

## Virginia Graeme Baker Safety Act Webinar Q&A Report

**Q: After the grate has been certified, can it be modified in the field to fit an irregular shaped sump?**

A: Following certification, grates should be installed without modification. Any modifications would require new certification.

**Q: Existing drains may not be hydraulically balanced. Replacing covers may not create a safe environment, how should this be addressed?**

A: The VGB P&SS Act mandates compliant covers over suction outlets. Installers who find drains that are not hydraulically balanced would be well advised to bring this to the owner's attention so that appropriate steps can be taken to minimize the risk of injury.

**Q: What is a definition of drain disablement? Closing a main drain valve? Taking it off line? Plugging it on both ends? Please define.**

A: Drain disablement, as defined by the Act, is "a device or system which disables the drain." Many have interpreted this to mean (1) filling the existing sump with concrete; (2) reverse flow or permanently disconnect the main drain from the pump's suction; or (3) permanently disconnect the piping from the suction side of the pump (cap the pipe off). Merely closing a valve would not be enough as the valve could be opened at a later date.

**Q: If main drain lines are converted to *supply* instead of return, are they still required to have the anti-entrapment covers?**

A: Only suction outlets need to have compliant covers. If the flow is reversed such that the drains now bring water to the pool (rather than take water from the pool), then the structures would be considered returns and not outlets.

**Q: Is there any legal exposure for a pool service company who has received purchase orders to replace covers, but has not done so due to a backlog of the labor force?**

A: A pool service company faces very little liability, if any, for not being able to install covers in a timely fashion, provided it makes every effort to do so. However, if the company knowingly accepts orders without advising its customers of any prolonged delay in the install date, then there is the potential for liability in that customers who schedule repair work expect it to be completed within a reasonable timeframe.

The information provided herein is intended to provide technical and educational information concerning the recently enacted Virginia Graeme Baker Pool and Spa Safety Act. The Consumer Product Safety Commission **has not** reviewed this document for accuracy. **The information provided herein is intended for educational purposes only and is not intended as legal advice.** Those seeking an interpretation of the Act or any other federal/state law, regulation, code or ordinance as it may apply to their specific factual circumstance, are strongly advised to consult with their own legal counsel. Neither Athletic Business Publications Inc., nor our webinar contributors are responsible for any liability or damages that is in any way alleged to have resulted from the questions and answers provided herein.

**Q: Please summarize the requirements of this law as it relates to residential pools.**

A: Section 1404 of the Act does not apply to residential pools. However, states may adopt the provisions of the act, so monitor developments in your state.

**Q: Please summarize the requirements of this law as it relates to residential portable hot tubs.**

A: The CPSC has stated that they will provide interpretation on the Act as it applies to portable spas.

**Q: What is the service company's responsibility if the property owner refuses to do anything after he was sent a letter by the service company?**

A: None. Unless the service company “manages” the pool, then the service company is not obligated to bring the pool into compliance. This is the responsibility of the owner/operator.

**Q: If you are a pool maintenance contractor and you are servicing a pool that is noncompliant are you liable?**

A: The Act provides liability to pool owners. If a maintenance contractor services a non-compliant public pool, then there would be no liability under the Act. However, prudent business practices would dictate that the contractor duly inform the owner of the requirements of the act and recommend steps to come into compliance.

**Q: As a local health inspector is it correct based on what you said that we can keep them from opening a pool for the season based on this law, even though we are not the enforcement agency?**

A: A local health inspector is only able to enforce the state/county/local code (if any). If the local code has a general “safety” provision, then it may be possible to deny a permit to operate for safety reasons. However, the authority to do so is not under the Act but rather under the code you as charged to enforce. Each health inspector should carefully read the code to be enforced to determine whether such a general “catch-all” provision exists.

