

Stevenson, Todd

From: Marvin Cruz [Marvin.cruz@zodiac.com]
Sent: Thursday, December 08, 2011 9:47 AM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

Second, the revised rule will jeopardize bather safety by placing far too much emphasis and reliance on Safety Vacuum Release Systems (SVRS). These devices have limited value. They do not prevent most forms of entrapment and, in our experience, are frequently prone to false activation. They also require frequent maintenance and calibration, and even then will only activate AFTER an entrapment incident has occurred. An unblockable drain cover that complies with the original interpretive rule of March, 2010, is a passive measure which eliminates ALL forms of entrapment ALL the time.

Third, many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the Commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings and represented a major investment on the part of the facilities we service. This investment was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities have advised us that they are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012.

We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

Marvin Cruz
Zodiac pool systems
2620 Commerce Way
Vista, CA 92081

Stevenson, Todd

From: Lawrence Caniglia [lcaniglia@nespapool.org]
Sent: Thursday, December 08, 2011 9:36 AM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

On behalf of pool dealers in the State of NJ, I strongly urge the commission to nullify the September 28, 2011 vote and adhere to its original interpretative rule and definition of an unblockable drain as determined in March, 2010. We are particularly troubled by the fact that this vote took place without allowing state and local authorities an opportunity to comment and explain to the commissioners why such a vote is so severely misguided. Hence, we are submitting our comments at this time. For the reasons outlined below, we respectfully submit that the revised rule, as voted on September 28, 2011, will jeopardize the safety of child and adult bathers in general, and provide no benefit - except to certain equipment manufacturers.

First, there have been no entrapment fatalities or serious injuries since the public pool provisions of the Pool & Spa Safety Act (PSSA) were enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. With hundreds in place, we can also state that we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some commissioners have stated that drain covers do come off, our firsthand experience shows that this is clearly not the case. A PSSA-compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

Second, many unblockable drain covers were installed in the pools/spas within our jurisdiction, based in good faith reliance upon the PSSA and the commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings, and represented a major investment on our part. This investment was based in large part on the fact that once these covers were installed, additional equipment would not be required. Once a ruling is made, and relied upon by public as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. Complaints from select members of Congress or others neither constitute nor substitute such data.

Third, as we suspect is the case with many jurisdictions, the cost of compliance with yet another round of requirements will exceed our present resources. The nation has suffered the most severe economic recession since the Great Depression and states, counties, and municipalities are facing shrinking tax bases and burgeoning deficits. Though justified, the Pool & Spa Safety Act and the Americans with Disabilities Act have placed an additional burden on aquatic facilities during a financially vulnerable time. In addition, the CPSC issued a recall prior to the 2011 swim season that resulted in new resource challenges for facilities to comply with the PSSA.

We estimate that the cost of bringing the pools and spas within our jurisdiction into compliance with the September 28, 2011 interpretive rule to be an enormous economic hardship, making many of our facilities vulnerable to closure. Public swimming pools play a key role in preventing drowning by helping the general population learn to swim, and by providing a means for lifeguards to become trained and certified. Increasing arbitrary costs during difficult financial times has historically resulted in pool closures. Tragically, closures are more likely in economically-disadvantaged regions where drowning is a greater risk. Pool closures reduce the opportunity for many people to learn to swim, potentially increasing the risk of

drowning. The best way for the commission to save lives is to maintain the March, 2010 interpretive rule and allow our pools and spas, which have been proven safe, to operate without further interference or mandate.

Finally, we are concerned that the revised rule will cause many at the state and local levels to question the motives and credibility of the commission, thus jeopardizing an important relationship.

We thank the commission for its time and consideration.

Sincerely,

Lawrence S. Caniglia
6B S Gold Dr
Hamilton, NJ 08691

Stevenson, Todd

From: Scott Waldo [scott@platinumpools.com]
Sent: Thursday, December 08, 2011 9:36 AM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

Second, the revised rule will jeopardize bather safety by placing far too much emphasis and reliance on Safety Vacuum Release Systems (SVRS). These devices have limited value. They do not prevent most forms of entrapment and, in our experience, are frequently prone to false activation. They also require frequent maintenance and calibration, and even then will only activate AFTER an entrapment incident has occurred. An unblockable drain cover that complies with the original interpretive rule of March, 2010, is a passive measure which eliminates ALL forms of entrapment ALL the time.

Third, many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the Commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings and represented a major investment on the part of the facilities we service. This investment was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities have advised us that they are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012.

We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

Scott Waldo
Platinum Pools
10411 Westheimer Rd Ste 200
Houston, TX 77042

Stevenson, Todd

From: Anna Torchia [anna@coralseapools.com]
Sent: Thursday, December 08, 2011 9:20 AM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

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We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

Anna Torchia
Coral Sea Pools Service Corp.
518 N State Rd # A
Briarcliff Manor, NY 10510

Stevenson, Todd

From: Dave Stanfield [dave@sunrisepoolbuilders.com]
Sent: Thursday, December 08, 2011 9:15 AM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

My name is David Stanfield, and I am President of Sunrise Pool Builders, Inc of Rockford, Illinois. 90% of our work is commercial swimming pool work so I am very familiar with the effects this action is having.

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

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Third, many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the Commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings and represented a major investment on the part of the facilities we service. This investment was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities have advised us that they are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012.

We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

I thank the Commission for its time and consideration.

Sincerely,

Dave Stanfield
7864 Jerika Dr

Rockford, IL 61102

Stevenson, Todd

From: Ericka Murphy [emurphy@stlouisco.com]
Sent: Thursday, December 08, 2011 9:10 AM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I strongly urge the commission to KEEP the September 28, 2011 vote and reject its original interpretative rule and definition of an unblockable drain as determined in March, 2010. I agree with the RECENT decision because I see many main drain covers that come loose during the swim season leaving a dangerous blockable sump. The addition of secondary protection is not burdensome to the operators.

Sincerely,

Ericka L. S. Murphy, REHS
7345 Bruno Ave
Richmond Heights, MO 63117

Stevenson, Todd

From: Mike Bernoski [info@primepoolservice.com]
Sent: Thursday, December 08, 2011 9:10 AM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

My name is Mike Bernoski; I run Prime Pool Service and provide maintenance services for many commercial pools affected by your recent rule change. We are based in Austin, TX.

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

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Third, many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the Commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings and represented a major investment on the part of the facilities we service. This investment was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities have advised us that they are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012.

We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

Mike Bernoski
Prime Pool Service
13729 N Highway 183 Ste 610

Austin, TX 78750

Stevenson, Todd

From: Whitfield, Troy
Sent: Thursday, December 08, 2011 9:13 AM
To: Stevenson, Todd
Cc: Little, Barbara
Subject: FW: CPSC Unblockable Drain Definition

Another...I expect another wave of these as the 12/12/11 date draws near....

Troy

-----Original Message-----

From: Jim Gerstbauer, CBO [<mailto:jgerstbauer@co.monroe.in.us>]
Sent: Thursday, December 08, 2011 8:46 AM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am the Building Commissioner in Monroe County, Indiana. My concern regards the lack of public input into the change in the Consumer Products Safety Commission's interpretation of what constitutes a safe pool drain. YOU MUST REQUIRE THE COMMISSION TO RECEIVE PUBLIC INPUT from the professionals who design and have liability for the operation of public pools. The data does not back up the need for, nor does it justify the cost of, retrofitting drains and their covers which have statistically been shown to be effective in preventing the horrific accidents which have in the past been associated with pool drains. Re-fitting drains will have high cost, and will result in fewer opportunities for the public to access pools. Our jurisdiction has already once retrofitted drains to comply with the rules, and this change will not only cost more than data justifies, will remove what credibility the Consumer Products Safety Commission has with the industry.

I thank you for your time and consideration.

Sincerely,

Jim Gerstbauer, CBO
Building Commissioner
Monroe County / City of Bloomington
501 N Morton St Rm 220-B
Bloomington, IN 47404

Stevenson, Todd

From: Ricky Kelley [1pooldoc@bellsouth.net]
Sent: Friday, December 02, 2011 10:26 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

Second, the revised rule will jeopardize bather safety by placing far too much emphasis and reliance on Safety Vacuum Release Systems (SVRS). These devices have limited value. They do not prevent most forms of entrapment and, in our experience, are frequently prone to false activation. They also require frequent maintenance and calibration, and even then will only activate AFTER an entrapment incident has occurred. An unblockable drain cover that complies with the original interpretive rule of March, 2010, is a passive measure which eliminates ALL forms of entrapment ALL the time.

Third, many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the Commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings and represented a major investment on the part of the facilities we service. This investment was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities have advised us that they are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012.

We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

Ricky Kelley
134 Montezuma Dr
Alexander City, AL 35010

Stevenson, Todd

From: William Schweizer [addon99@aol.com]
Sent: Saturday, December 03, 2011 1:00 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

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We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

William Schweizer CPB
Owner
Add On Pools, Inc
1400 State Route 35
Middletown, NJ 07748

Stevenson, Todd

From: Whitfield, Troy
Sent: Friday, December 02, 2011 1:22 PM
To: Stevenson, Todd
Cc: Little, Barbara
Subject: FW: CPSC Unblockable Drain Definition

Another letter....

Troy

-----Original Message-----

From: Tony Hebert [<mailto:tony@royalfiberglasspools.com>]
Sent: Friday, December 02, 2011 12:56 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

My name is Tony Hebert and I was raised in the swimming pool business and I am capable of designing, installing, and maintaining fiberglass, gunite and/or vinyl liner pools. I have been the General Manager for Royal Fiberglass Pools, Inc. for the past 15 years.

It has come to my attention that there is much confusion about maindrains. A maindrain is exactly what it is called, "a maindrain". Most professionals use their own pumps to drain a pool for scheduled maintenance anyway, such as acid wash, re-plastering, repairing or changing liners in and around gunite or vinyl liner pools. Therefore, the installation of a maindrain in a swimming pool is totally unnecessary and a great liability. I've heard some say that a maindrain is needed for pool water sanitation. Yes, this is true for those that have an in-floor cleaning system. However, this is still questionable since every swimming pool that I have ever been involved with has a need to be vacuumed either manually or automatically. This process does a better job of keeping water sanitized than 10 maindrains spaced evenly 3 feet apart in a swimming pool would. Now why would anyone insist on having 1-2 maindrains unless one has stock in a maindrain company? Besides an unnecessary liability, a maindrain is another area for a leak.

Please reconsider the matter of maindrains and do not hesitate to contact me with any questions or comments at 1-337-332-4386.

Sincerely,

TONY HEBERT
GENERAL MANAGER
ROYAL FIBERGLASS POOLS, INC.
1407 Anse Broussard Hwy
Breaux Bridge, LA 70517

Stevenson, Todd

From: Whitfield, Troy
Sent: Wednesday, November 30, 2011 5:01 PM
To: Stevenson, Todd
Cc: Little, Barbara
Subject: FW: CPSC Unblockable Drain Definition

Another...different from the rest of the form letters received so far...

Troy

-----Original Message-----

From: Paul Sisson [<mailto:sissonp@michigan.gov>]
Sent: Wednesday, November 30, 2011 4:19 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am the public swimming pool specialist for the State of Michigan. I appreciate the opportunity to comment on the revocation of the CPSC "unblockable drain" interpretive rule. Our comments concerning the rule revocation and compliance date of May 28, 2012 as it affects public swimming pools and spas in Michigan are as follows:

- . It is our understanding that the CPSC interpretative rule is for single "unblockable drains".
- . Michigan has required two or more suction drains with low flow velocities through the covers for public swimming pools and spas for more than 40 years. Because of this:
 - o There are extremely few public pools in Michigan with single main drains.
 - o When discovered, we most often required the installation of a second main drain.
 - o We have a few single main drain pools that installed a large "unblockable" cover, but the sump was also changed to the same size as the cover.
 - o We have a few single main drain pools that we allowed to install an SVRS device.
 - o We also have a few single main drain pools that are gravity flow.
 - o We are not aware of any single main drain pool where a larger cover was installed over a smaller sump.
 - o Based on this, neither the revocation of the CPSC interpretive rule nor the compliance date of May 28, 2012 has a significant effect on public swimming pools in Michigan.
- . In reviewing thousands of drain cover replacement proposals, we had a few proposals to install a larger certified cover over a smaller sump. We denied approvals for these installations.
- . The most important part of suction entrapment prevention is the cover. The cover must be designed to prevent entrapment, be properly sized for the maximum expected flow rate, and be INTACT. We would ask the question for the entrapments still happening with a missing cover; was the cover ever changed to a certified cover and was the missing cover of and "unblockable" size?

