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Department of Health Services

Date: February 9, 2009

To: Agent Health Departments, Regional Directors, State Inspectors, and CO Staff

From: James Kaplanek, R.S.   Shane Sanderson, R.E.H.S.
             Chief   Recreational Waters Program Manager
             Food Safety and Recreational Licensing Food Safety and Recreational Licensing

Re: Virginia Graeme Baker Act Enforcement

BACKGROUND:
On December 19, 2007, the President signed into law the Virginia Graeme Baker Pool and Spa Safety Act, which was named after the daughter of Nancy Baker and the granddaughter of former Secretary of State James Baker. Graeme Baker died in a tragic incident in June 2002 after the suction from a spa drain entrapped her under the water. This Act was first introduced by Rep. Debbie Wasserman-Schultz (FL) and was supported by the Baker family and Safe Kids Worldwide.

The Act specifies that on or after December 19, 2008, swimming pool and spa drain covers available for purchase in the United States must meet specific performance requirements. Additionally, public swimming pools, wading pools, spas and hot tubs must meet requirements for installation of compliant drain covers. New drain covers that meet current standards are now beginning to make their way into the marketplace. Additionally, in certain instances, public pools and spas must have additional devices or systems designed to prevent suction entrapment.

INTERPRETATION:
The Department of Health Services (DHS) recognizes that this is a federal requirement, not a state requirement and enforcement of the Act was delegated to the Consumers Product Safety Commission (CPSC), which is a federal agency. The CPSC has requested state and local health departments to assist them with the enforcement of this law.

During the 2009 calendar year, the Department of Health Services and agents will inform pool operators that they must come into compliance with the federal requirement. The progress of the facility toward compliance will be recorded on the inspection form in the comments section. If a facility is currently in compliance, documentation must be provided. The only two forms of acceptable documentation are:
1. The certificate of completion issued by an inspector for an approved plan review.
2. A letter of conformity from a certified engineer stating that the pool is currently in compliance with the act.

Before operators plan any physical changes to their existing pool to comply with the new law, they must obtain plan approval from the Department of Commerce. Department of Commerce has indicated that new changes to Comm 90 will incorporate many of the requirements of the VGB Act.

In 2010 we will reassess the market availability of approved covers. If it is adequate, inspection staff will request either a certificate of completion, a letter of conformity, or verification that a plan review has been approved and the work is scheduled. If one of these three things cannot be produced, a 60 day correction deadline will be given resulting in closure for non-compliance under 172.30(1).

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Wisconsin
Department of Commerce

M E M O R A N D U M

DATE: December 3, 2008

TO: Wisconsin Public Swimming Pool and Water Attraction Owners

FROM: James H Miller
Section Chief, Safety and Buildings Division

SUBJECT: Pool and Water Attraction Modifications to Achieve Compliance with the Virginia Graeme Baker Suction Entrapment Federal Legislation

On December 19, 2008 the Consumer Product Safety Commission rules for the elimination of suction and hair entrapment risk in public swimming pools will go into effect unless the United States Congress passes a law to postpone the current effective date.

When an owner chooses to make modifications to their existing public swimming pool or water attraction a plan approval is required by Comm 90, the Wisconsin Public Swimming Pool and Water Attraction construction code. See s. Comm 90.04, Wis. Adm. Code for the requirements for plan submittal.

If you are considering any of the following alterations or modifications to your existing wading pool, swimming pool, spa, therapy pool, water attraction or any other public facility that falls under the definition of public swimming pool or water attraction found in s. Comm 90.03, Wis. Adm. Code, you must submit plans and receive plan approval prior to commencing the modification or alteration.

- Replacing main drain or other suction grates unless the grates are identical models to those removed.
- Modifying a main drain sump or sumps.
- Eliminating equalizer pipes serving skimmers
- Replacing equalizer pipe covers in order to comply with the Virginia Graeme Baker Act.
- Considering the installation of a vacuum release system, suction limiting vent system, gravity drainage system, automatic pump shut-off system, drain disablement system or any other system that would affect the circulation system.

If you have any questions concerning this requirement, please contact me.

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