

**AIMS Property Management Update  
NAA/NMHC Joint Legislative Program**

September 19, 2008

\*\*\*\*\*

[New Pool and Spa Safety Requirements Go into Effect December 19, 2008](#)

1. [Drain Cover Standard](#)
2. [Covered Pools and Minimum Requirements](#)
3. [Single Main Drains: Layering of Protections](#)
4. [State Laws and Federal Pre-Emption](#)
5. [Resources](#)

\*\*\*\*\*

**NEW POOL AND SPA SAFETY REQUIREMENTS GO INTO EFFECT DECEMBER 19, 2008**

As NAA/NMHC reported in the December 20, 2007 *Washington Update*, apartment firms that offer pools or spas at their properties must comply with new regulations that go into effect on December 19, 2008. The new requirements were enacted last December after an intense lobbying effort by former Secretary of State James Baker's family after his seven year-old granddaughter died as a result of being trapped by a spa drain in 2002. According to the Consumer Product Safety Commission (CPSC), from 2005 to 2007, an average of 283 children under five died each year in pool- and spa-related fatalities; another 2,700 were treated in emergency rooms. The new legislation does three things:

1. Requires all drain covers manufactured or distributed in the U.S. as of December 19, 2008 to conform to the ASME/ANSI A112.19.8-2007 or any successor standard.
2. Requires all public pools and spas, including those in apartment communities, to be equipped with the ASME/ANSI A112.19.8-2007 anti-entrapment drain covers as of December 19, 2008. Pools with a single main drain have additional requirements detailed below.
3. The Act also creates a grant program for states that can demonstrate that their state pool safety statute meets minimum stated requirements. States can use these funds to hire and train personnel to enforce the provisions. Remaining funds are for educating the industry about the standard and the public about pool safety.

Violations of the Act can result in civil or criminal penalties. The maximum penalty for one or more related violations is \$1.825 million. Given the significant penalties associated with non-compliance, apartment owners are strongly advised to evaluate their pool drain systems to determine if adjustments are required by the December 19, 2008 deadline. This issue of *Property Management Update* reviews the main compliance obligations for apartment operators.

**Drain Cover Standard**

The first requirement of the law applies to drain cover manufacturers and distributors, however, because of the way the law is written it creates issues for end users concerning the available supply of compliant drain covers. Specifically, the legislation does not require manufacturers to provide compliant devices until December 19, 2008, the same deadline pool and spa operators have to install them. As a result, we expect there will be a supply and demand imbalance.

When asked about the availability of compliant products by the Association of State and Territorial Health Officials, the CPSC offered the following response:

*“If a pool is not compliant with the ASME standard by December 19, 2008, it should either find a way to be 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.”*

As part of that same guidance, the CPSC reported that it is in the process of compiling a list of manufacturers with products that are in compliance and that it will make that list available to states and on the CPSC web site. Despite these assurances, it remains unclear whether a sufficient supply of compliant drain covers has been manufactured to date or will be available by the effective date. NMHC has a request pending with the CPSC that the Commission recognize products complying with the previous (1987) version of the ASME/ANSI A112.19.8 standard as acceptable until sufficient supply of products meeting the 2007 version is available. In a recent conversation with the CPSC, they report that compliant drain covers should be largely available for the 8" round, 27" round and 9"x9" square sizes. Supply for 12"x12" square and 18x18" square may be challenging now, although should be adequate in approximately 45 days. Unblockable drain covers in the size of 2"x6" are not available. They say that if a complaint is registered against a pool owner, CPSC will consider all good faith efforts, such as documentation of orders placed.

### **Covered Pools and Minimum Requirements**

The new requirements apply to all public pools and spas in the U.S. The statutory language defines this to include a “swimming pool or spa that is open exclusively to residents of a multi unit apartment building, apartment complex, residential real estate development, or other multifamily residential area,” which clearly includes pools operated within an apartment property. Therefore, it is critical that all owners understand the steps they need to take to come into compliance with these new safety devices.

Importantly, these requirements are not limited to newly constructed pools; they cover all pools, regardless of the date of construction. As a result, some existing pools may require retrofitting of covers and other devices.

*At the very minimum, every pool and spa must be fit with drain covers that conform to the ASME/ANSI A112.19.8 performance standard.* Some apartment pools may already meet this minimum requirement due to obligations imposed by state pool safety laws. Pools that have a single main drain have additional compliance obligations described below. According to the Association of Pool and Spa Professionals, an approved drain cover will have the following symbol embossed or permanently marked in a location that is visible when installed:



Alternatively, the cover may include the following text: “ASME A112.19.8-2007,” a flow rating “X GPM,” “Life: X Years,” and Manufacturer and Model.

### **Single Main Drains: Layering of Protections**

Pools that have multiple main drains where all drains are outfitted with compliant drain covers are considered to have met their federal obligations, although additional safeguards are always

encouraged and may be required by state laws. Pools and spas that have what is called a “single main drain,” or something other than an unblockable drain have additional compliance obligations as most entrapment accidents are associated with single main drain pools. (An unblockable drain is a drain of any size and shape that a human body cannot sufficiently block to create a suction hazard.) The key risks associated with these drains include hair entrapment, limb entrapment, body entrapment, eviscerations and entanglement. Many of these can be prevented by certain protective design standards, however.

Pools with a single main drain or something other than an unblockable drain must also be equipped with one or more of the following anti-entrapment devices or systems:

- Safety Vacuum Release System. These devices stop the pump, reverse the circulation flow or provide a vacuum release when a blockage is detected.
- Suction-Limiting Vent System. These systems have a pipe vented to the atmosphere that connects the suction pipe between the pool and the pump. They break the suction when blockage occurs by replacing water in the line with air.
- Gravity Drainage System. Also known as a reservoir, surge tank, or surge pit, these systems use a collector tank from which the pump pulls its water for circulation back to the pool. Water moves from the pool to the collector tank due to atmospheric pressure, gravity and the displacement of water by bathers which removes the need for direct suction at the pool.
- Automatic Pump Shut-Off System. This is a device that senses a blockage and shuts off the pump.
- Drain Disablement. Installing a device or system that disables the drain also complies with the law, although CPSC reports that they are unaware of any products on the market that meet this description.

### **State Laws and Federal Pre-Emption**

Apartment owners should note that the federal legislation does not preempt more restrictive state laws. The CPSC confirmed this in a letter to the Florida Safety Commission (FSC) after the FSC inquired about its state statute that requires certain pools to be equipped with a gravity drainage system. According to the CPSC the federal law sets minimum requirements, above which states can regulate.

### **Resources**

For additional information, see these valuable resources:

- CPSC Staff Guidance for Pool/Spa Operators and Drain Manufacturers at [www.cpsc.gov/pssa1406.pdf](http://www.cpsc.gov/pssa1406.pdf).
- Association of Pool and Spa Professionals Q&A at <http://tinyurl.com/4rczq4>.

*The material in this NAA/NMHC AIMS update is copyrighted and intended for AIMS members only. It cannot be posted on public web sites, reprinted or distributed to non-AIMS members without prior permission.*

\*\*\*\*\*

This e-mail was sent to [ccaassociation@mchsi.com](mailto:ccaassociation@mchsi.com).

Don't miss out on NAA/NMHC emails because of spam filters. Ask your corporate email network administrator to add [aimsupdates@broadcasts.nmhc.org](mailto:aimsupdates@broadcasts.nmhc.org) to your firm's white list (the approved list of known email senders).