**Q: We have a letter of compliance from a commercial pool company. Is that enough?**

The information provided herein is intended to provide technical and educational information concerning the recently enacted Virginia Graeme Baker Pool and Spa Safety Act. The Consumer Product Safety Commission **has not** reviewed this document for accuracy. **The information provided herein is intended for educational purposes only and is not intended as legal advice.** Those seeking an interpretation of the Act or any other federal/state law, regulation, code or ordinance as it may apply to their specific factual circumstance, are strongly advised to consult with their own legal counsel. Neither Athletic Business Publications Inc., nor our webinar contributors are responsible for any liability or damages that is in any way alleged to have resulted from the questions and answers provided herein.

A: No. Ideally a certificate of compliance would be required. Said certificate should at a minimum contain the manufacturer's name, product model number, and flow rating.

**Q: Are portable residential spas produced before Dec 19, 2009, in inventory either in manufacturer warehouses, distributor warehouses, or dealer retail showroom fall under the legislation?**

A: Perhaps. The Section 1404 (b) of the Act states that after December 19, 2009 "each swimming pool or 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 drain cover." The question becomes whether a spa produced before December 19, 2009 will be considered to have been entered into commerce. Arguably, a spa would have entered into commerce upon the first sale or transfer of possession from the manufacturer to a warehouse or distributor. Given the potential for liability for selling a product which otherwise could no longer be sold as it would be considered a dangerous product, most owners are looking at ways to retrofit existing inventory to address the entrapment risks the standard hopes to prevent

**Q: At a county level, my health department has put off enforcement of VGB until December 31, 2009. Since this is a federal law, is this something that the local health department can do? As a pool professional, I am confused as to what I need to enforce?**

A: The local health department is not the enforcer of the Act. The Act gives enforcement authority to the Consumer Product Safety Commission. The local health department can only enforce the local health code. Pool owners/operators must bring their facilities into compliance under the Act.

**Q: As a pool inspector, we are unable to enforce the VGB law, however, we feel the need to provide information to the pool operators that notes they may not be in compliance but want to limit our liability. Do you have a recommendation on what to do?**

A: Pool inspectors would be well-advised to examine their local codes to determine whether a general safety provision exists. If the local code allows the pool inspector to either deny a permit to operate or to close the facility based upon a safety violation, then the pool inspector, upon noting a violation of a federal safety law, should issue a violation notice and either close the facility or deny a permit to operate until the safety issue has been properly addressed.

The information provided herein is intended to provide technical and educational information concerning the recently enacted Virginia Graeme Baker Pool and Spa Safety Act. The Consumer Product Safety Commission *has not* reviewed this document for accuracy. **The information provided herein is intended for educational purposes only and is not intended as legal advice.** Those seeking an interpretation of the Act or any other federal/state law, regulation, code or ordinance as it may apply to their specific factual circumstance, are strongly advised to consult with their own legal counsel. Neither Athletic Business Publications Inc., nor our webinar contributors are responsible for any liability or damages that is in any way alleged to have resulted from the questions and answers provided herein.

**Q: If we have a residential pool, that is rented by a homeowner and managed by a property co. would this be considered a "public" pool and subject to VGBSA?**

A: The Act states that a public pool is one that is:

- (A) open to the public generally, whether for a fee or free of charge;
- (B) open exclusively to—
  - (i) members of an organization and their guests;
  - (ii) residents of a multi-unit apartment building, apartment complex, residential real estate development, or other multi-family residential area (other than a municipality, township, or other local government jurisdiction); or
  - (iii) patrons of a hotel or other public accommodations facility; or
- (C) operated by the Federal Government (or by a concessionaire on behalf of the Federal Government) for the benefit of members of the Armed Forces and their dependents or employees of any department or agency and their dependents.

**Q: Once the drain is installed, does it have to be inspected by some agency or individual?**

A: If simply replacing a drain cover with a new compliant cover, then no further inspection is necessary. However, the operator should keep the certificate of compliance on hand as well as the make and model of the cover.

**Q: Who should pool/spa operators contact to determine if they are in compliant?**

A: Pool operators should contact a reputable local pool servicing company if they need assistance in determining whether they pools they operate are compliant.

