

Virginia Graeme Baker Pool & Spa Safety Act - Statement from CPSC on enforcement

Monday, December 15, 2008

To the public pool and spa safety community:

U.S. Consumer Product Safety Commission (CPSC) recognizes and appreciates the efforts that all of you have made throughout this year to come into compliance with Section 1404 of the Virginia Graeme Baker Pool & Spa Safety Act, which was signed into law on December 19, 2007. Congress set out a strict, one-year timeframe in which pool and spa owners/operators needed to comply. With the requirements of the Act going into effect on Friday, December 19, 2008, there are success stories to share - from a motel chain with hundreds of pools to an operator of a single community pool who have improved the safety of their pools and spas by complying with the law.

We are aware that for many pool and spa owners, operators and installers, the production, availability and delivery of unblockable sized drain covers are the keys to your success. While others are facing the challenge of being on waiting lists for the services of a professional diver or awaiting approval of work plans by county or state officials.

Although we acknowledge the challenges that many owners and operators are still trying to overcome, this 1-year-old law is clear: all public pools and spas have until December 19, 2008 to have ASME/ANSI A112.19.8-2007 compliant drain covers safely and securely installed and a 2nd anti-entrapment system installed where there is only a single main drain.

CPSC has an obligation to carry out the will of the Congress and to enforce the Pool & Spa Safety Act as written. This message today seeks to clarify our enforcement priorities.

First, for seasonal pools and spas that are currently closed, CPSC's Office of Compliance has granted enforcement discretion that these facilities do not need to comply until the day they re-open in 2009.

Second, considering the limited resources and enormous mission of the agency, CPSC will prioritize enforcement of the law to facilities that pose the greatest risk of drain entrapment to children, specifically:

- wading pools,
- pools designed specifically for young children, and
- in-ground spas,

where they use flat drain grates and single main drain systems.

We recommend that state and local health and safety agencies take the same approach of establishing priorities. CPSC staff has been communicating with state enforcement agencies about the Act throughout the year and we are relying on them to be co-enforcers of the law.

CPSC staff would like to quell rumors that we intend to bring million dollar fines or prison sentences against individual pool and spa operators. The Act does allow for the closure of a non-compliant pool until the owner/operator can successfully bring the facility into compliance.

CPSC staff has worked diligently during the past year to interpret the law, participate in conference calls and Webinars, work with state and county health officials, post information online, and individually respond to thousands of phone calls and e-mails. Significant efforts were made to educate the pool and spa community about the law and many of you helped in that effort and we thank you.

For those still in need of large covers, manufacturers have brought and will continue to bring certified unblockable sized covers to the marketplace. We encourage all affected parties to continue to make a good faith effort to come into compliance by pre-purchasing the products you need; hiring a certified, licensed professional to assess your facility; and having an installer at the ready to complete the work.

In an effort to address other key issues that have arisen since CPSC staff issued its June 2008 interpretation of Section 1404, all stakeholders should be aware that:

- The ASME/ANSI A112.19.8-2007 standard allows for licensed pool engineers to independently review and test pre-existing field fabricated grates and certify them if they pass the standard.
- Submerged equalizer lines are considered suction outlets by CPSC staff and are required to either have an approved cover installed or be plugged off.
- New FAQs, with the staff's position on sumps and spacing between drains, will be posted on our Web site (www.cpsc.gov/whatsnew.html#pool) in the near future.

CPSC is committed to implementing and enforcing the Pool & Spa Safety Act to prevent the hidden and tragic hazard of drain entrapments in pools and spas.

Thank you.