



U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

**STATEMENT OF COMMISSIONER ANNE M. NORTHUP ON THE VOTE TO DIRECT
THE STAFF TO WITHDRAW THE PROPOSED INTERPRETIVE RULE DEFINING
“PUBLIC ACCOMMODATIONS FACILITY” IN THE VIRGINIA GRAEME BAKER
POOL AND SPA SAFETY ACT AND REDRAFT IT FOR COMMISSION CONSIDERATION**

August 4, 2010

The Consumer Product Safety Commission today voted to adopt a different definition of “public accommodations facility” from the one that we adopted in draft form last March for purposes of enforcing the Virginia Graeme Baker Pool and Spa Safety Act. The new definition, which we are re-proposing pending a 60-day comment period, adopts an understanding of public accommodation that differs from the definition used in nearly every other federal statute of the past few decades and one that is different from the definition which the CPSC itself already uses in enforcing our crib standard against public accommodation facilities.

I do not support broadening the definition of public accommodations facility in this way. The law does not require it and the cost of compliance is out of proportion with the risk. Since there is no record in the floor debate or in the conference committee report of a different intended meaning of public accommodations facility as the term is used in the House and Senate versions of the Virginia Graeme Baker Pool and Spa bill, it can only be assumed that the majority of the Members of Congress had in mind the standard definition of public accommodation. Furthermore, the staff has not presented evidence of even a single entrapment death or injury occurring in the pool or spa of a rental property. So we are stretching the law to cover a category that has never been demonstrated to pose a problem.

Commissioner Adler, the author of the re-proposal idea, explained in his comments at today’s hearing that this newly proposed definition means to include rental properties whose owners let them on a weekly or bi-weekly basis. I offered a clarifying amendment to incorporate such wording into the definition itself, which the Commission adopted unanimously. I voted in support of putting this new definition out for public comment, despite my objections to it, because I want to be part of the final discussion and vote on this matter in 60 days, hoping we might find some compromise.

Today’s decision is the kind of action that causes Americans to lose faith in their government. It will cause a waste of perfectly good assets, as many rental homes may not be able to comply with this law at a reasonable cost. The average person will thus properly perceive forcing this kind of spending as grossly wasteful. Requiring these safety measures solely for new construction or in the context of a pool or spa renovation or replacement would make far more sense. I am hoping that in the next 60 days the comments we receive will help us to clarify the impact of this rule and that the Commission can find a way to ensure pool safety without requiring wasteful spending.