**Q: Do we need approved drain covers for sumps filled with concrete or otherwise disabled?**

A: No, if sumps are filled with concrete, or if the drains are otherwise disabled, then there is no suction outlet. As such, no covers would be needed.

**Q: Is there anyone "Exempt" from this law? If so, who?**

A: No

The information provided herein is intended to provide technical and educational information concerning the recently enacted Virginia Graeme Baker Pool and Spa Safety Act. The Consumer Product Safety Commission **has not** reviewed this document for accuracy. **The information provided herein is intended for educational purposes only and is not intended as legal advice.** Those seeking an interpretation of the Act or any other federal/state law, regulation, code or ordinance as it may apply to their specific factual circumstance, are strongly advised to consult with their own legal counsel. Neither Athletic Business Publications Inc., nor our webinar contributors are responsible for any liability or damages that is in any way alleged to have resulted from the questions and answers provided herein.

**Q: Local NW Ohio pool contractor went to a meeting to get the State's "interpretation" of law. Because retrofitting drain covers not available, compliance not required yet?**

A: No. Compliance is required on all public pools and spas as of Dec. 19, 2008.

**Q: What formula do we use to determine if our flow exceeds 1.5 Ft/Second at the main drain?**

A: As specified in ASME a112.19.8-2007

**Q: Please explain the requirements for field built sumps, and describe what is required from the "Design Professional", and the mechanism for their approval of the sump/drain cover combination.**

A: As specified in ASME a112.19.8-2007

**Q: I have received a packet from the contractors that built our pool that states we need to have 1 and 1/2 inches from the top of the pipe to the bottom of the grate and if you do not you must modify piping. Do I understand this correctly?**

A: No, the distance must be 1.5 times the inside diameter of the pipe, ASME A112.19.8-2007.

**Q: Is there a form or outline for a PE to perform the necessary calculations available?**

A: Yes, it's outlined in ASME A112.19.8-2007

**Q: If you have an unblockable drain, four 24 X 24 drains grouped together to form a 48 X 48 drain area, do you need to change the covers just to have them be stamped with the ASME/ANSI standard**

A: If the covers are not compliant, you need to install compliant ones.

**Q: What are you defining as an unblockable drain? Is it just large aspect covers or does it include the sump size too?**

A: Per the Act: "(7) **UNBLOCKABLE DRAIN.**--The term "unblockable drain" means a drain of any size and shape that a human body cannot sufficiently block to create a suction entrapment hazard. " ASME A112.19.8 further defines methods for testing.

The information provided herein is intended to provide technical and educational information concerning the recently enacted Virginia Graeme Baker Pool and Spa Safety Act. The Consumer Product Safety Commission *has not* reviewed this document for accuracy. **The information provided herein is intended for educational purposes only and is not intended as legal advice.** Those seeking an interpretation of the Act or any other federal/state law, regulation, code or ordinance as it may apply to their specific factual circumstance, are strongly advised to consult with their own legal counsel. Neither Athletic Business Publications Inc., nor our webinar contributors are responsible for any liability or damages that is in any way alleged to have resulted from the questions and answers provided herein.

**Q: With a single main drain unblockable on gravity/surge pit do we still need to replace the drain covers?**

A: Yes, if they are not compliant.

**Q: Do existing field constructed sumps have to comply with dimension/flow criteria?**

A: Yes, if they are on public pools.

**Q: Are there policies that limit young children from using public spas? In other words, do most organizations have age limits on public spas?**

A: That's entirely up to individual jurisdictions and even individual operators.

**Q: Does this standard apply to pools located at child care facilities?**

A: Yes, if it meets the definition of a public pool.

**Q: What is the definition of "Entering into Commerce"? If I have suction bought before the Dec 19 deadline from a supplier can I use them up in production or do I send them back to the supplier?**

A: You cannot use them; that would be entering them into commerce.

**Q: Our pool was just built then end of 2007 and beginning of 2008. I was under the impression that all new pools were being built to this code?**

A: Not necessarily, it would depend on the state and the oversight mechanism, if any.

