

INFORMATION COLLECTION REQUEST (ICR)
Virginia Graeme Baker Pool and Spa Safety Act
Verification of Compliance Form
SUPPORTING STATEMENT

A. Justification

1. Information to be collected and circumstances that make the collection of information necessary

On December 19, 2008, the Virginia Graeme Baker Pool and Spa Safety Act (“Act”) became effective (Pub. L. No. 110-140). The Act applies to public pools and spas and requires that each swimming pool and spa drain cover manufactured, distributed, or entered into commerce in the United States shall conform to the entrapment protection standards of the ASME/ANSI A112.19.8 performance standard or any successor standard regulating such swimming pool or drain cover pursuant to section 1404(b) of the Act (“Drain Cover Standard”). In addition to the anti-entrapment devices or systems, each public pool and spa in the United States with a single main drain other than an unblockable drain shall be equipped with 1 or more of the following devices and systems designed to prevent entrapment by pool or spa drains that meet the requirements of the Drain Cover Standard: safety vacuum release system; suction-limiting vent system; gravity drainage system; automatic pump shut-off system or drain disablement. The Act is designed to prevent the tragic and hidden hazard of drain entrapment and eviscerations in public pools and spas.

The CPSC staff will use a “Verification of Compliance Form” to collect the information necessary to identify drain covers at pools and spas that do not meet the requirements of the ASME/ANSI A112.19.8 performance standard or any successor standard regulating such swimming pool or drain cover. CPSC investigators or designated state or local government officials will use the form which will be filled out entirely at the site during the normal course of the pool and spa inspection. Using the form, the inspectors will collect information regarding the pool or spa facility; identify the type, location and features of the pool or spa; describe the drain covers, anti-entrapment device/systems, sump or equalizer lines at the site; and report on whether any actions are necessary to bring the pool or spa into compliance.

2. Use and sharing of collected information

The CPSC will use the information to identify drain covers at pools and spas that do not meet the requirements of the ASME/ANSI A112.19.8 performance standard or any successor standard regulating such swimming pool or drain

cover.

3. Use of Information Technology (IT) in information collection

The collection of information would occur through a Verification of Compliance form that CPSC staff will fill in during the course of the pool and spa inspection. CPSC did not develop electronic collection techniques.

4. Efforts to Identify Duplication

The form provides for very detailed information recordation for each individual pump located at a pool or spa facility. The CPSC staff is unaware of any other source of this information other than directly from pool managers.

5. Impact on small business

The form does not have a disproportionate impact on pool owners or operators because the form will be filled out entirely by the field investigators during the normal course of the pool or spa inspection. It is tentatively estimated that the pool or spa owner/operator or staff will need to be present for 3 hours of the entire inspection orally communicating with the investigator related to the form or in providing documents to the investigator.

6. Consequences to Federal program or policy activities if collection is not conducted or is conducted less frequently

Failure to provide the information sought by the questionnaire would impair the CPSC's ability to identify noncompliant pools or spas and specifically what drain covers are noncompliant. The failure to obtain this information could lead to the use of non-compliant drain covers and pose a risk of serious injury to the public.

7. Special circumstances requiring respondents to report information more often than quarterly or to prepare responses in fewer than 30 days

Not applicable.

8. Agency's Federal Register Notice and related information

Given the limited purpose and nature of the information collection, no consultation outside the agency was necessary. An FR notice was published September 21, 2009 (74 FR 48062). Seven comments were received. Several commenters suggested the time burden allotted for the pool operators to participate in the pool inspection was insufficient. Based on the public comments

and CPSC staff's experience inspecting 1,200 pools and spas, the estimated burden hours for pool operators have been increased from 0.5 hours to 3.0 hours.

One commenter recommended that State or local officials use the proposed compliance form during the inspections to ensure consistency. In addition, the commenter stated that CPSC staff should accept findings by State or local officials and non re-inspect the pool.