Please contact me at the number listed below if you have any questions; or by e-mail at sissonp@michigan.gov; or by mail at Department of Environmental Quality, Campgrounds and Pools Program 2N, P.O. Box 30241, Lansing, MI 48909-7741.

Sincerely,

Paul D. Sisson, P.E., Environmental Engineer Campgrounds & Pools Program Drinking Water &
Environmental Health Section Resource Management Division
517-241-1350 Fax 517-241-1328

Sincerely,

Paul D. Sisson
Environmental Engineer Specialist
Michigan Department of Environmental Quality PO Box 30241 Lansing, MI 48909

Stevenson, Todd

From: Whitfield, Troy
Sent: Wednesday, November 30, 2011 3:58 PM
To: Stevenson, Todd
Cc: Little, Barbara
Subject: FW: CPSC Unblockable Drain Definition
Attachments: SUMP.docx

Todd,

This is the comment/question that Leif Zars copied me on when he asked APSP for some clarification – regarding the unblockable revocation...Not sure if this would be included as part of the public discussion/requested response to the Sept. 28, 2011 hearing.

Troy

From: Leif Zars [mailto:leif@garypools.com]
Sent: Tuesday, November 29, 2011 10:04 PM
To: 'Carvin DiGiovanni'
Cc: Whitfield, Troy; Sharpless, Perry; 'Robert Rung'
Subject: RE: CPSC Unblockable Drain Definition

Carvin,

Are you telling me that the drain in the attached photo is “unblockable”? The Sump certainly is larger than the 18x23 shadow etc. BUT it can swallow up a child in an instant *WITHOUT A COVER!*

To repeat the CPSC wording: “definition of unblockable drain will include the sump, but WILL NOT INCLUDE the suction fitting or drain cover.”

There is no way this pool should be open without a VGB certified cover firmly in place.

Respectfully,
Leif
Chairman
APSP-16

From: Carvin DiGiovanni [mailto:CDiGiovanni@APSP.org]
Sent: Tuesday, November 29, 2011 2:38 PM
To: Leif Zars
Subject: RE: CPSC Unblockable Drain Definition

Leif it comes from the CPSC announcement in the Federal Register;

Excerpt:

C. Effect of Revocation of 16 CFR 1450.2(b)

The revocation of this rule means that a drain cover can no longer be used to convert a blockable drain into an unblockable drain. Pursuant to the VGB Act, drains that are blockable require a secondary anti-entrapment system. Section 1404(c)(1)(A)(ii) of the VGB Act. Accordingly, if you have used an unblockable drain cover to create an unblockable drain, the revocation of the interpretative rule means that you must equip your public pool

or public spa with a secondary anti-entrapment system as required by the VGB Act. A drain is “unblockable” if the suction outlet, including the sump, has a perforated (open) area that cannot be shadowed by the area of the 18” x 23” Body Blocking Element of ANSI/APSP-16 2011 and the rated flow through any portion of 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. The Staff Technical Guidance of June 2008 will be updated to clarify that placing a removable, unblockable drain cover over a blockable drain does not constitute an unblockable drain. This revocation corrects the previous interpretation, which the Commission now believes was in error and thwarts the intent of the law to require layers of protection in cases where a drain cover, regardless of its size, can be removed, broken, or otherwise expose a blockable drain and present an entrapment hazard. The Commission has set a compliance date of May 28, 2012, to allow time for firms that require modifications as a result of this revocation to bring their pools into compliance with the statute as written. In addition, the Commission invites written comments regarding the ability of those who have installed VGBA compliant unblockable drain covers as described at 16 CFR 1450.2(b) to come into compliance with our revocation by May 28, 2012. Show citation box.

For a complete reading of the Federal Register announcement and review of the definition/interpretation, go to:

<http://www.federalregister.gov/articles/2011/10/11/2011-25601/virginia-graeme-baker-pool-and-spa-safety-act-interpretation-of-unblockable-drain>

Carvin



Carvin DiGiovanni
Association of Pool & Spa Professionals
2111 Eisenhower Ave
Alexandria, VA 22314
(703) 838-0083, ext. 149
FAX (703) 549-0493
e-mail: cdigiovanni@apsp.org

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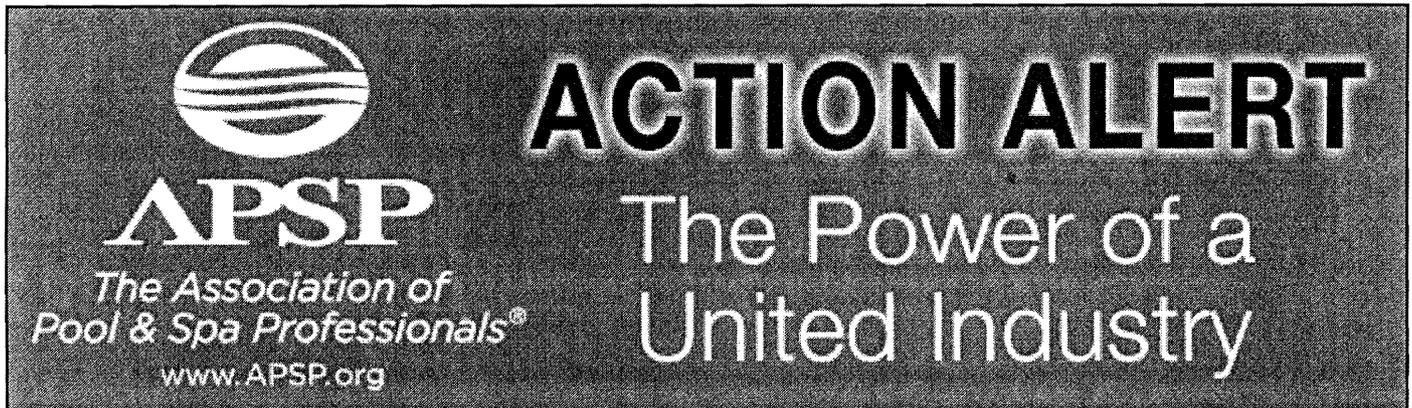
From: Leif Zars [mailto:leif@garypools.com]
Sent: Tuesday, November 29, 2011 12:42 PM
To: Jennifer Hatfield
Cc: Carvin DiGiovanni; Robert Rung
Subject: RE: CPSC Unblockable Drain Definition

Carvin,
Where did we get this interpretation?? It cannot be correct.

“definition of unblockable drain will include the sump, but WILL NOT INCLUDE the suction fitting or drain cover.”

Regards,
Leif

From: APSP Government Affairs Team [mailto:jhatfield@apsp.org]
Sent: Tuesday, November 29, 2011 10:48 AM
To: Leif Zars
Subject: CPSC Unblockable Drain Definition



Make YOUR voice heard on the CPSC definition of unblockable drains. Click on the link below and in a matter of seconds the CPSC and your U.S. Senators and Representatives will know your position on this matter. But hurry, deadline is December 12, 2011.

On September 28, 2011, the Consumer Product Safety Commission voted 3-2 to revoke a prior “interpretive rule” which had defined an unblockable drain, a term used in the Virginia Graeme Baker Pool and Spa Safety Act (VGBA). The original interpretative rule defined “unblockable drain” to include the drain cover, meaning that a small suction fitting (drain) with an unblockable cover which fit into a smaller, blockable sump would be classified as unblockable. Public pools which have an unblockable drain are not required to install additional devices, such as an SVRS, Gravity Drainage System, etc.

As a result of the latest September 28 vote, the above interpretive rule has been REVOKED and the definition of unblockable drain will include the sump, but WILL NOT INCLUDE the suction fitting or drain cover. Hence, a large unblockable drain cover over a smaller blockable drain can no longer be used to create an unblockable drain. Public pools which are affected by this revocation are required to install one or more additional devices. The vote was taken without a public comment period.

The revised rule went into effect October 11, 2011. The Commission has set a compliance date of May 28, 2012 for existing public pools that are affected.

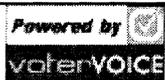
During the public hearing, the Commissioners also voted to open up a public comment period, so that all of you can inform the Commission whether May 28, 2012 is a reasonable compliance date for installation of the required back-up systems. Several of the Commissioners have also requested that members of the industry and others who are affected submit comments with regard to the September 28 vote, and the absence of injuries or incidents.

The CPSC will be accepting public comments on the vote until December 12, 2011. Click the link

below in order to take action.

Click the link below to log in and send your message:
<http://www.votervoice.net/link/target/apsp/K3rGqbB4.aspx>

You have received this message because you have subscribed to a mailing list of Association of Pool & Spa Professionals. If you do not wish to receive periodic emails from this source, please click below to unsubscribe.



To unsubscribe from this mailing list click [here](#).



Stevenson, Todd

From: Adrian Raymer [adrian.raymer@yahoo.com]
Sent: Tuesday, November 29, 2011 10:14 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. We are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

Second, the revised rule will jeopardize bather safety by placing far too much emphasis and reliance on Safety Vacuum Release Systems (SVRS). These devices have limited value. They do not prevent most forms of entrapment and, in our experience, are frequently prone to false activation. They also require frequent maintenance and calibration, and even then will only activate AFTER an entrapment incident has occurred. An unblockable drain cover that complies with the original interpretive rule of March, 2010, is a passive measure which eliminates ALL forms of entrapment ALL the time.

Third, many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the Commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings and represented a major investment on the part of the facilities we service. This investment was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities have advised us that they are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012.

We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

J Adrian Raymer
Clearwater Pool Maintenance
7 Hickory St
Hickory Creek, TX 75065

Stevenson, Todd

From: Duane Grace [duanec29@aol.com]
Sent: Tuesday, November 29, 2011 10:19 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

On behalf of (The cities of Barnum, Moose Lake, La Prairie, Lauderdale and the MN State Fair) I strongly urge the commission to nullify the September 28, 2011 vote and adhere to its original interpretative rule and definition of an unblockable drain as determined in March, 2010. We are particularly troubled by the fact that this vote took place without allowing state agencies and local authorities an opportunity to comment and explain to the commissioners why such a vote is so severely misguided. Hence, we are submitting our comments at this time. For the reasons outlined below, we respectfully submit that the revised rule, as voted on September 28, 2011, will jeopardize the safety of child and adult bathers in general, and provide no benefit - except to certain equipment manufacturers.

The date for compliance will be almost impossible to comply to in a good many of our northern cities as they are enclosed in ice until the end of April or the first week of May.

First, there have been no entrapment fatalities or serious injuries since the public pool provisions of the Pool & Spa Safety Act (PSSA) were enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. With (2 - NUMBER OF POOLS/SPAS OR DRAIN COVERS) in place, we can also state that we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some commissioners have stated that drain covers do come off, our firsthand experience shows that this is clearly not the case. A PSSA-compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

Second, many unblockable drain covers were installed in the pools/spas within our jurisdiction, based in good faith reliance upon the PSSA and the commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings, and represented a major investment on our part. This investment was based in large part on the fact that once these covers were installed, additional equipment would not be required. Once a ruling is made, and relied upon by public as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. Complaints from select members of Congress or others neither constitute nor substitute such data.

Third, as we suspect is the case with many jurisdictions, the cost of compliance with yet another round of requirements will exceed our present resources. The nation has suffered the most severe economic recession since the Great Depression and states, counties, and municipalities are facing shrinking tax bases and burgeoning deficits. Though justified, the Pool & Spa Safety Act and the Americans with Disabilities Act have placed an additional burden on aquatic facilities during a financially vulnerable time. In addition, the CPSC issued a recall prior to the 2011 swim season that resulted in new resource challenges for facilities to comply with the PSSA. It would appear to the untrained that this is just another way to expand government rules and benefit some specific manufactures.

