

## FREQUENTLY ASKED QUESTIONS

### ABOUT THE FEDERAL POOL & SPA SAFETY ACT

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

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

**Q: Replacing covers over drains that might not be hydraulically balanced may not create a safe environment. How should this be addressed?**

**A:** The 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 the definition of drain disablement?**

**A:** Drain disablement, as defined by the Act, is "a device or system which disables the drain." Many have interpreted this to mean (1) fill 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 that 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 time frame.

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

**A:** Except for the drain cover requirements, section 1404 of the Act does not apply to residential pools. However, states may adopt the provisions of the act described in sections 1405 and 1406, so monitor developments in your state.

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

**A:** The CPSC has stated that it will provide interpretation of the Act as it applies to portable hot tubs; check [www.cpsc.gov](http://www.cpsc.gov) for guidance.

**Q: What is a service company's responsibility if the property owner refuses to do anything after the service company sends him a letter?**

**A:** Unless the service company "manages" the pool (serving as the operator), the service company is not obligated to bring the pool into compliance. This is the responsibility of the owner/operator. The Act provides

liability to pool owners. If a maintenance contractor services a noncompliant 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 can I keep operators from opening a pool for the season based on this law, even though I am 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 are 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: Is a letter of compliance from a commercial pool company enough?**

**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: Do portable residential spas produced before Dec. 19, 2008, that are in manufacturer warehouses, distributor warehouses or dealer retail showrooms fall under the legislation?**

**A:** Perhaps. Section 1404 (b) of the Act states that after Dec. 19, 2008, "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 Dec. 19, 2008, 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: As pool inspectors, we are unable to enforce the VGB law. We want to provide information to the pool operators, but want to limit our liability. What should we 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.

**Q: Are single-family, rental-property pools considered to be public under the Act?**

**A:** No, these pools are not considered public under section 1404(c)(2) of the Act and therefore are not required to comply with the cover replacement or secondary anti-entrapment system requirements. You may, however, wish to check with your insurance carrier to see if coverage has changed as a result of the Act.

**Q: Once the drain is installed, does it have to be inspected?**

**A:** If an operator simply replaces 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: Whom should operators contact to determine if they are in compliance?**

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

**Q: Are approved drain covers required 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 anyone exempt from this law?**

**A:** No.

**Q: If appropriate drain covers are not yet available, is compliance not required yet?**

**A:** 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 feet per second at the main drain?**

**A:** As specified in ASME A112.19.8-2007.

**Q: Please explain the requirements for field-built sumps, what is required from the "design professional" and the approval mechanism.**

**A:** As specified in ASME A112.19.8-2007.

**Q: The packet from the contractors that built our pool says we need to have 1.5 inches from the top of the pipe to the bottom of the grate. Do I understand this correctly?**

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

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

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

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

**A:** If the covers are not compliant, you must install compliant ones.

**Q: What is an unblockable drain?**

**A:** Per the Act: "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 A112.19.8-2007 further defines methods for testing.

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

**A:** Yes, if they are not compliant.

**Q: Are there policies that limit young children from using public spas? Do most organizations have age limits on public spas?**

**A:** That's entirely up to individual jurisdictions and even individual operators. Characteristics of users are not addressed in the Act.

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

**A:** Yes, if they meet the definition of a public pool.

**Q: If I have suction fittings bought before the Dec. 19, 2008, deadline, 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 built at the 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: Why have there been no rulings on the screws used with covers?**

**A:** Screws/fasteners are covered in ASME A112.19.8-2007

**Q: We have gravity drains on two of our pools and our spa has anti-entrapment drains, leading us to wonder how we are out of compliance since our pools were built under 1994 anti-entrapment laws.**

**A:** Without knowing which 1994 law you are 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: Do residential pools built after Dec. 19, 2008, have to be in compliance with VGB?**

**A:** It depends on the state or prevailing local laws. The act itself does not address residential pools except for the drain covers, but some states have incorporated (or are about to incorporate) the provisions of the act into their codes.

**Q: What is the definition of a "single main drain?"**

**A:** The Act defines it as: "A 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 for testing the suction and identifying what levels of compliance are necessary, specifically related to sump design?**

**A:** Yes, as outlined in ASME A112.19.8-2007.

**Q: We have 14 seasonal pools that are on gravity-fed, DE filtration systems. Each pool has two 18-by-18-inch drains. Do we have to replace these drain covers?**

**A:** If they are not compliant, yes.

**Q: Would a deep pool with two large gravity drains 10 feet apart be required to have a complying cover or modify the drains?**

**A:** If it's a public pool, all covers must be in compliance. You'll need to check with a local expert to determine if the drain system must be modified to be compliant.

**Q: If the main drain empties to a holding tank with no 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.

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

**A:** If the spas are public, yes.

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

**A:** The law doesn't address that.

**Q: Is there only one brand of mechanical SVRS you can use?**

**A:** No, there are several approved brands on the market. For a list of companies reporting that their products meet the standard, go to [www.cpsc.gov/businfo/draincman.html](http://www.cpsc.gov/businfo/draincman.html).

**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 submerged suction-fitting covers in public pools and spas must be fitted with compliant covers.

**Q: What is a PE?**

**A:** PE is a registered design professional 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 I become a certified PE?**

**A:** Each state determines that. Check with your state's board of licensing.