CPSC staff is working with State and local officials to avoid a duplication of effort regarding pool inspections. State and local officials are conducting a limited number of pool and spa inspections to determine if the requirements of the Pool and Spa Safety Act have been met. CPSC staff will follow up with the pool owner or operator if corrective action is needed.

Once commenter recommended an additional requirement for pool operators to state how the facility will monitor the security of the drain cover and note the expiration date for the cover. Another commenter suggested that the pool operators provide documentation that drain covers and/or SVRS were correctly installed.

CPSC staff is aware of the importance of ensuring the security of the drain cover, but those are policies for the facility to implement, and are not a part of the inspection. However, CPSC staff will request that the pool owner or operator provide the expiration date for the drain covers in the compliance form.

One commenter suggested that, in order to minimize the burden, an electronic form should be used and the pool owners/operators should fill it out before the inspection. A few commenters requested additional questions, or the use of different terms in the compliance form.

The purpose of the compliance form is to ensure that the CPSC inspection and data collection procedures are completed by CPSC staff or the designated State or local government official. The compliance form is not intended to be filled out by the pool owner or operator. Based on the CPSC staff's experience with the compliance form to date, the information obtained through the form adequately identifies drain covers at pools and spas that do not meet the requirements of ASME/ANSI A112, and except for the inclusion of the expiration date of the drain cover, we will not otherwise revise the compliance form at this time.

One commenter recommended that the CPSC partner with local departments of health, industry, or a non-profit so it can inspect a more representative sample of pools.

CPSC is contracting with State and local officials to conduct pool inspections that follow guidelines provided by CPSC for inspecting pools for compliance with the Act. The State and local officials can conduct the pool inspections when they do their regular visits to these pools. CPSC staff will follow up with the pool owner or operator if corrective action is needed.

9. Decision to provide payment or gift

The CPSC did not and will not provide any payment or gifts to pool and spa owners/operators in connection with the information collection.

10. Assurance of confidentiality

The information recorded in response to the questions on the form would be subject to the Freedom of Information Act and its exemptions to public disclosure.

11. Questions of a sensitive nature

No questions of a sensitive nature are asked.

12. Estimate of hour burden to respondents

There are no total capital or start-up costs or service costs projected in connection with the form. Investigators will be talking to either the pool owner/operators or staff at the time of the inspection. Investigators will be collecting drain cover and sump certification documents. While the average time to inspect a pool or spa facility is 1.5 hours, pool owners/operators or staff will not need to be present during the entire inspection, and so we tentatively estimate that pool owners/operators or staff will spend 3 hours in oral communications related to the form or in providing documents to investigators. It is estimated that pool owners/operators or staff will be required for 3 hours per inspection. Therefore, the estimated total annual burden hours for respondents are 2,100 hours (700 inspections x 3 hours per inspection).

13. Estimate of total annual cost burden to respondents

Since it is unclear whether junior or senior employees will be available to investigators, it is assumed that management-level employees will serve this function. Using the rate of \$47.44/hour as average total compensation for testing (Bureau of Labor Statistics, December 2008, All workers, service-producing industries, management, professional, and related), the annual cost to

respondents may be as high as \$99,624 ($\$47.44 \times 2,100$).

14. Estimate of annualized cost to the federal government

The CPSC estimates that it will take an average of 2.5 hours to review the information collected from the oral communications with pool owners/operators or staff. The annual cost to the Federal government of the collection of information in these regulations is estimated to be \$19,361.20. This is based on an average wage rate of \$55.97 (the equivalent of a GS-14 Step 5 employee). This represents 70.1 percent of total compensation with an additional 29.9 percent coming from benefits (BLS, September 2008, percentage total benefits for all civilian management, professional, and related employees), or $\$79.84 \times 242.5$ hours.

15. Program Changes or Adjustments

The Form would represent a new collection of information.

16. Plans for tabulation and publication

Information collected under this requirement will not be published.

17. Exemption for Display of Expiration Date

The agency does not seek an exemption from displaying the expiration date.

18. Exemption to Certification Statement

Not applicable.

B. Collection of Information Employing Statistical Methods

Not applicable.