(3 - OPTIONAL) We anticipate that the cost of bringing the pools and spas within our jurisdiction into compliance with the September 28, 2011 interpretive rule will be prohibitive at this time, making many of our facilities vulnerable to closure. Public swimming pools play a key role in preventing drowning by helping the general population learn to swim, and by providing a means for lifeguards to become trained and certified. Increasing

arbitrary costs during difficult financial times has historically resulted in pool closures. Tragically, closures are more likely in economically-disadvantaged regions where drowning is a greater risk. Pool closures reduce the opportunity for many people to learn to swim, potentially increasing the risk of drowning. The best way for the commission to save lives is to maintain the March, 2010 interpretive rule and allow our pools and spas, which have been proven safe, to operate without further interference or mandate.

Finally, we are concerned that the revised rule will cause many at the state and local levels to question the motives and credibility of the commission, thus jeopardizing an important relationship.

We thank the commission for its time and consideration.

Sincerely,

Duane C. Grace
122 Knollwood Dr
Moose Lake, MN 55767

Stevenson, Todd

From: Laura Krajewski [HomePools@aol.com]
Sent: Wednesday, November 30, 2011 5:31 AM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

Second, the revised rule will jeopardize bather safety by placing far too much emphasis and reliance on Safety Vacuum Release Systems (SVRS). These devices have limited value. They do not prevent most forms of entrapment and, in our experience, are frequently prone to false activation. They also require frequent maintenance and calibration, and even then will only activate AFTER an entrapment incident has occurred. An unblockable drain cover that complies with the original interpretive rule of March, 2010, is a passive measure which eliminates ALL forms of entrapment ALL the time.

Third, many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the Commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings and represented a major investment on the part of the facilities we service. This investment was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities have advised us that they are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012.

We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

Laura Krajewski
6 Alyssa Rose Ln
New Egypt, NJ 08533

Stevenson, Todd

From: Brian McGarry [brian@mysapphirepool.com]
Sent: Wednesday, November 30, 2011 7:00 AM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

It seems to me that wasted time and money is being spent on this issue when education for the home pool owner would save lives.

Second, the revised rule will jeopardize bather safety by placing far too much emphasis and reliance on Safety Vacuum Release Systems (SVRS). These devices have limited value. They do not prevent most forms of entrapment and, in our experience, are frequently prone to false activation. They also require frequent maintenance and calibration, and even then will only activate AFTER an entrapment incident has occurred. An unblockable drain cover that complies with the original interpretive rule of March, 2010, is a passive measure which eliminates ALL forms of entrapment ALL the time.

Third, many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the Commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings and represented a major investment on the part of the facilities we service. This investment was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities have advised us that they are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012.

We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

Brian McGarry
110 Silver Beech Rdg
Irmo, SC 29063

Stevenson, Todd

From: James Rumen, P.E. [jrengineering@aol.com]
Sent: Tuesday, November 29, 2011 7:47 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

As a licensed professional engineer and licensed master plumber in the State of NJ - specializing in the construction and renovation of municipal, institutional and commercial aquatic facilities, I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

Second, the revised rule will jeopardize bather safety by placing far too much emphasis and reliance on Safety Vacuum Release Systems (SVRS). These devices have limited value. They do not prevent most forms of entrapment and, in our experience, are frequently prone to false activation. They also require frequent maintenance and calibration, and even then will only activate AFTER an entrapment incident has occurred. An unblockable drain cover that complies with the original interpretive rule of March, 2010, is a passive measure which eliminates ALL forms of entrapment ALL the time.

Third, many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the Commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings and represented a major investment on the part of the facilities we service. This investment was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities have advised us that they are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012.

We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

James B. Rumen, P.E.
Vice President
RJR Engineering Co., Inc.

105 Guinea Hollow Rd
Califon, NJ 07830

Stevenson, Todd

From: Roy Carter [roy@championsschool.com]
Sent: Tuesday, November 29, 2011 5:55 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

Second, the revised rule will jeopardize bather safety by placing far too much emphasis and reliance on Safety Vacuum Release Systems (SVRS). These devices have limited value. They do not prevent most forms of entrapment and, in our experience, are frequently prone to false activation. They also require frequent maintenance and calibration, and even then will only activate AFTER an entrapment incident has occurred. An unblockable drain cover that complies with the original interpretive rule of March, 2010, is a passive measure which eliminates ALL forms of entrapment ALL the time.

Third, many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the Commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings and represented a major investment on the part of the facilities we service. This investment was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities have advised us that they are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012.

We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

Roy Carter
Director of Inspector Education
Champions School of Real Estate
5627 FM 1960 West
Houston, TX 77069

Stevenson, Todd

From: Hugh Cross [hrc920@charter.net]
Sent: Tuesday, November 29, 2011 5:10 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

On behalf of (1- INSERT JURISDICTION), I strongly urge the commission to nullify the September 28, 2011 vote and adhere to its original interpretative rule and definition of an unblockable drain as determined in March, 2010. We are particularly troubled by the fact that this vote took place without allowing state and local authorities an opportunity to comment and explain to the commissioners why such a vote is so severely misguided. Hence, we are submitting our comments at this time. For the reasons outlined below, we respectfully submit that the revised rule, as voted on September 28, 2011, will jeopardize the safety of child and adult bathers in general, and provide no benefit - except to certain equipment manufacturers.

First, there have been no entrapment fatalities or serious injuries since the public pool provisions of the Pool & Spa Safety Act (PSSA) were enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. With (2 - NUMBER OF POOLS/SPAS OR DRAIN COVERS) in place, we can also state that we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some commissioners have stated that drain covers do come off, our firsthand experience shows that this is clearly not the case. A PSSA-compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

Second, many unblockable drain covers were installed in the pools/spas within our jurisdiction, based in good faith reliance upon the PSSA and the commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings, and represented a major investment on our part. This investment was based in large part on the fact that once these covers were installed, additional equipment would not be required. Once a ruling is made, and relied upon by public as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. Complaints from select members of Congress or others neither constitute nor substitute such data.

Third, as we suspect is the case with many jurisdictions, the cost of compliance with yet another round of requirements will exceed our present resources. The nation has suffered the most severe economic recession since the Great Depression and states, counties, and municipalities are facing shrinking tax bases and burgeoning deficits. Though justified, the Pool & Spa Safety Act and the Americans with Disabilities Act have placed an additional burden on aquatic facilities during a financially vulnerable time. In addition, the CPSC issued a recall prior to the 2011 swim season that resulted in new resource challenges for facilities to comply with the PSSA.

(3 - OPTIONAL) We estimate the cost of bringing the pools and spas within our jurisdiction into compliance with the September 28, 2011 interpretive rule at (4 - \$DOLLAR AMOUNT), making many of our facilities vulnerable to closure. Public swimming pools play a key role in preventing drowning by helping the general population learn to swim, and by providing a means for lifeguards to become trained and certified. Increasing arbitrary costs during difficult financial times has historically resulted in pool closures. Tragically, closures are more likely in economically-disadvantaged regions where drowning is a greater risk. Pool closures

reduce the opportunity for many people to learn to swim, potentially increasing the risk of drowning. The best way for the commission to save lives is to maintain the March, 2010 interpretive rule and allow our pools and spas, which have been proven safe, to operate without further interference or mandate.

Finally, we are concerned that the revised rule will cause many at the state and local levels to question the motives and credibility of the commission, thus jeopardizing an important relationship.

We thank the commission for its time and consideration.

Sincerely,

Hugh Cross
409 Forest Hill Cres
Suffolk, VA 23434

Stevenson, Todd

From: Richard Kroninger II [rick_auburnpool@comcast.net]
Sent: Tuesday, November 29, 2011 4:22 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

Second, the revised rule will jeopardize bather safety by placing far too much emphasis and reliance on Safety Vacuum Release Systems (SVRS). These devices have limited value. They do not prevent most forms of entrapment and, in our experience, are frequently prone to false activation. They also require frequent maintenance and calibration, and even then will only activate AFTER an entrapment incident has occurred. An unblockable drain cover that complies with the original interpretive rule of March, 2010, is a passive measure which eliminates ALL forms of entrapment ALL the time.

Third, many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the Commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings and represented a major investment on the part of the facilities we service. This investment was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities have advised us that they are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012.

We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

RICHARD KRONINGER
Auburn Pool & Spa Supply Corp.
74 S Squirrel Rd
Auburn Hills, MI 48326

Stevenson, Todd

From: Jeff Lovelace [jbljeff123@aol.com]
Sent: Tuesday, November 29, 2011 3:32 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

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We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

Jeff Lovelace
Pool Boys Pool & Spa LLC
116 Vetterlein Ave
Hamilton, NJ 08619

Stevenson, Todd

From: Scott Thompson [thompsons@desjoyauxpools.com]
Sent: Tuesday, November 29, 2011 2:23 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

Second, the revised rule will jeopardize bather safety by placing far too much emphasis and reliance on Safety Vacuum Release Systems (SVRS). These devices have limited value. They do not prevent most forms of entrapment and, in our experience, are frequently prone to false activation. They also require frequent maintenance and calibration, and even then will only activate AFTER an entrapment incident has occurred. An unblockable drain cover that complies with the original interpretive rule of March, 2010, is a passive measure which eliminates ALL forms of entrapment ALL the time.

Third, many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the Commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings and represented a major investment on the part of the facilities we service. This investment was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities have advised us that they are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012.

We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

Scott Thompson
11007 Alpharetta Hwy
Roswell, GA 30076

Stevenson, Todd

From: Troy Becker [tbecker@sbcglobal.net]
Sent: Tuesday, November 29, 2011 1:37 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

Second, the revised rule will jeopardize bather safety by placing far too much emphasis and reliance on Safety Vacuum Release Systems (SVRS). These devices have limited value. They do not prevent most forms of entrapment and, in our experience, are frequently prone to false activation. They also require frequent maintenance and calibration, and even then will only activate AFTER an entrapment incident has occurred. An unblockable drain cover that complies with the original interpretive rule of March, 2010, is a passive measure which eliminates ALL forms of entrapment ALL the time.

Third, many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the Commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings and represented a major investment on the part of the facilities we service. This investment was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities have advised us that they are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012.

We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

Troy Becker
100 Longhorn Ln
Ojai, CA 93023

Stevenson, Todd

From: Kelly Reed [info@watercrafters.com]
Sent: Tuesday, November 29, 2011 1:22 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am writing you today to provide public comment in regards to the recent decision by the Consumer Product Safety Commission (CPSC) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). This decision not only affects public safety, but it creates an unnecessary burden on the general public and on the facilities affected.

As you are aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. Our first hand experience shows that covers listed to the ANSI/APSP-16 standard or its predecessor effectively prevent all forms of entrapment injury or death, so there is no added safety benefit to requiring additional equipment.

The revised rule will jeopardize bather safety by placing far too much emphasis and reliance on Safety Vacuum Release Systems (SVRS). These devices are unproven and subject to the failures associated with sophisticated electro-mechanical designs. In our experience, they are frequently prone to false activation and are difficult to properly maintain. The fact that they only activate AFTER an entrapment incident has occurred certainly makes them a less desirable than an unblockable drain cover which prevents the entrapment in the first place.

Many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the CPSC's original interpretive rule. These installations represented a major investment on the part of the facilities and was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities-- both public and private-- are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012. Enacting this new rule may result in many of these facilities closing their doors without the defacto result of reducing the chances of injury. Watching swimming facilities close will not only add further distress to the economic burden of the communities they serve, and but it will also deprive their users of the opportunity for fitness, relaxation, family time...all those good things in life that we say we want for our citizens.

Finally, don't you think that once a ruling is made by the CPSC, and relied upon by public and private entities, that it should not be reversed except where there is clear and compelling safety data to support such a reversal? Right now, no such data exists.

Thank you for your attention.

Sincerely,

Kelly Reed
11739 Cherry Grove Dr
Gaithersburg, MD 20878

Stevenson, Todd

From: Benjamin Hofecker [bdhofecker@yahoo.com]
Sent: Tuesday, November 29, 2011 1:12 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

Second, the revised rule will jeopardize bather safety by placing far too much emphasis and reliance on Safety Vacuum Release Systems (SVRS). These devices have limited value. They do not prevent most forms of entrapment and, in our experience, are frequently prone to false activation. They also require frequent maintenance and calibration, and even then will only activate AFTER an entrapment incident has occurred. An unblockable drain cover that complies with the original interpretive rule of March, 2010, is a passive measure which eliminates ALL forms of entrapment ALL the time.

Third, many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the Commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings and represented a major investment on the part of the facilities we service. This investment was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities have advised us that they are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012.

