

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Human Services, Public Health Division

333

Agency and Division

Administrative Rules Chapter Number

Update of public swimming, wading and spa rules to comply with federal legislation

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Adopting and amending language in the Public Swimming Pool and Public Spa Pool administrative rules, chapter 333, divisions 60 and 62, to update the requirements for suction outlets and to provide parallel compliance with the Federal Virginia Graeme Baker Act.

Statutory Authority: ORS 448.011

Other Authority:

Stats. Implemented: ORS 448.005 – 448.100, 448.990

Need for the Rule(s):

The Department of Human Services, Public Health Division is permanently adopting and amending Oregon Administrative Rules related to main drains and suction fittings in public swimming pools, public wading pools and public spa pools. These changes to state rules are to provide parallel compliance with the Federal Virginia Graeme Baker Pool and Spa Safety Act and to clear up any discrepancies between state and federal regulations.

The revisions update Oregon Administrative Rules to current federal standards and provide direction for new pool construction. The adoption and amendment of rules will address the issue of differences between the two sets of requirements.

Documents Relied Upon, and where they are available:

Presentation on Drowning Prevention, Entrapment Prevention & Pool and Spa Safety Act

Consumer Product Safety Commission (CPSC) Staff's Guide to Complying with the Law, October 2008

CPSC Staff Interpretation of Section 1404 of the Virginia Graeme Baker Pool and Spa Safety Act, June 18, 2008

CPSC General Counsel letter to the Florida Department of Health, May 6, 2008

National Swimming Pool Foundation (NSPF) Documents

National Recreation and Park Association (NRPA) Documents

American National Standards Institute (ANSI)/ Association of Pool and Spa Professionals (APSP) -7

ANSI/American Society of Mechanical Engineers (ASME) A112.19.8 (2007)

ANSI/American Society for Testing and Materials (ASTM) F2387

ANSI/ASME A112.19.17 (2002)

(All Documents are available online from the various agencies. All but the ASME and ASTM standards can be viewed at the Public Swimming Pool Program, Portland State Office Building, 800 NE Oregon St, Suite 640; Portland, OR 97232-2162)

Fiscal and Economic Impact:

The changes will have a modest impact on the construction of new pool and spa facilities because of the cost of the new fittings and some additional piping. These costs would be required by the Virginia Graeme Baker Pool and Spa Safety Act, so our rules have little additional impact. We are eliminating some of the options of the federal legislation, but this should have little to no impact on the construction of new pools.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The impact should be minimal to state and local government and the public. The costly requirements have already been required by the federal government. Our changes will bring our rules into parallel compliance with the federal rules.

2. Cost of compliance effect on small business (ORS 183.336):

The rules only effect new construction and renovations. The requirements will make differences in the pool construction, but should have minimal impact on the construction costs. Existing pools are not addressed in our rules, changes to their pools has already been required by federal legislation. Our rules establish parallel compliance for new construction.

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: It is estimated that about 2200 businesses, local and state government, and some schools are affected by the federal Virginia Graeme Baker Pool and Spa Safety Act. Of these we estimate that about 1500 may be small businesses. These are lodging facility, apartment and condo pool operators. The impacted businesses also include pool design, construction and service companies. Of these, only a few will be affected by the new rules and only if they build new pools. Our rules should have little impact on existing pool operators.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No additional recordkeeping will be required, other than pools will need to keep information on what they did for compliance in case of a Consumer Product Safety Commission inspection.

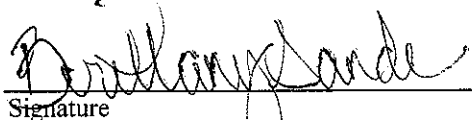
c. Equipment, supplies, labor and increased administration required for compliance:

None

How were small businesses involved in the development of this rule?

Pool operators, business persons representing both the pool owner and pool service companies, association representatives, and others served on the advisory committee during the development of these rules.

Administrative Rule Advisory Committee consulted?: Yes - Representatives from the manufactured housing sector, multi-family housing sector, Red Cross, pool service companies, pool designers and builders, Oregon Recreation and Park Association, school district representatives, Fitlife Fitness Clubs, Portland Parks and Recreation, Council of Local Environmental Health Supervisors, a LPHA inspector, and state pool program representatives. The Oregon Lodging Association was invited to participate and was sent all mailings, but did not participate in meetings.



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Printed name

10/15/09
Date