**Q: What about condos?**

A: Condo pools are considered public pools and must conform to the law.

**Q: Why have there been no rulings on the screws used with covers. I feel Phillips and straight end screws are totally unsafe. There are several screws out on the market which would greatly limit vandals from removing covers.**

A: Screws/fasteners are covered in ASME a112.19.8-2007

The information provided herein is intended to provide technical and educational information concerning the recently enacted Virginia Graeme Baker Pool and Spa Safety Act. The Consumer Product Safety Commission **has not** reviewed this document for accuracy. **The information provided herein is intended for educational purposes only and is not intended as legal advice.** Those seeking an interpretation of the Act or any other federal/state law, regulation, code or ordinance as it may apply to their specific factual circumstance, are strongly advised to consult with their own legal counsel. Neither Athletic Business Publications Inc., nor our webinar contributors are responsible for any liability or damages that is in any way alleged to have resulted from the questions and answers provided herein.

**Q: A previous slide stated that round unblockable drain covers are available. We cannot find any. Which manufacturers have them available? Can your web site be more helpful than simply listing manufacturers without any indication of what products they have?**

A: A list of companies reporting that they have compliant companies is posted at [www.cpsc.gov](http://www.cpsc.gov) and at [www.apsp.org](http://www.apsp.org).

**Q: Do you have a list of compliant covers that the local health department has to go by?**

A: A list of companies reporting that they have compliant companies is posted at [www.cpsc.gov](http://www.cpsc.gov) and at [www.apsp.org](http://www.apsp.org)

**Q: We have a private athletic club with two in ground spas and a pool, we do not allow children under the age of 15. Is this primarily about children or adults as well?**

A: All public pools are required to conform. A private athletic club falls under the definition.

**Q: We have Gravity Drains on 2 of our pools and our spa has anti entrapment drains, leading us to wonder how are we out of compliance since our pools were built under 1994 anti entrapment laws. We need clarity to even know if we are out of compliance.**

A: Without knowing which 1994 law you are not referencing or the specifics of your pools, it's still safe to say that a 2008 federal law would take precedence over a 1994 law.

**Q: Are Home Owner Associations required under this law?**

**Q: What do condo assoc. with portable type spa need to do to conform?**

A: Pools owned by HOAs meet the definition of public pools under this law.

**Q: Do residential pools built after 12/10/08 have to be in compliance with VGB?**

A: It depends on the state or prevailing local laws.

**Q: What is CPSP's definition of "Single Main Drain"?**

From the text of the law it is defined: (4) **MAIN DRAIN**.--The term ``main drain'' means a

The information provided herein is intended to provide technical and educational information concerning the recently enacted Virginia Graeme Baker Pool and Spa Safety Act. The Consumer Product Safety Commission *has not* reviewed this document for accuracy. *The information provided herein is intended for educational purposes only and is not intended as legal advice.* Those seeking an interpretation of the Act or any other federal/state law, regulation, code or ordinance as it may apply to their specific factual circumstance, are strongly advised to consult with their own legal counsel. Neither Athletic Business Publications Inc., nor our webinar contributors are responsible for any liability or damages that is in any way alleged to have resulted from the questions and answers provided herein.



submerged suction outlet typically located at the bottom of a pool or spa to conduct water to a re-circulating pump.

**Q: Are there specific protocols that a pool operator can perform on their pool to test the suction and identify what levels of compliance are necessary, specifically related to sump design.**

A: Yes, as outlined in ASME a112.19.8-2007.

**Q: Can you clarify for us when a sump is ok to leave alone and when it needs to be modified and or replaced?**

A: If it's in a public pool and it's not compliant with VGB and by reference, ASME a112.19.8-2007, then it must be brought into compliance.

**Q: We have 14 seasonal pools that are diatomaceous earth systems that are gravity fed. Each pool has two 18 x 18" drains. Do we have to replace these drain covers.**

A: If they are not compliant, yes.

