



# WASHINGTON STATE Board of Health

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**DATE:** October 14, 2009

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

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

**SUBJECT: WATER RECREATION FACILITIES, CHAPTERS 246-260 WAC  
AND 246-262 WAC**

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## Background and Summary:

The State Board of Health has responsibility under RCW 70.90.120 and RCW 43.20.050(2)(c) to adopt rules regarding the safety and sanitation of public pools, spas, and other types of water recreation facilities. The Board has adopted such rules as chapter 246-260 WAC, Water Recreation Facilities, and chapter 246-262 WAC, Recreational Water Contact Facilities.

The federal Virginia Graeme Baker Pool & Spa Safety Act became effective in December 2008. Seven-year-old Virginia, granddaughter of former Secretary of State James Baker III, died in 2002 after becoming entrapped by a spa drain. The law requires public pools to have approved, safe drain covers and anti-suction design. The Consumer Product Safety Commission (CPSC) may impose fines up to \$1.25 million.

Department of Health (DOH) staff briefed the Board in November 2008 about the act and expressed concern about some conflicts with Board rules. Since then, DOH has consulted with the CPSC and local health directors and developed guidance documents to help prevent conflicts; however, confusion remains. DOH is now recommending revising the Board's rules to adopt the federal technical design requirements and help eliminate the confusion. It is requesting that the Board delegate to it authority to adopt the federal provisions without significant modification.

Delegation to DOH for this rule change meets the Board's policy for delegation adopted in 2000:

(1) the federal requirements would be adopted with no more than limited clarifying changes to the federal provisions; (2) the state has limited discretion in this rule making; (3) the regulated community supports state adoption of the federal requirements; (4) policy changes would be limited to federal requirements; and (5) DOH will involve stakeholders through an advisory group and outreach.

Mark Soltman, supervisor of the DOH Local Health Support Section, is here today to explain the request for delegation of rule making for the specific purpose of adopting the provisions of the Virginia Graeme Baker Act into the Board's rules for pools and spas. Please see materials behind Tab 12 of your packets.

## Recommended Board Action:

The Board may wish to consider the following motion:

*The Board delegates authority to the Department of Health to adopt revisions to chapter 246-260 WAC and chapter 246-262 WAC, regarding water recreation facilities and recreational water contact facilities, for the sole purpose of incorporating requirements of the Virginia Graeme Baker Act.*