We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

My recommendation is to provide provide financial assistance to facilities that in good faith installed "unblockable" drain covers. Several of my clients paid significantly more to ensure that they had the best possible options available for their bathers. I feel SVRS systems fail to protect pool users and add a failure point to the safety systems. The best solution is to have unblockable drains where it is physically impossible for someone to be trapped. But retrofitting the expensive covers with expensive sumps based on a change in interpretation will very much financially strain facilities. Our company will offer deep discounts to customers in these situations, but we would ask that the government and manufactures would provide assistance as well.

We thank the Commission for its time and consideration.

Sincerely,

Benjamin Hofecker
Buckeye Specialized
6827 Rings Rd
Dublin, OH 43016

Stevenson, Todd

From: Chris Ferriss [SplashPoolSrvcs@aol.com]
Sent: Tuesday, November 29, 2011 12:56 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

Hi There,

My name is Christopher Ferriss and I own Splash Pool Services LLC. Located in Wayne, Michigan. We are a small company with less than ten employees which have a primary focus on service of pools. Our economy has suffered for probably the longest in our current National condition.

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

It is my opinion that a layer safety approach to pool safety is the best approach. The revised rule will jeopardize bather safety by placing far too much emphasis and reliance on Safety Vacuum Release Systems (SVRS). These devices have limited value. They do not prevent most forms of entrapment and, in our experience, are frequently prone to false activation. They also require frequent maintenance and calibration, and even then will only activate AFTER an entrapment incident has occurred. An unblockable drain cover that complies with the original interpretive rule of March, 2010, is a passive measure which eliminates ALL forms of entrapment ALL the time.

The Michigan economy, while not unique, has left many facilities barely "hanging on" Many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the Commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings and represented a major investment on the part of the facilities we service. This investment was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities have advised us that they are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012. Costs would never be an issue if safety was in play. We just do not feel that this recent reversal will improve safety more than the current ruling. To add unnecessary layers of regulation for no safety benefit seems the wrong direction in light of the great expense already disbursed to comply with the initial directive.

We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear

and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

Christopher Ferriss
6009 Wayne Rd
Romulus, MI 48174

Stevenson, Todd

From: Charlice Arnold [charlice@aquastarpoolproducts.com]
Sent: Tuesday, November 29, 2011 12:33 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Follow Up Flag: Follow up
Flag Status: Flagged

Mr. Whitfield,

My name is Charlice Arnold and I am an officer of AquaStar Pool Products Inc, a manufacturer of white goods, pool cleaners and suction outlet fittings. I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). While the unblockable suction outlet fittings that we manufacture are not affected by your recent decision, as a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While pool professionals have installed PSSA compliant drain covers in thousands of pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

Second, the revised rule will jeopardize bather safety by placing far too much emphasis and reliance on Safety Vacuum Release Systems (SVRS). These devices have limited value. They do not prevent most forms of entrapment and, in our experience, are frequently prone to false activation. They also require frequent maintenance and calibration, and even then will only activate AFTER an entrapment incident has occurred. An unblockable drain cover that complies with the original interpretive rule of March, 2010, is a passive measure which eliminates ALL forms of entrapment ALL the time.

Third, many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the Commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings and represented a major investment on the part of the facilities. This investment was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012.

We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

Charlice Arnold
Administrator
Aquastar Pool Products Inc
1666 Garnet Ave # 224
San Diego, CA 92109

Stevenson, Todd

From: Rick Robinson [rickspaserv@gmail.com]
Sent: Tuesday, November 29, 2011 12:22 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

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Third, many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the Commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings and represented a major investment on the part of the facilities we service. This investment was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities have advised us that they are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012.

We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

Rick Robinson
R.C. Consulting LLC
PO Box 1116
Township of Washington, NJ 07676

Stevenson, Todd

From: William Robertson [billrob@comcast.net]
Sent: Tuesday, November 29, 2011 12:25 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I agree with APSP. I don't want to stress the cost of changing the drains or the hundreds of thousands of dollars many have already been subjected to. Even as we see facilities close and Private Health Clubs YMCA's, Municipalities and Schools waste hundreds of thousands of dollars due to a lack of understanding by those voting. In some instances there was a need but you have placed all facilities in that same category. Since all pools have been targeted to change their drains, regardless of how they operate it makes even less sense to force the replacement of smaller drains under larger covers especially since the open area of the cover is in compliance.

I can only assume this is driven by the manufacturers and not as a true safety issue as indicated in the intent of the law. If this passes it will truly enforce this position.

Sincerely,

Bill Robertson
President
Bill Robertson Pool Design/Build Inc.
913 Whitegate Dr
Northville, MI 48167

Stevenson, Todd

From: Steven Gorlin, CBP, CSP, CPO [sgorlin@gorlinpools.com]
Sent: Tuesday, November 29, 2011 12:10 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

My name is Steven Gorlin; I am President and CEO of Gorlin Pools and Spas. We have 20 employees and specialize in construction, renovation, service and maintenance of residential and commercial pools, spas and hot tubs. Our office is in Lakehurst, NJ.

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

Second, the revised rule will jeopardize bather safety by placing far too much emphasis and reliance on Safety Vacuum Release Systems (SVRS). These devices have limited value. They do not prevent most forms of entrapment and, in our experience, are frequently prone to false activation. They also require frequent maintenance and calibration, and even then will only activate AFTER an entrapment incident has occurred. An unblockable drain cover that complies with the original interpretive rule of March, 2010, is a passive measure which eliminates ALL forms of entrapment ALL the time.

Third, many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the Commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings and represented a major investment on the part of the facilities we service. This investment was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities have advised us that they are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012.

We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

Steven Gorlin, CBP, CSP, CPO
President and CEO
Gorlin Pools and Spas

684 Route 70
Lakehurst, NJ 08733

Stevenson, Todd

From: Stu Robinson [stur208@poolsandspas.com]
Sent: Tuesday, November 29, 2011 12:06 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

My name is Stu Robinson; I run The Pool & Spa Center (a twenty-six person company specializing in pool construction). We are based in Rapid City and Spearfish South Dakota

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

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Third, many unblockable drain covers were installed in public facilities based in good faith reliance upon the PSSA and the Commission's original interpretive rule. These drain covers are far more expensive than the typical smaller fittings and represented a major investment on the part of the facilities we service. This investment was based in large part on the fact that once these covers were installed, additional equipment would NOT be required. Many of these facilities have advised us that they are in dire financial circumstances and will not be able to pay for the cost of further compliance, even by May, 2012.

We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

Stu Robinson
Vice President
The Pool & Spa Center

2447 W Main St
Rapid City, SD 57702

Stevenson, Todd

From: William Robertson [billrob@comcast.net]
Sent: Tuesday, November 29, 2011 12:06 PM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

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We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

William Robertson
Bill Robertson Pool Design
913 Whitegate Dr
Northville, MI 48167

Stevenson, Todd

From: Whitfield, Troy
Sent: Tuesday, November 29, 2011 12:15 PM
To: Stevenson, Todd
Cc: Little, Barbara
Subject: FW: CPSC Unblockable Drain Definition

Todd,

FYI - comment on the unblockable drain revocation - would this be something for the public record?...or at least distribution to the Commission to consider the May 28, 2012 compliance date?

Troy

-----Original Message-----

From: Rick Woemmel [<mailto:rick@bistatepool.com>]
Sent: Tuesday, November 29, 2011 11:55 AM
To: Whitfield, Troy
Subject: CPSC Unblockable Drain Definition

Mr. Whitfield,

I am writing you today in regards to the recent decision by the Consumer Product Safety Commission (Commission) to change the definition of an unblockable drain in regards to the Pool & Spa Safety Act (PSSA). As a pool industry professional, my overriding concern for public safety compels me to write to the Commission in strong opposition to this change.

As the Commission is aware, there have been no entrapment fatalities or serious injuries since the public pool provisions of the PSSA was enacted. Nor have there been any entrapment incidents or injuries reported where PSSA compliant drain covers have been installed. While we have installed PSSA compliant drain covers in numerous pools and spas, we are not aware of any incidences where a compliant drain cover has broken or come loose or where a pool or spa has been operated under such conditions. Therefore, while some Commissioners have stated that drain covers do come off, our first hand experience shows that with covers listed to the ANSI/APSP-16 standard or its predecessor, this is clearly not the case. A PSSA compliant unblockable drain cover effectively prevents all forms of entrapment injury or death, and there is no added safety benefit to requiring additional equipment.

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We respectfully submit that once a ruling is made by the Commission, and relied upon by public, as well as private entities, it should not be reversed except where there is clear and compelling safety data to support such a reversal. As explained above, no such data exists.

We thank the Commission for its time and consideration.

Sincerely,

Rick Woemmel
234 Strathmoor Way
O'Fallon, MO 63368

Stevenson, Todd

From: Howsare, Matt
Sent: Friday, November 04, 2011 10:43 AM
To: Stevenson, Todd
Subject: Fw: Virginia Graeme Baker Pool and Spa Safety Act
Attachments: Letter to Commissioners[1].doc

From: Kathleen Moore [<mailto:madmaven2@gmail.com>]
Sent: Thursday, November 03, 2011 05:58 PM
To: Chairman
Subject: Virginia Graeme Baker Pool and Spa Safety Act

Chairman Tenenbaum,

My name is Kathleen Moore and I am employed by State of Texas, Department of State Health Services (DSHS) as a Registered Sanitarian. I am responsible for the Public Pool and Spa Program and the Public Interactive Water Feature Program. In addition I am the subject matter expert (SME) for all things aquatic, including open recreational waters, private and public pools and spas, recreational waterborne illness, etc. I am currently serving on the committee that is engaged in rewriting the ANSI standard for suction outlets. I was asked to contact you concerning VGBA and CPSC's recent unblockable main drain interpretation. I was unable to receive permission to respond on behalf of DSHS, so I am contacting you as a private citizen with insight into VGBA, suction outlets, and the impact to the industry of VGBA and interpretations of VGBA by CPSC. Please see the attached.

I appreciate your taking to the time to read the attachment.

Kathleen O. Moore, R.S., CPO

In 1999, the State of Texas adopted new administrative rules for public swimming pools and spas. Included in these rules were specifications for suction outlets intended to protect against 4 of the 5 forms of entrapment; evisceration, body entrapment, limb entrapment and hair entanglement. These rules were based in part on CPSC Publication No. 363 009801, *Guidelines for Entrapment Hazards*. The CPSC Guidelines stressed using layers of protection in pools and spas.

As information concerning entrapment risks grew and entrapment became identified as a cause of death or injury new rules were adopted in Texas which included changes to the rules for suction outlets. These new rules, adopted in 2004, included the use of suction vacuum release devices (SVRD) and automatic vent systems (AVS) when applicable. The changes were designed to include options for the pool owner/operator, not only for new construction but also for existing public pools and spas. Higher risk pools and spas were subject to more stringent regulations. Higher risk pools and spas were identified as those having a single suction outlet or those that were shallow (4 ft. deep or less). Although, and for many reasons, these changes were difficult to implement, over a reasonable period of time, pool owner/operators came to understand the importance of protecting against the risk of entrapment and changes were made both in new construction and in existing public pools and spas.

Initially SVRD installation and operation was problematic as many SVRDs revealed problems in the circulatory system. Frustrated, pool owner/operators disabled many SVRDs. SVRD manufacturers took steps to redesign, reprogram, and replace what was necessary and, more importantly, began an extensive and free SVRD education seminar for owner/operators. As pool owner/operators gained confidence in SVRDs and as more and different types of SVRDs became available the use of SVRDs as one of several available entrapment protection options became viable and accepted. Also, intentional disabling of the SVRDs stopped.

When the Virginia Graeme Baker Pool and Spa Safety Act (VGBA) was passed and went into effect those public pools and spas in Texas that were in compliance with current State of Texas Administrative Code were only minimally impacted. The greatest concern was the lack of available VGBA compliant suction outlet covers. However, over a fairly brief period of time, that was resolved.

Ideally, a pool or spa should include a circulatory system that has been designed and constructed to include built-in entrapment protection without having to include additional mechanical or electronic equipment. However, that option is not and was not possible for public pools and spas constructed before entrapment was identified as a danger and mitigated by regulation, or in cases where there were structural limitations placed upon construction of a new pool or spa. However, when properly selected and sized for a particular pool or spa suction system, and when properly installed and maintained, a SVRD is an important, useful and effective entrapment protection device.