**Q: Does the law require a certain distance from the top of the drain pipe to the top of the cover. We have been told it must be 1.5 x the diameter of the drain.**

A: The distance must be 1.5 times the inside diameter of the pipe. Refer to ASME A112.19.8-2007.

**Q: Would a deep pool with two large gravity drains that are 10 ft. apart be required to install a complying cover or modify the drains?**

A: The covers must be in compliance; you'll need to check with a local expert to determine if the drains must be modified to be compliant.

**Q: If the main drain dumps directly into a holding tank, and there is not direct piping from the main drain to the pump, do we need to have a compliant cover for something larger than unblockable.**

A: All covers must be compliant per the act:

*“(b) Drain Cover Standard.--Effective 1 year after the date of enactment of this title, each swimming pool or 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*

The information provided herein is intended to provide technical and educational information concerning the recently enacted Virginia Graeme Baker Pool and Spa Safety Act. The Consumer Product Safety Commission **has not** reviewed this document for accuracy. **The information provided herein is intended for educational purposes only and is not intended as legal advice.** Those seeking an interpretation of the Act or any other federal/state law, regulation, code or ordinance as it may apply to their specific factual circumstance, are strongly advised to consult with their own legal counsel. Neither Athletic Business Publications Inc., nor our webinar contributors are responsible for any liability or damages that is in any way alleged to have resulted from the questions and answers provided herein.



such swimming pool or drain cover.”

**Q: Do I need to retrofit finished spas built before the deadline with compliant suction covers or not?**

A: If the spas are public, yes.

**Q: Explain the distance required from bottom of drain cover to top of drain pipe, and how to become compliant.**

A: It must be 1.5 times the inside diameter of the pipe.

**Q: Can we install ourselves or do we need to hire a contractor?**

A: The law doesn't address that.

**Q: Is the Vac Alert the only mechanical SVRS you can use?**

A: No, there are several brands on the market and some pumps have built-in SVRS devices.

**Q: Does this only affect single drain pools? I have several pools that have multiple main drains. I want to be as safe as possible so I will look into new covers but what is that requirement?**

A: All drain covers must be compliant.

**Q: If CPSC allows a licensed pool contractor to certify the pool in compliance, is this not allowing engineering without a license?**

A: The state in which the pool is built determines licensing for the pool professional, not the CPSC.

**Q: What tests must a PE conduct in order to determine compliance?**

A: Those outlined in ANSI A12.19.8-2007

## **Questions about P.E.s**

### **GENERAL ANSWER:**

The information provided herein is intended to provide technical and educational information concerning the recently enacted Virginia Graeme Baker Pool and Spa Safety Act. The Consumer Product Safety Commission **has not** reviewed this document for accuracy. **The information provided herein is intended for educational purposes only and is not intended as legal advice.** Those seeking an interpretation of the Act or any other federal/state law, regulation, code or ordinance as it may apply to their specific factual circumstance, are strongly advised to consult with their own legal counsel. Neither Athletic Business Publications Inc., nor our webinar contributors are responsible for any liability or damages that is in any way alleged to have resulted from the questions and answers provided herein.

A PE is a professional engineer described under VGB by reference to ASME/ANSI A112.19.8:

“Registered design professional: an individual who is registered or licensed to practice their respective design profession as defined by the statutory requirements of the professional registration laws of the state or jurisdiction in which the project is to be constructed.”

**Q: How do we become a certified PE?**

A: Each state determines that. Check with your state.

The information provided herein is intended to provide technical and educational information concerning the recently enacted Virginia Graeme Baker Pool and Spa Safety Act. The Consumer Product Safety Commission **has not** reviewed this document for accuracy. ***The information provided herein is intended for educational purposes only and is not intended as legal advice.*** Those seeking an interpretation of the Act or any other federal/state law, regulation, code or ordinance as it may apply to their specific factual circumstance, are strongly advised to consult with their own legal counsel. Neither Athletic Business Publications Inc., nor our webinar contributors are responsible for any liability or damages that is in any way alleged to have resulted from the questions and answers provided herein.