

WASHINGTON STATE BOARD OF HEALTH

Date: October 13, 2021

To: Washington State Board of Health Members

From: Keith Grellner, Board Chair

Subject: Department of Health Request for Rulemaking Delegation, Chapter 246-260 WAC, Water Recreation Facilities, and Chapter 246-262 WAC, Recreational Water Contact Facilities

Background and Summary:

Chapters 246-260 and 246-262 WAC outline requirements necessary to protect the health, safety, and welfare of users of water recreation facilities and recreational water contact facilities, respectively.

In December 2016, the State Board of Health (Board) filed a CR-101, Preproposal Statement of Inquiry, to explore possible updates to chapters 246-260 and 246-262. Rulemaking updates include consideration of the Centers for Disease Control and Prevention's Model Aquatic Health Code, 2017 legislation on inflatable water slides, current water recreation technologies, and consolidation of the rules into a single chapter.

COVID-19 pandemic response has impacted the rulemaking timeline; however, work is ongoing. The Department of Health (Department) plans to convene an advisory committee comprised of industry experts to assist in rule development in 2022.

These two chapters stipulate the use of the American National Standards Institute (ANSI)/Association of Pool and Spa Professionals (APSP) 2011 suction fitting standard for use in swimming pools, wading pools, spas, and hot tubs. The standard ensures that drain covers can properly protect from suction entrapment, hair entrapment, and limb entrapment, which often lead to severe injuries and death in these facilities.

In May 2019, the federal Consumer Product Safety Commission (CPSC) issued a [direct final rule](#) incorporating sections of ANSI/APSP/ICC-16 2017 as the successor suction fitting outlet cover standard under the Virginia Graeme Baker Pool and Spa Safety Act, with an effective date of November 24, 2020. The new standard became effective on May 24, 2021 after a requested extension by the Pool & Hot Tub Alliance (formerly APSP).

Now, the suction fitting standard defined in WAC 246-260-010 and WAC 246-262-010 are inconsistent with the new federal standard. As currently written, the Board's rules only allow owners of swimming pools, wading pools, spas, and hot tubs to use products

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manufactured under the 2011 standard. These products will quickly be replaced by products manufactured under the 2017 standard on the market, making it difficult for owners to find products that meet the standard in the Board's rules.

Consistent with Board Policy Number 2000-001, the Department of Health (Department) is requesting delegation of rulemaking authority to amend and incorporate the 2017 suction fitting standard in WAC 246-260-010 and WAC 246-262-010. The Department intends to utilize the expedited rulemaking process under RCW 34.05.353 to incorporate these changes in a timely manner.

I have asked Kaitlyn Donahoe, Board Staff, and Todd Phillips, Department Staff, to provide additional information for the Board's consideration of this request.

Recommended Board Actions:

The Board may wish to consider, amend if necessary, and adopt the following motion:

The Board delegates to the Washington State Department of Health rulemaking authority to amend and incorporate the 2017 suction fitting standard in WAC 246-260-010 and WAC 246-262-010 via expedited rulemaking.

Staff

Kaitlyn Donahoe

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