It has been my experience that problems with most SVRDs is not due to failure of the SVRD but is related to either improper installation, selection of an inappropriate SVRD for that system, poor maintenance of the circulatory system or facility, or circulatory system problems related to plumbing and/or pump sizing.

Please understand that some of the aquatic industry's reaction to CPSC's recent interpretation of unblockable main drains is not necessarily a rejection of the basis for that interpretation. It is more a reflection of the overall impact of the numbers of recent regulation and the suction outlet recall upon the industry. In addition the timing of some of "interpretations" from CPSC was unfortunate coming after most facilities had completed their over-winter maintenance, rehabilitation, and repair to aquatic facilities and just prior to opening for the 2011 swimming season. This forced the hand of many regulatory officials to intervene and delay the opening of public pool facilities until corrections were made. Regulatory officials felt the dissatisfaction from the aquatics industry very strongly. I have spent the better part of the last 3 years educating myself, pool owner/operators, local regulatory officials, and the public about VGBA. In addition, I have been working closely with the industry to mitigate the impact of the recall of suction outlet covers and the recent interpretation of "unblockable" to suction outlets.

I do understand that not all the Commissioners agreed with the latest decision, however, I want to assure you that it is a more correct interpretation of "unblockable" and will provide more protection to the pool user from the risks of death or catastrophic injury related to entrapment, hair entanglement or evisceration.

If you would like to contact me at any time concerning VGBA or any matter concerning swimming pools, spas, or open recreational waters , I can be reached at my

office by email, Katie.moore@dshs.state.tx.us, or by telephone at 512-834-6788, ext. 2306.

Respectfully,
Kathleen O. Moore, R.S., CPO

LOG OF PHONE CALL

CPSA 60001 CLEARED for PUBLIC
NO MEMS PRVTBLRS OR PRODUCTS IDENTIFIED
10/20/11
BY: [signature]
DATE: [signature]
WITH PORTAL SYSTEM [signature]

DATE: October 14, 2010
LOCATION: CPSC, 4330 East West Highway, Bethesda MD 20814

ATTENDEES: Representatives from International Association of Amusement Parks and Attractions (IAAPA) and Ian Rayder, Staff to Representative Debbie Wasserman Schultz

CPSC ATTENDEES: Commissioner Robert Adler; Jason Levine, Legal Counsel to Commissioner Adler; Jana Fong-Swamidoss, Legal Counsel to Commissioner Adler; Troy Whitfield, CRE; and Barbara Little, OGC.

MEETING HIGHLIGHTS: At his request, representatives from the IAAPA spoke with Commissioner Adler and CPSC staff regarding technical matters with respect to the definition of “unblockable drains” and issues surrounding the implementation of the Virginia Graeme Baker Pool and Spa Safety Act. Commissioner Adler thanked the IAAPA representatives for their willingness to share their technical expertise and encouraged them to follow up with any additional information they believe the Commissioner may find useful.

LOG AUTHOR: Jana Fong-Swamidoss

LOG CREATION DATE: October 19, 2010

CPSA (CIVIL) CLEARED for PUBLIC
8/5/2010 JH
X NO MFRS/PRVTLBLRS OR
PRODUCTS IDENTIFIED

— EXCEPTED BY: PETITION
RULEMAKING ADMIN. PRCDG

— WITH PORTIONS REMOVED: _____

LOG OF MEETING

DATE: July 9, 2010

LOCATION: CPSC, 4330 East West Highway, Bethesda, MD 20814

SUBJECT: Association of Pool and Spa Professionals (APSP)
meeting with Commissioner Adler and staff.

ATTENDEES: Carvin DiGiovanni, APSP
Leif Zars, The Gary Company
Steve Barnes, Pentair Water Pool and Spa, Inc.
Steve Getzoff, Lester, Schwab, Katz & Dwyer, LLP

OBSERVERS: Pamela Gilbert, Cuneo, Gilbert & LaDuca, LLP
Ian Rayder, Office of Representative Wasserman
Schultz

CPSC ATTENDEES: Robert Adler, Commissioner
Jana Fong-Swamidoss, Counsel to Commissioner Adler
Colin Justice, Legal Intern to Commissioner Adler
Troy Whitfield, CRE
Scott Wolfson, OPA

MEETING HIGHLIGHTS: Commissioner Adler requested to meet with APSP representatives to discuss various provisions of the Virginia Graeme Baker Pool and Spa Safety Act (VGBA). Subsequent to the March and April votes to implement VGBA, Commissioner Adler received letters from Members of Congress and had a meeting with Representative Debbie Wasserman Schultz regarding his votes on the term “unblockable drain,” the model state legislation provision, and the Commission’s interpretation of the term “public accommodations.” With regard to the interpretation of the term “unblockable drain,” and whether an “unblockable drain cover” can constitute an “unblockable drain,” Commissioner Adler made a commitment to Rep. Wasserman Schultz to reconsider his vote on the interpretation of this term. Commissioner Adler has also met with representatives of the Pool Safety Council to discuss these issues.

Commissioner Adler raised the following issues with APSP representatives: their involvement or lack of

involvement in the use of the term “unblockable drain” in the VGBA at the time it was being drafted by Congress; whether an “unblockable drain” includes the drain cover and fittings or means something else; whether they had any information or if they had conducted a survey about drain covers coming off; whether a “dead man’s switch” is a viable technology to automatically turn off the pool pump when a drain cover is removed or comes off; whether they had information regarding how pool operators are complying with the requirements of VGBA; whether pool operators are shutting down their pools if they discover drain covers are missing or broken; the use of secondary systems in the field; how the Commission’s interpretation of the term “unblockable drain” is affecting states like Florida that have state laws requiring secondary systems such as gravity drains; and the effectiveness of warning labels.

APSP said that Congress probably did not consider the possibility of “unblockable drain covers” when drafting VGBA, but that APSP did talk with Congress about existing “unblockable drains” (drains with large dimensions or long channel configuration). They also asserted that it is reasonable for the Commission to interpret “unblockable drain cover” as constituting an “unblockable drain” because Congress chose to reference the ASME/ANSI A112.19.8 standard, which defines a suction outlet as “a fitting, fitting assembly, cover/grate, and related components.”

APSP was unsure how many pool operators are using “unblockable drain covers” to comply with the VGBA. They also are not aware of data showing whether drain covers come off frequently or stay affixed. The APSP representatives stated they are fairly confident that in Florida, California, and Las Vegas, Nevada pool operators are shutting pools down if they discover drain covers are missing. Further, the APSP representatives stated they are not confident that pool operators are shutting pools down if they discover drain covers are missing in the rest of the U.S.

APSP also said that “unblockable drain covers” are the best method for retrofitting residential pools with a single 8-inch drain. They expressed concern that if the

Commission were to say that “unblockable drain covers” do not fulfill the requirements of VGBA for public pools, then residential pools would be less likely to use them.

APSP representatives provided Commissioner Adler with information regarding their efforts to improve the ASME/ANSI A112.19.8 drain cover standard. In particular, they have formed a subcommittee to work on eliminating the need to take covers off during winterization of the pool. They are also working on improving the fasteners on covers, suction limiting, and warning labels. The APSP representatives could not provide a target date for the publication of a new standard.

The APSP representatives provided Commissioner Adler and his staff with an overview of five types of entrapment hazards and whether different types of secondary systems prevent those five entrapment hazards. The APSP representatives claim that sixty-seven percent of entrapment hazards are not addressed by secondary systems.

Commissioner Adler encouraged APSP to share any data they may have or acquire in the future regarding compliance with the drain cover standard in the marketplace.

LOG AUTHOR: Jana Fong-Swamidoss

LOG SUBMISSION DATE: August 4, 2010

LAWSON AQUATICS™

The Wizards of Aquatic Technology

Sent Via US Mail and Email

September 23, 2011

Mr. Troy W. Whitefield Jr.
Mechanical Team Leader
Office of Compliance and Field Operations
U. S. Consumer Products Safety Commission
4330 East West Highway
Bethesda, MD 20814

Re: Revocation of the Interpretative Rule "Unblockable Drain"

Dear Troy:

We respectfully request that the Consumer Products Safety Commission not revoke the interpretative rule on "unblockable drain" as suggested in 16CFR Part 1450. Our position is consistent with points made in both Steve Dunn's and Thomas M. Lachocki's letters of September 19th and 20th, 2011, respectively.

We have and continue to take the most conservative route in arriving at our series of unblockable drain sizes. Each have been totally certified by NSF or certified, configuration wise, under Section #1404 of the Virginia Graeme Baker (VGB) Pool & Spa Safety Act (Mandatory Appendix II Fitting Type Requirements of ASME A112.19.8-2007).

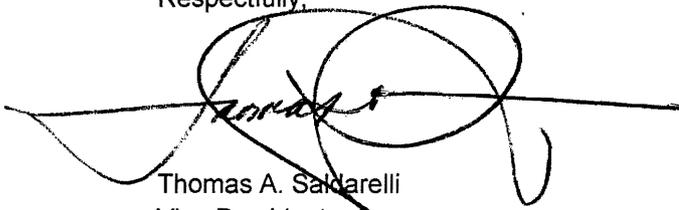
In addition, we strongly recommend that for future retrofitting and new construction, the following be considered:

1. That unblockable drains are fully compliant with Section #1404 of the Virginia Graeme Baker (VGB) Pool & Spa Safety Act (Mandatory Appendix II Fitting Type Requirements of ASME A112.19.8-2007). However, compliance and certification should not require a vacuum test. Unblockable drain covers do not experience these forces under actual field conditions. The Q formula as well as body entrapment tests determine the flow through the open area and performance of the grate.
2. The standards committee can consist of members that manufacture the products. However, as it could be considered a conflict of interest reducing the credibility of the document, they should not participate in the voting process.

By using such certification processes, as recommended above, it ensures that all the safety factors for blockable drain covers are applicable to the unblockable category as well. We also point out that under the current unblockable interpretive rule; one is relying on the Registered Design Professional to certify their configuration, safety and compliance. We know, in many cases, the designer of the facility does not want that responsibility. We also know that some RDA's do not sight data for their certification process.

Thank you for your consideration in these important issues to reduce undue burden and to maintain the safety of unblockable main drain covers.

Respectfully,

A handwritten signature in black ink, appearing to read "Sakarelli", written over a horizontal line.

Thomas A. Sakarelli
Vice President

A handwritten signature in black ink, appearing to read "Lawson", written over a horizontal line.

Robert B. Lawson
Chief Executive Officer

cc: U. S. Consumer Products Safety Commission
Cheryl Falvey, General Counsel
Ken Hinson, Executive Director
Inez Tenenbaum, Chairman
Robert Alder, Commissioner
Thomas Moore, Commissioner
Nancy Nord, Commissioner
Anne Northup, Commissioner

Thomas M. Lochocki, Ph.D
Chief Executive Officer
National Swimming Pool Foundation

Steven Dunn
Vice President
Commercial Pool Systems, Inc.

The Honorable Connie Mack, Florida's 14th Congressional District

FRANK R. WOLF
10TH DISTRICT, VIRGINIA

COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEES:

CHAIRMAN—COMMERCE-JUSTICE-SCIENCE

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STATE AND FOREIGN OPERATIONS

CO-CHAIR—TOM LANTOS
HUMAN RIGHTS COMMISSION



Congress of the United States
House of Representatives

September 27, 2011

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(800) 946-9653 (IN STATE)

110 NORTH CAMERON STREET
WINCHESTER, VA 22601
(540) 667-0990
(800) 850-3463 (IN STATE)

wolf.house.gov

The Honorable Inez Tenenbaum
Chairman
Consumer Product Safety Commission
4330 E West Hwy, Room 704
Bethesda MD 20814

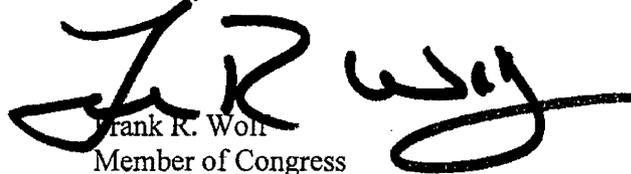
Dear Commissioner Tenenbaum:

I understand that the Consumer Product Safety Commission will reconsider its interpretation of the anti-entrapment and drowning provisions of the Virginia Graeme Baker Pool and Spa Safety Act and I write to support your action.

