

LESTER SCHWAB KATZ & DWYER, LLP

120 BROADWAY  
NEW YORK, N.Y. 10271-0071

(212) 964-6611  
FAX: (212) 267-5916

STEVEN B. GETZOFF  
Writer's Direct Dial: (212) 341-4345  
E-Mail: sgetzoff@lskdnylaw.com

NEW JERSEY OFFICE  
24 LACKAWANNA PLAZA  
MILLBURN, N.J. 07041  
(973) 912-9501

July 7, 2010

**Re: Aquastar**

To Whom It May Concern:

Our firm is counsel to Aquastar. We are writing at the request of one of their representatives, Jack Wohler, in an attempt to clarify the criteria established by the US Consumer Product Safety Commission for an unblockable drain, and what appears to be a misunderstanding as to whether a channel drain (i.e. 3 in. x 31 in.) may still be considered as unblockable under the Virginia Graeme Baker Pool and Spa Safety Act. (VGB).

**Background:**

Section 1404(c)(1)(a)(i) requires that all public pools and spas be equipped with devices and systems that comply with the ASME/ANSI A112.19.8 performance standard. In addition, 1404(c)(1)(a)(ii) requires that public pools and spas that have a single drain "other than an unblockable drain" employ one or more additional devices, such as an SVRS. The VGB Act was signed into law on December 20, 2007, and the above requirements went into effect one year later.

In June, 2008, the CPSC issued a Staff Interpretation of the public pool requirements in Section 1404 of the VGB Act. This interpretation recognized that unblockable drains would include a fitting/ cover that met one or more of the following:

"Drain configurations that prevent a seal from occurring (large aspect cover, such as 18" x 23" or larger cover

Long channels that could not be blocked by the body (conceptual figure a below)

Large outlet grate, diagonal measure of 29" or more (conceptual figure b below)."

In July, 2009, the CPSC issued a technical memorandum as to the definition of "unblockable" (<http://www.poolssafety.gov/unblockable.pdf>) and invited and received public comments. A hearing was held in November, 2009, and as a result, the CPSC issued a Final Interpretive Rule with regard to the criteria for an unblockable drain. The rule, which was published in the Federal Register on April 27, 2010, states as follows:

July 7, 2010

Page 2

“Unblockable drain includes a suction outlet defined as all components, including the sump and/or body, cover/grate, and hardware such that its perforated (open) area cannot be shadowed by the area of the 18" x 23" Body Blocking Element of ASME/ANSI A112.19.8-2007 and that the rated flow through the remaining open area (beyond the shadowed portion) cannot create a suction force in excess of the removal force values in Table 1 of that Standard. All suction outlet covers, manufactured or field-fabricated, shall be certified as meeting the applicable requirements of the ASME/ANSI A112.19.8 standard. You must proceed in accordance with ASME/ANSI A112.19.8-2007 (issued March 30, 2007), including Addenda A112.19.8a-2008 (August 11, 2008) and A112.19.8b-2009 (approved October 22, 2009), Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs. ASME/ANSI A112.19.8-2007, including Addenda A112.19.8a-2008 and A112.19.8b-2009 are incorporated by reference.”

As evident from this Rule, the CPSC chose to rely on performance test criteria as provided in the national standard that is cited in the VGB Act, instead of using a simple measurement as the ultimate criteria. Under this standard, all potentially unblockable suction fittings that are manufactured are tested by one of the three national testing facilities recognized by the CPSC for certifying suction outlets, using the 18" x 23" blocking element as described above. Those suction fittings that pass this test are designated unblockable, and when used, exempt a single drain public pool from the additional requirements of 1404(c)(1)(a)(ii).

As also evident from this Rule, the CPSC did not, at any time, abandon or reject the concept of a “channel drain” as meeting the criteria for unblockable. As expressly stated by the CPSC in this Rule, the reference to a 29" diagonal measurement was removed by the CPSC because it was deemed to be an “oversimplification” of the ASME standard. As a result of this change, rather than being subjected to a simple diagonal measurement, the channel drain is subjected to this same 18" x 23" blocking element test, as all other potentially unblockable covers.

All Aquastar Single Channel Drains have been tested and certified as unblockable by a Nationally Recognized Testing Lab, in accordance with the criteria set forth in the current CPSC Rule cited above, as well as the ASME/ANSI.112.19.8 2007 Suction Fitting Standard referenced in the VGB. They also meet the criteria for unblockable set forth in the ANSI/APSP-7 Entrapment Avoidance standard. Based on these certifications, the channel drains are deemed suitable under the VGB and the above Standards for single drain use.

LESTER SCHWAB KATZ & DWYER, LLP

July 7, 2010  
Page 3

If you have any questions with regard to this or any other issue, please feel free to contact me. We also invite you to inquire with the CPSC if you prefer.

Thank you for your courtesy and cooperation.

Very truly yours,

STEVEN B. GETZOFF

SBG:imr  
1443338