further delay, contrary to legislator requests, would positively or negatively impact the goals of the Board to improve children's health and safety.

If the Board chooses to table the motion and not to adopt the rule today, the Environmental Health Committee asks that the full Board provide formal direction to staff, which could take the form of a motion, on whether the Board supports all or part of the recommended text changes; whether it wants to agree on any additional changes; any specific requests to the Legislature that the Board would want to make; any other actions or letters that may need to be sent to other agencies; and when the Board would again consider this rule adoption.