As a cosponsor and supporter of this act, I believe the law is vital to protecting adults and children from entrapments and drowning in recreational pools and spas. I commend you and the Commission for reexamining your original interpretation of this law and urge you to take the necessary steps to protect public safety.

Best wishes.

Sincerely,


Frank R. Wolf
Member of Congress

FRW:cw

Nancy Baker
66 Hyler Street
Thomaston, Me. 04861

September 27, 2011

Dear Commissioners:

I am writing to reiterate my thoughts expressed in earlier letters regarding the vote that was taken last year which exempted certain single drain pools and spas, those with "unblockable" drains, from the necessity of installing a secondary or back up system in order to prevent entrapment. I am grateful to Chairman Tennebaum for her consistent position of opposing the interpretive ruling of the commission and I anxiously await news of the vote being taken tomorrow reconsidering the earlier interpretation.

My hope is that the vote reflects the intent of the law which was named for my daughter Graeme but was passed in recognition of all the children who have lost their lives in this tragic, gruesome and preventable way. None of these deaths, whether in private or public pools, ought to have happened. When the Virginia Graeme Baker Pool and Spa Safety Act was passed, it put into place a gold standard of safety regarding the dangerous conditions in drain systems which jeopardize the safety of swimmers, particularly children. In so doing, it also has educated the public and given guidance to pool builders and service companies as to the proper steps to take in order to circumvent the possibility of a person becoming entrapped. I know that these safety standards, required in public pools and spas, has also had an impact in private pool settings as responsible service companies have encouraged customers to make safety a priority.

When the earlier vote was taken on the interpretation of "unblockable" drains, it failed to take into consideration that these drain covers are vulnerable to damage and dislodgement. There have been many deaths which have occurred under those conditions and only a secondary system would have released a victim from the forceful suction at the drain. That is why the law included a provision requiring a back-up system regarding single drain pools, with an understanding that a drain cover would only prevent an accident were it in place and functioning properly.

I regret that my letter comes late, in the eleventh hour, but it is because my youngest daughter, Graeme's twin, still suffers emotional scars today from the death of her sister and I have had to give my attention to her care and well being which is currently in question. I know, as too many other families do, of the terrible consequences and trauma of losing a loved one in this way. I trust that the commission will do everything in it's power to insist that the intention of this law is carried out, to prevent entrapment under any and all circumstances.

Sincerely,

Nancy Baker

Congress of the United States
Washington, DC 20515

September 27, 2011

The Honorable Inez Tenenbaum, Chairman
The Honorable Thomas Moore, Commissioner
The Honorable Robert Adler, Commissioner
The Honorable Nancy Nord, Commissioner
The Honorable Anne Northup, Commissioner
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Dear Commissioners:

We are writing to express our strong support for the Commission's decision to re-consider its interpretation of the Virginia Graeme Baker Pool and Spa Safety Act. The Commission's re-examination of the anti-entrapment and drowning prevention measures that should be taken by public pools with single main drains under the Act is long overdue and we urge no further delay.

As sponsors and supporters of the original legislation, we can tell you that the language of the Act makes clear that pools with only one drain are to be treated differently than pools with multiple drains. Under the Act, most single drain public pools were expected to incorporate both an anti-entrapment drain cover and another layer of protection. The reason for the extra layer of protection in single-drain pools is simple: these pools pose a much more significant danger to individuals than multiple drains because when blocked, the suction force from a single drain is much stronger than when the suction force is distributed across multiple drains.

Notwithstanding the dangers inherent in single drain pools, the Commission voted to allow all single drain pools to avoid the statutory requirement for extra layers of protection simply by installing drain covers marketed as "unblockable." As pointed out in letters from members of Congress to the Commission throughout the summer of 2010, this decision ran counter to both the spirit and letter of the Act and failed to take into account the nature of entrapment-related injuries and deaths.¹ In single drain pools, no drain cover can protect a child from entrapment if the drain cover is improperly installed or inadvertently removed. It is for this reason that Congress required extra layers of protection for public pools with only a single main drain.

The importance of requiring an extra layer of protection is underscored by the Commission's recent voluntary recalls. These recalls included some drain covers marketed as

¹ Letter from Sens. Mark Pryor, Amy Klobuchar, Richard Durbin, Chris Dodd, and Bill Nelson to the Commission (June 10, 2010); Letter from Reps. Debbie Wasserman Schultz, Frank Wolf, and John Larson to the Commission (June 10, 2010); Letter from Rep. Henry A. Waxman to the Commission (Aug. 5, 2010).

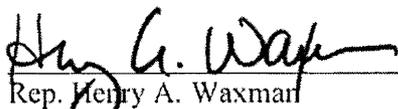
“unblockable” due to concerns that the covers do not in fact protect against entrapment hazards.² An additional layer of protection will ensure that children are protected when so-called “unblockable” drain covers fail to work.

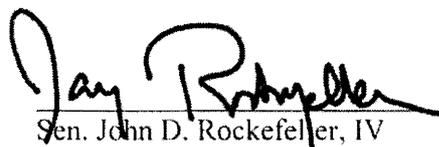
The Commission has already established an ample record on this issue. All interested parties were offered an opportunity to be heard through comments beginning in July 2009 and at a public hearing in November 2009.³ Moreover, we understand that over the last year, members of industry and safety advocates have made their views known to the Commission regarding reconsideration.

We thank you for your careful consideration of this issue. We believe it is now time to act in the interest of protecting swimmers of all ages from entrapments and drowning. Congress passed the Act in response to a number of horrific incidents in which children and adults were entrapped by drains in pools and spas, resulting in serious injuries and deaths. A decision to require additional protection for single-drain pools will ensure that the purposes of the law are fulfilled.

We look forward to and applaud your vote this Wednesday to bring interpretation of the Act in line with the spirit and intent of its sponsors and supporters.

Sincerely,


Rep. Henry A. Waxman
Ranking Member
House Energy & Commerce
Committee

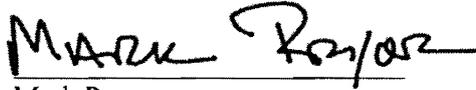

Sen. John D. Rockefeller, IV
Chairman
Senate Commerce, Science &
Transportation Committee

² Consumer Product Safety Commission, *Recalled Pool and Spa Products*, www.poolsafely.gov/news-resources/recalls; See also Patricia Callahan, *The Danger That Lurks Underwater, Drain Covers for Pools and Spas That Are Meant to Protect Might Not Be Safe*, Chicago Tribune (Feb. 7, 2011) (“Equipment meant to prevent powerful drains from causing people to drown in pools and hot tubs is being used across the country even though the products underwent flawed safety evaluations, then failed subsequent, more stringent tests, a Tribune investigation has found. A confidential report describing one laboratory’s tests concluded that the equipment “could result in serious injuries and or death.””).

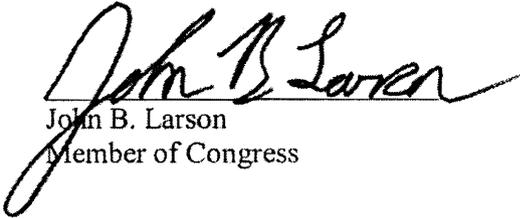
³ Consumer Product Safety Commission, *Virginia Graeme Baker Pool and Spa Safety Act; Interpretation of Unblockable Drain, Final Interpretive Rule* (Apr. 6, 2010) (available at www.poolsafely.gov/wp-content/uploads/unblockdrain.pdf).



G.K. Butterfield
Ranking Member
House Subcommittee on Commerce,
Manufacturing, and Trade
House Energy & Commerce
Committee



Mark Pryor
Chairman
Senate Subcommittee on Consumer Protection,
Product Safety, and Insurance
Senate Commerce, Science &
Transportation Committee



John B. Larson
Member of Congress



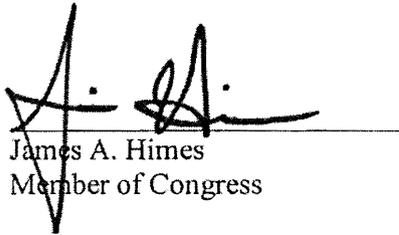
Richard J. Durbin
United States Senator



Debbie Wasserman Schultz
Member of Congress



Bill Nelson
United States Senator



James A. Himes
Member of Congress



Richard Blumenthal
United States Senator



Healthy Pools. Healthy Bodies.

September 20, 2011

Mr. Troy Whitfield
Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Dear Mr. Whitfield:

RE: Revocation of the Interpretative Rule “Unblockable Drain”

The National Swimming Pool Foundation[®] (NSPF[®]), founded in 1965, is a 501(c)(3) non-profit organization dedicated to improving public health worldwide by attracting more people to safe aquatic environments and encouraging healthier living through aquatic education and research. NSPF is the leading research funder and educator for pool and spa professionals who service and operate public and private pools and spas and for public health officials who are responsible for pool safety. This research is disseminated via the World Aquatic Health Conference, which NSPF hosts, and the International Journal of Aquatic Research & Education, which NSPF publishes in partnership with Human Kinetics.

The Foundation works toward its educational mission with leading training programs like Certified Pool/Spa Operator[®] certification training, Certified Pool/Spa Inspector online training, and the Pool & Spa Safety Act online training developed under contract with the CPSC. The Foundation has certified over 300,000 pool operators, managers, and health officials since 1965. In 2010 alone, over 25,000 people were trained.

Please do not revoke CPSC’s interpretative rule on “unblockable drain” as suggested in 16CFR Part 1450. This position is justified based on three arguments:

1. Since the Pool & Spa Safety Act (P&SSA) was enacted, there have been no U.S. entrapment fatalities and no serious injuries to justify implementing a costly new requirement.
2. The unintended consequences of revoking this rule may increase the risk of drowning, thus conflicting with the intent of the law.
3. This change will create confusion in the market with no net benefit.

These justifications are further clarified below.

1. **Lack of Scientific Support to Implement**

There have been no U.S. entrapment fatalities or serious injuries since the Pool & Spa Safety Act was enacted to justify implementing a costly new requirement. As a result, there is no scientific evidence to justify adding another level of protection when compliant unblockable drain covers have been used.

2. **Unintended Consequences May Increase Drowning Risk**

The unintended consequences of this change may increase the risk of drowning, thus conflicting with the intent of the P&SSA. The nation has suffered the most severe economic recession since the Great Depression. Though justified, the Pool & Spa Safety Act and the Americans with Disabilities Act have placed an additional burden on aquatic facilities during a financially vulnerable time. In addition, the CPSC issued a recall prior to the 2011 swim season that resulted in new resource challenges for facilities to comply with the P&SSA.

Changing the P&SSA interpretation to require an additional level of protection for pools protected with compliant “unblockable drains” - when there are no failures that resulted in serious morbidity or mortality - places another financial burden on aquatic facilities. In contrast, this new requirement will provide a financial benefit to “safety equipment manufacturers” and “pool service/construction” companies. However, that benefit is at the expense of the aquatic facilities, making them more vulnerable to closure and thus shrinking the markets for manufacturers over time.

The National Drowning Prevention Alliance reported that for the period May 1, 2011, through August 26, 2011, a total of 1,592 drownings were noted by local media outlets. Public swimming pools play a key role in helping the general population learn to swim and for lifeguards to become trained and certified. Increasing arbitrary costs during difficult financial times has resulted in pool closures. Tragically, closures are more likely in economically-disadvantaged regions where drowning is a greater risk. Pool closures reduce the opportunity for many people to learn to swim, potentially increasing the risk of drowning. Thus arbitrary rule changes that impart cost should be avoided.

3. **Confusion with No Net Benefit**

The CPSC has funded several millions of dollars with contractors to create and disseminate educational materials to consumers, industry, and health officials. Changing the interpretation after all training contracts have ended will create confusion. Additional confusion may occur since there have been no serious injuries or deaths, suggesting that the proposed rule change would be ill-justified.

This rule change and resulting pool closures provides another drawback that is in direct conflict with the commitments of the President of the United States and both Houses of Congress. Our representatives are in debate on how to stimulate the economy to create jobs. It appears to be a direct conflict of the wishes of our elected officials to implement a rule change with no net benefit that may increase drowning risk AND may increase unemployment.

NSPF respectfully asks that the CPSC reject the revocation of this interpretive rule until scientific evidence justifies the change and can demonstrate the change will not increase drowning risk.

