

Q & A Factsheet: Implementation of the Virginia Graeme Baker Pool and Spa Safety Act

Information for State Health Agencies

Updated 8/15/08

Introduction

The Virginia Graeme Baker Pool and Spa Safety Act, named after the daughter of Nancy Baker and the granddaughter of former Secretary of State James Baker, enforces mandatory federal requirements for promoting the safe use of pools, spas and hot tubs and preventing entrapment. Administered by the U.S. Consumer Product Safety Commission, the act specifies that on or after December 19, 2008, swimming pool and spa drain covers available for purchase in the United States must comply with the American National Standard ASME A112.19.8 - 2007 Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs. Additionally, public swimming pools, wading pools, spas and hot tubs must meet requirements for installation of anti-entrapment devices (i.e. single main drain covers) or systems that comply with the ASME/ANSI A112.19.8 performance standards. Each public pool and spa in the U.S. with a single main drain other than an unblockable drain, must meet these requirements. In addition, public pools and spas with single main drains must have specific additional systems or devices. New drain covers that meet the current standard are now beginning to enter the marketplace.

There is potential to have a major impact on state and local health agencies responsible for inspection and regulation of public pools, since all public swimming pools MUST meet the specific requirements, having a cover on every drain, on December 19, 2008.

The following questions and answers were compiled by the Association of State and Territorial Health Officials (www.astho.org) through facilitations between ASTHO's State Environmental Health Directors and the Federal Consumer Product Safety Commission (CPSC).¹

General Implementation Questions

Does this new federal law preempt existing state laws which regulate pools and spas?

While the federal law does not contain a specific preemption clause of state regulations, it does impliedly preempt those aspects of state regulations that address pool and spa drain covers (HR 6 Section 1404). On December 19, 2008 all public pools and spas must comply with the new drain cover requirements described in Section 1404.

Who is responsible for enforcing the act?

The Consumer Product Safety Commission (CPSC) is the federal agency responsible for enforcing the act. States need to know the specifics of the act so that all public pools in operation meet the specifications as outlined in the federal law.

¹ The views outlined in this document are meant to provide guidance to general and specific technical questions that states may have regarding the implementation of the Virginia Graeme Baker Pool and Spa Safety Act and do not reflect any official positions or policies of the Association of State and Territorial Health Officials.

What does enforcement of the act entail/how is compliance defined?

All public pools are required to be in compliance of the Virginia Graeme Baker Pool and Spa Safety Act on December 19, 2008 and thereafter. The CPSC will be responsible to ensure that all public pools in the United States are compliant with the law. However, CPSC does not have the resources or the staff to inspect every single pool in the U.S. to ensure compliance; therefore, it will most likely investigate reports received by the CPSC.

If a public pool can not comply by December 19, 2008, CPSC recommends that the public pool shut itself down, until the proper covers are installed. A public pool that is not in compliance but is shut down will not be penalized.

How will the CPSC communicate with the pool industry around implementation?

CPSC is continuing to conduct education and outreach with the industry and the states around compliance responsibilities. CPSC will have a one-page document with simple language that aims to communicate information around compliance to the industry and other stakeholders. This should be made available soon.

In 2009, the CPSC is expecting significant resources to conduct education. These resources will be used to provide grants to states and nonprofit agencies to assist CPSC in their education efforts.

Will the CPSC send a list to the states of manufacturers of products that are in compliance?

Yes, the CPSC is currently working on developing a list for states. It will most likely be posted on the CPSC Web site, so that it can be updated as often as new products are developed and approved. Compliance checks and recalls that are associated with products are the responsibilities of CPSC.

If a manufacturer is not on the CPSC list but can provide evidence that it has been certified by a nationally recognized testing laboratory it shall be considered in compliance with the ASME A112.19.8 – 2007 standard for manufactured products. Custom built grates and field fabricated sumps shall be certified in accordance with ASME A 112.19.8 -2007 (2.3.1.7). This should be sufficient from a state's perspective.

If it is difficult to find main drain covers, should pools wait until 2009 – when manufacturers will only be producing approved products?

If a pool is not compliant with the ASME standard by December 19, 2008, it should either find a way to become compliant or shut down until it can be compliant. CPSC has a level of confidence that there are enough products available, such as round covers, that will meet specifications for compliance.

The new federal rule recognizes the option for installation of pools with no main drains. What are the limitations with this for states that require main drains as part of their recirculation treatment system?

States may elect to make provisions for allowing water treatment systems with no main drains provided they have assurance of maintaining proper water quality and good recirculation patterns

for the pool. Existing pools wishing to remove main drains will need to ensure the proper circulation patterns and capacity are provided.

Technical Questions

Some state regulations require that equalizer lines be 12 inches below the skimmer, there is not a main drain cover currently available for those equalizer lines. How should we deal with this?

For equalizer lines, for 18x18, or unblockable drains, there are still some challenges in the marketplace. With these regulations coming into enforcement, expectations exist that the market will respond to manufacture solutions such as the equalizer lines. CPSC is continuing to do market research and will inform states when new products come into the marketplace.

How does CPSC define “a design professional”?

At this point, there is no definition in the agency. States have different requirements of what they accept for a design professional. CPSC will generally defer to the state requirements established for the design professional.

Will there be an ASME-ANSI A112.19.8 mark on drain covers?

CPSC is working towards placing an ANSI mark on covers to assist inspectors in easily recognizing drains that are compliant with the law.

How should states deal with a manufacturer of an unblockable drain that says they comply with the standard but are not certified?

CPSC will need to examine the specs of the drain and make a decision. If you have any manufacturers that we need to examine or clarify please forward to CPSC for technical review.

Further Clarifications for Your State

If you have specific questions that your state would like addressed in this document please forward them to Adam Reichardt (areichardt@astho.org) or Sarah Neiderer (sneiderer@astho.org).

Further Information

Virginia Graeme Baker Pool and Spa Safety Act

[S. 1771: Virginia Graeme Baker Pool and Spa Safety Act](#)

Consumer Product Safety Commission

[June 18, 2008 Staff Interpretation of Section 1404: “Federal Swimming Pool and Spa Drain Cover Standard”](#)

Association of Pool and Spa Professionals

[Summary Analysis of the Virginia Graeme Baker Pool and Spa Safety Act](#)