Respectfully,



Thomas M. Lachocki, Ph.D.
Chief Executive Officer
National Swimming Pool Foundation
4775 Granby Circle
Colorado Springs, Co 80919-3131
719-540-9119 (Phone)
719-540-2787 (FAX)
tom.lachocki@nspf.org

cc: U.S. Consumer Product Safety Commission
Cheryl Falvey, General Counsel
Ken Hinson, Executive Director
Inez Tenenbaum, Chairman
Robert Alder, Commissioner
Thomas Moore, Commissioner
Nancy Nord, Commissioner
Anne Northup, Commissioner

The Honorable Doug Lamborn, Colorado 5th Congressional District

From: [Taylor, Linda](#)
To: [Gougisha, Michael](#); [Stevenson, Todd](#); [Little, Barbara](#)
Subject: FW: CPSC - Revocation of Unblockable Drains
Date: Wednesday, September 28, 2011 7:39:15 AM
Attachments: [CPSC 2011 Report on Suction Entrapment Incidents.pdf](#)
[CDC Child Injury Data.pdf](#)
[CDC Water Injuries Factsheet.pdf](#)
[Pool & Spa News Article.pdf](#)
[Proposed Change - Virginia Graeme Baker Pool and Spa Safety Act: Unblockable Drain Rule - 09-07-11.pdf](#)

From: Dane Johnson [mailto:dane@rowleyinternational.com]
Sent: Tuesday, September 27, 2011 8:57 PM
To: Whitfield, Troy
Cc: Falvey, Cheryl; Hinson, Kenneth; Lee, Dorothy; Adler, Robert; Taylor, Linda; Moore, Autumn; Fellin, Mark; tom.lachocki@nspf.org; jnorwood@nalobby.net; jnorwood@calspec.org; William N. Rowley
Subject: CPSC - Revocation of Unblockable Drains

Troy,

As you know, for over 37 years I have been engaged in basic research on suction entrapment and have tested and written extensively on the subject since my first suction entrapment testing in June of 1974. I pioneered the development of suction entrapment testing methodology and personally acted as a test subject hundreds of times in the last 30 years. I have authored or co-authored over 20 articles, papers, and research studies on suction entrapment.

I am a Life Member and Fellow in the American Society of Mechanical Engineers (LM/FASME). I am also a Certified Safety Professional (CSP) and have been continuously certified by the Board of Certified Safety Professionals (BCSP) since 1990. The CSP certification is the preeminent safety certification for safety professionals in the United States of America and requires education, professional safety experience, and demonstrated knowledge of professional safety practice. CSP applicants undergo an eight-hour safety exam and must be recertified every five years.

From 1987 until 1997, I was part of the U.S. Consumer Product Safety Commission's (CPSC) and National Spa & Pool Institute's (NSPI) National Swimming Pool Safety Committee (NSPSC). I was also on the NSPSC's Steering Committee and Research Sub-Committee. As part of my duties, each year I personally reviewed approximately four hundred CPSC aquatic accident investigations, including suction entrapment accidents.

I do not have a financial interest in the matter. As a professional engineer licensed to practice in twenty-eight states and the District of Columbia, and as a designer of swimming pools, the safety of the public in swimming pools is my only professional interest.

Since the Virginia Graeme Baker Pool & Spa Safety Act went into effect, there has not been a recorded suction entrapment incident in a compliant public swimming pool. Even though the Virginia Graeme Baker Pool & Spa Safety Act and its required ASME/ANSI A112.19.8-2007- Suction

Fitting for use in Swimming Pools, Wading Pools, Spas and Hot Tubs (and now ANSI/APSP-16 2011) are not perfect, there have been no suction entrapment accidents since the law went into effect.

The Consumer Product Safety Commission (CPSC) established the position that an unblockable drain cover does not require an additional level of protection. This position enabled many public swimming pools to become compliant quickly with existing equipment or only slight modifications.

If the CPSC revokes its position on unblockable drain covers, it is possible that many public swimming pools will be pulled out of service for an undeterminable length of time. This occurred previously when the Virginia Graeme Baker Pool & Spa Safety Act became effective.

Per the Center for Disease Control and Prevention

(<http://www.cdc.gov/homeandrecreationalafety/water-safety/waterinjuries-factsheet.html> and http://www.cdc.gov/safecild/Child_Injury_Data.html; also attached),

- 1) Fatal drowning is the sixth leading cause of unintentional injury death for people of all ages.
- 2) Drowning is the leading cause injury death for those 1 to 4 years of age.
- 3) Fatal drowning remains the second-leading cause of unintentional injury-related death for children ages 1 to 14 years.
- 4) There were 3,443 fatal unintentional drowning incidents in 2007 in the United States.
- 5) For every child who dies from drowning, four more received emergency department care for nonfatal submersion injuries. This observation means that in 2007, there were over 17,000 fatal and nonfatal drowning incidents in the United States.
- 6) Participation in formal swimming lessons can reduce the risk of drowning by 88% among children aged 1 to 4 years.

By comparison, the CPSC is aware of only 97 reports of circulation system entrapments (suction entrapment incidents occur on the circulation system inlets, hence circulation system entrapments are suction entrapments) over the period from 1999 to 2010

(<http://www.cpsc.gov/library/foia/foia11/os/entrap11.pdf>; also attached). 97 incidents over a period of 12 years has an average of approximately 8 suction entrapment incidents per year.

The number of drowning incidents is greater by three orders of magnitude than the number of suction entrapment incidents. Worldwide, approximately 175,000 children die from drowning every year. There are thousands of drowning deaths each year in the United States, whereas there is an average of approximately 8 suction entrapments per the CPSC. Aquatic Safety Research Group founder Tom Griffiths states that teaching children to swim “would have saved many more lives than changing the drain grates. The bottom line is, you now have a huge law to prevent double-digit deaths. And the sad thing is, we accept thousands of drownings each year”

(<http://www.poolspanews.com/2009/102/102safety.html>; also attached).

It is obvious that nonswimmers are at much greater risk in aquatic environments than swimmers. Per the Center for Disease Control and Prevention (above), formal swimming lessons reduce the risk of drowning. Public swimming pools are where bulk of the public receives formal swimming

lessons. If public swimming pools close for any length of time, many nonswimmers will miss an opportunity to learn to swim.

It is not possible to determine how many, if any, drownings have occurred or will occur because of the individuals that missed the opportunity to have formal swimming lessons when their public swimming pools were closed until compliant at the onset of the Virginia Graeme Baker Pool & Spa Safety Act.

When a suction inlet is considered to be in need of an anti-entrapment device, a suction vacuum release system (SVRS) system tends to be the first option as it is the least expensive to obtain and install. If it is determined by the CPSC that a backup safety device is required for an unblockable drain, the SVRS system is the most cost-effective as it does not require a major renovation to the swimming pool to install.

However, SVRS systems do not prevent suction entrapment incidents, they react to them. Furthermore, they react to body entrapments, but cannot be designed to respond to hair entanglements or limb entrapments or eviscerations. Per the above CPSC report, only 35% of the 97 suction entrapment incidents were body entrapments; body entrapments are the only type of entrapment that may cause an SVRS device to engage. 65% of the 97 suction entrapment incidents could not have been mitigated by an SVRS.

If the CPSC changes their established position on unblockable main drain covers, it is possible that many public swimming pools will close until they can become compliant and many people who could have received formal swimming lessons in that time will continue to be at a much greater risk of drowning.

It is time for the CPSC to stop being reactive and become proactive. In engineering practice, if you have a hazard, you have three choices: 1) eliminate the hazard, 2) design around the hazard, and/or 3) warn against the hazard. Eliminating the hazard is always the preferred professional approach.

I recommend that the CPSC not approve publication of the (attached) draft Federal Register notice.

As historically proven, its approval would likely result in a number of public swimming pools closing to avoid fines for noncompliance, which would reduce the number of people able to obtain formal swimming lessons to minimize their chances of drowning. In the United States Air Force, the aircraft maintainers on the flight line hold to a time-honored saying: "If it ain't broke, don't fix it." I suggest that this would be a wise course for the CPSC to follow.

For a lasting solution, I recommend that the CPSC eliminate the suction entrapment hazard by working towards eliminating main drains in swimming pools; main drains are not necessary in a properly designed swimming pool.

Troy, I hope this helps and wish you luck on a very difficult and politically charged issue.

Bill

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CDC Childhood Injury Report

Unintentional injuries—such as those caused by burns, drowning, falls, poisoning and road traffic—are the leading cause of morbidity and mortality among children in the United States. Each year, among those 0 to 19 years of age, more than 12,000 people die from unintentional injuries and more than 9.2 million are treated in emergency departments for nonfatal injuries.

The CDC Childhood Injury Report: Patterns of Unintentional Injuries among 0–19 Year Olds in the United States, 2000 – 2006 uses data from the National Vital Statistics Systems and the National Electronic Injury Surveillance System–All Injury Program to provide an overview of unintentional injuries related to drowning, falls, fires or burns, poisoning, suffocation, and transportation-related injuries among others, during the period 2000 to 2006. Results are presented by age group and sex, as well as the geographic distribution of injury death rates by state.

Key findings from the report include the following:

Injury Deaths

- On average, 12,175 children 0 to 19 years of age died each year in the United States from an unintentional injury.
- Males had higher injury death rates than females.
 - The death rate for males was almost two times the rate for females, and males had a higher injury death rate compared to females in all childhood age groups.
- Injuries due to transportation were the leading cause of death for children.
 - The highest death rates were among occupants of motor vehicles in traffic.
 - There were also a substantial number of pedestrian and pedal cyclist deaths among children.
- Combining all unintentional injury deaths among those between 0 and 19 years, motor vehicle traffic-related deaths were the leading cause.
- The leading causes of injury death differed by age group.
 - For children less than 1 year of age, two-thirds of injury deaths were due to suffocation.
 - Drowning was the leading cause injury death for those 1 to 4 years of age.
 - For children 5 to 19 years of age, the most injury deaths were due to being an occupant in a motor vehicle traffic crash.
- Risk for injury death varied by race.
 - Injury death rates were highest for American Indian and Alaska Natives and were lowest for Asian or Pacific Islanders.
 - Overall death rates for whites and African-Americans were approximately the same.
- Injury death rates varied by state depending upon the cause of death.
 - Overall, states with the lowest injury death rates were in the northeast. Fire and burn death rates were highest in some of the southern states.
 - Death rates from transportation-related injuries were highest in some southern states and some states of the upper plains, while lowest rates occurred in states in the northeast region.
- For injury causes with an overall low burden, death rates greatly varied by age.
 - The poisoning death rate for those older than 15 years of age was at least five times the rates of the younger age groups, and the suffocation death rate for infants was over 16 times the rates for all older age groups.

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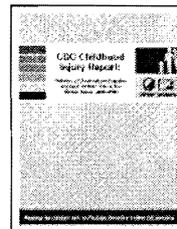
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Childhood Injury Report



The complete report can be viewed [online](#) or [downloaded](#) [PDF 2MB].

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Nonfatal Injuries

- An estimated 9.2 million children annually had an initial emergency department visit for an unintentional injury.
- Males generally had higher nonfatal injury rates than females.
 - For children 1 to 19 years of age, nonfatal injury rates were higher among males than females, while the rates were approximately the same for those under 1 year.
- Injuries due to falls were the leading cause of nonfatal injury.

- Each year, approximately 2.8 million children had an initial emergency department visit for injuries from a fall.
- For children less than 1 year of age, falls accounted for over 50% of nonfatal injuries.
- The majority of nonfatal injuries are from five causes.
 - Falls was the leading cause of nonfatal injury for all age groups less than 15.
 - For children ages 0 to 9, the next two leading causes were being stuck by or against an object and animal bites or insect stings.
 - For children 10 to 14 years of age, the next leading causes were being struck by or against an object and overexertion.
 - For children 15 to 19 years of age, the three leading causes of nonfatal injuries were being struck by or against an object, falls, and motor vehicle occupant injuries.
- Nonfatal injury rates varied by age group.
 - Nonfatal suffocation rates were highest for those less than 1 year of age.
 - Rates for fires or burns, and drowning were highest for children 4 years and younger.
 - Children 1 to 4 years of age had the highest rates of nonfatal falls and poisoning.
 - Injury rates related to motor vehicles was highest in children 15 to 19 years of age.

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Injuries in your state

Select a state below for state-specific data on child injury deaths.

Alabama 

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Related Links

- [WHO/UNICEF: World Report on Child Injury Prevention](#)

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Unintentional Drowning: Fact Sheet

Overview

Every day, about ten people die from unintentional drowning. Of these, two are children aged 14 or younger. Drowning is the sixth leading cause of unintentional injury death for people of all ages, and the second leading cause of death for children ages 1 to 14 years.¹

How big is the problem?

- In 2007, there were 3,443 fatal unintentional drownings (non-boating related) in the United States, averaging ten deaths per day. An additional 496 people died from drowning in boating-related incidents.^{1,2}
- More than one in five people who die from drowning are children 14 and younger.¹ For every child who dies from drowning, another four received emergency department care for nonfatal submersion injuries.¹
- More than 55% of drowning victims treated in emergency departments require hospitalization or transfer for higher levels of care (compared to a hospitalization rate of 3-5% for all unintentional injuries).¹ These injuries can be severe.
- Nonfatal drownings can cause brain damage that may result in long-term disabilities including memory problems, learning disabilities, and permanent loss of basic functioning (e.g., permanent vegetative state).

Who is most at risk?

- **Males:** Nearly 80% of people who die from drowning are male.¹
- **Children:** Children ages 1 to 4 have the highest drowning rates. In 2007, among children 1 to 4 years old who died from an unintentional injury, almost 30% died from drowning.¹ Fatal drowning remains the second-leading cause of unintentional injury-related death for children ages 1 to 14 years.³
- **Minorities:**
 - Between 2000 and 2007, the fatal unintentional drowning rate for African Americans across all ages was 1.3 times that of whites. For American Indians and Alaskan Natives, this rate was 1.7 times that of whites.¹
 - Rates of fatal drowning are notably higher among these populations in certain age groups. The fatal drowning rate of African American children ages 5 to 14 is 3.1 times that of white children in the same age range. For American Indian and Alaskan Native children, the fatal drowning rate is 2.3 times higher than for white children.¹
 - Factors such as the physical environment (e.g., access to swimming pools) and a combination of social and cultural issues (e.g., wanting to learn how to swim, and choosing recreational water-related activities) may contribute to the racial differences in drowning rates. Current rates are based on population, and not on participation. If rates could be determined by actual participation in water-related activities, disparity in minorities drowning rates compared to whites would be much greater.⁴

What factors influence drowning risk?

- **Lack of Supervision and Barriers.** Supervision by a lifeguard or designated water-watcher is important to protect young children when they are in the water, whether a pool or bathtub. But when children are not supposed to be in the water, supervision alone isn't enough to keep them safe.
 - Barriers such as pool fencing should be used to help prevent young child access to the pool area without caregivers' awareness.⁵ There is an 83% childhood drowning with a four-sided isolation pool fence, compared to line fencing.⁶
 - Among children ages 1 to 4 years, most drownings occur in residential swimming pools. Most young children who drowned in pools were last seen in the home, had been out of sight less than five minutes, and were in the care of one or both parents at the time.⁷
- **Natural Water Settings (such as lakes, rivers, or the ocean).** The percent of drownings in natural water settings increases with age. When a location was known, 65% of drownings among those 15 years and older occurred in natural water settings.⁸
- **Lack of Life Jacket Use in Recreational Boating.** In 2009, the U.S. Coast Guard received reports for 4,730 boating incidents; 3,358 boaters were reported injured, and 736 died. Among those who drowned, 9 out of 10 were not wearing life jackets.⁹ Most boating fatalities that occurred during 2008 (72%) were caused by drowning with 90% of victims not wearing life jackets; the remainder were due to trauma, hypothermia, carbon monoxide poisoning, or other causes.⁹



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- **Alcohol Use.** Alcohol use is involved in up to half of adolescent and adult deaths associated with water recreation and about one in five reported boating fatalities.^{9, 10} Alcohol influences balance, coordination, and judgment, and its effects are heightened by sun exposure and heat.¹¹
- **Seizure Disorders.** For persons with seizure disorders, drowning is the most common cause of unintentional injury death, with the bathtub as the site of highest drowning risk.¹²

What has research found?

- Participation in formal swimming lessons can reduce the risk of drowning by 88% among children aged 1 to 4 years.¹³
- Seconds count. CPR performed by bystanders has been shown to improve outcomes in drowning victims. The more quickly intervention occurs, the better chance of improved outcomes.¹⁴
- A CDC study about self-reported swimming ability¹⁵ found that:
 - Younger adults reported greater swimming ability than older adults.
 - Self-reported ability increased with level of education.
 - Among racial groups, African Americans reported the most limited swimming ability.
 - Men of all ages, races, and educational levels consistently reported greater swimming ability than women.

Details about additional studies and their findings are highlighted in [Water-Related Injuries: CDC Activities](#).

How can drowning be prevented?

To help prevent water-related injuries: 1, 5, 7, 9, 10, 12

- **Supervision when in or around the Water.** Designate a responsible adult to watch young children while in the bath and all children swimming or playing in or around water. Supervisors of preschool children should provide "touch supervision", be close enough to reach the child at all times. Adults should not be involved in any other distracting activity (such as reading, playing cards, talking on the phone, or mowing the lawn) while supervising children.
- **Buddy System.** Always swim with a buddy. Select swimming sites that have lifeguards whenever possible.
- **Seizure Disorder Safety.** If you or a family member has a seizure disorder, provide one-on-one supervision around water, including swimming pools. Consider taking showers rather than using a bath tub for bathing.
- **Learn to Swim.** Formal swimming lessons can protect young children from drowning. However, even when children have had formal swimming lessons, constant, careful supervision when children are in the water, and barriers, such as pool fencing, to prevent unsupervised access are necessary.
- **Learn Cardiopulmonary Resuscitation (CPR).** In the time it might take for paramedics to arrive, your CPR skills could make a difference in someone's life.
- **Do Not Use Air-Filled or Foam Toys.** Do not use air-filled or foam toys, such as "water wings", "noodles", or inner-tubes, in place of life jackets (personal flotation devices). These toys are not designed to keep swimmers safe.
- **Avoid Alcohol.** Avoid drinking alcohol before or during swimming, boating, or water skiing. Do not drink alcohol while supervising children.

If you have a swimming pool at home:

- **Four-Sided Fencing.** Install a four-sided pool fence that completely separates the house and play area of the yard from the pool area. The fence should be at least 4 feet high. Use self-closing and self-latching gates that open outward with latches that are out of reach of children. Also, consider additional barriers such as automatic door locks or alarms to prevent access or notify you if someone enters the pool area.
- **Clear the Pool and Deck of Toys.** Remove floats, balls and other toys from the pool and surrounding area immediately after use so children are not tempted to enter the pool area unsupervised.

If you are in or around natural bodies of water:

- Know the local weather conditions and forecast before swimming or boating. Strong winds and thunderstorms with lightning strikes are dangerous.
- Use U.S. Coast Guard approved life jackets when boating, regardless of distance to be traveled, size of boat, or swimming ability of boaters.
- Know the meaning of and obey warnings represented by colored beach flags 🚩, which may vary from one beach to another.
- Watch for dangerous waves and signs of rip currents 🌊 (e.g., water that is discolored and choppy, foamy, or filled with debris and moving in a channel away from shore). If you are caught in a rip current, swim parallel to shore; once free of the current, swim toward shore.

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From: [Taylor, Linda](#)
To: [Gougisha, Michael](#); [Stevenson, Todd](#); [Little, Barbara](#)
Subject: FW: Unblockable Drain Issue
Date: Tuesday, September 27, 2011 4:15:14 PM
Attachments: [NSPF Recommendation to CPSC\[1\].pdf](#)
[Proposed Change VGB\[1\].pdf](#)

From: Nikki Thole [mailto:nthole@desperesmo.org]
Sent: Tuesday, September 27, 2011 4:10 PM
To: Whitfield, Troy
Cc: Falvey, Cheryl; Hinson, Kenneth; Hinson, Kenneth; eschwartz@cpsc.gov; ralder@cpsc.gov; Taylor, Linda; Moore, Autumn; fellin@cpsc.gov
Subject: Unblockable Drain Issue

Dear Mr. Whitfield:

The City of Des Peres Parks and Recreation department urges the CPSC to NOT revoke the interpretative rule on "unblockable drains" as suggested in 16CFR Part 1450.

From what I understand, there is no data available that justifies the revocation of this rule. According to the National Swimming Pool Foundation: since the implementation of the Virginia Graeme Baker Act there have been no entrapment fatalities or serious injuries.

In May, immediately prior to the summer swimming season, the CPSC recalled VGBA compliant grates which placed an impossible burden on swimming pool owners. Since the replacement grates were not even available, the pool owners were faced with the choice of not opening or open in violation of the rules.

The CPSC is now considering another regulation that will most likely force the closure of many swimming pools across the country due to the financial burden imposed thus denying the opportunity for people to participate in aquatic activities.

Our recreation department provides many aquatic opportunities throughout the year for children and adults. In addition, this decision could impact the 130 lifeguards we employ throughout the year.

We appreciate your careful consideration of our concerns and should you need additional information, please do not hesitate to contact us.

Sincerely,

NIKKI THOLE BUECHLER

Interim Director of Parks and Recreation, City of Des Peres
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nthole@desperesmo.org

From: [Hinson, Kenneth](#)
To: [Stevenson, Todd](#)
Subject: FW: Revocation of the interpretive rule "unblockable drain"
Date: Tuesday, September 27, 2011 5:03:17 PM

Kenneth R. Hinson
301-504-7854

From: vlester.lestermgmt@gmail.com [<mailto:vlester.lestermgmt@gmail.com>] **On Behalf Of** Vickie Lester
Sent: Tuesday, September 27, 2011 5:02 PM
To: Whitfield, Troy; Falvey, Cheryl; Hinson, Kenneth; Lee, Dorothy; Adler, Robert; Taylor, Linda; Moore, Autumn; fellin@cpsc.gov
Subject: Revocation of the interpretive rule "unblockable drain"

The Independent Pool and Spa Service Association represents nearly 4,000 pool and spa service and repair technicians throughout the country.

We support the recommendation you have received from the National Swimming Pool Foundation, requesting that you do not revoke CPSC's interpretive rule on "unblockable drain" as suggested in 16CFR Part 1450. This position is justified based on three arguments:

1. Since the Pool & Spa Safety Act (P&SSA) was enacted, there have been no U.S. entrapment fatalities and no serious injuries to justify implementing a costly new requirement.
2. The unintended consequences of revoking this rule may increase the risk of drowning, thus conflicting with the intent of the law.
3. This change will create confusion in the market with no net benefit.

IPSSA respectfully asks that the CPSC reject the revocation of this interpretive rule until scientific evidence justifies the change and can demonstrate the change will not increase drowning risk.

Vickie Lester, MBA, CAE
Executive Director
Independent Pool and Spa Service Association
10842 Noel Street #107
Los Alamitos CA 90720
[888-360-9505](tel:888-360-9505)
Fax [888-368-0432](tel:888-368-0432)
www.ipssa.com

;



September 27, 2011

Anne M. Northrup
Commissioner
Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Re: Pending vote on "unblockable drain."

AquaStar appreciates the letter inquiry by Commissioner Northrup of September 23, 2011. We support the March 22, 2010 vote and final interpretive rule defining the term "unblockable drain" by the Commission. This vote was based on sound safety and legal principles, as outlined in the respective Separate Statements of Commissioner Northrup and Commissioner Adler. AquaStar also joins and supports the September 22, 2011 Statement submitted by the Association of Pool and Spa Professionals.

With regard to the specific inquiry by the Commissioner, AquaStar presently manufactures several model drain covers that are certified as unblockable, based on 16 C.F.R. 1450.2(b) and the ASME and current ANSI/APSP Standards. AquaStar does not believe that any of these models would be affected by the proposed reinterpretation.

AquaStar also respectfully submits that it is not aware of a single incident where an AquaStar drain cover classified as "unblockable" as defined in 16 C.F.R. 1450.2(b) has come loose or broken during operation and is not aware of a single entrapment incident or injury where any AquaStar drain cover has been installed.

We thank the Commissioner for her time and consideration.

Sincerely,

Olaf Mjelde
President

1666 GARNET AVE STE 224, SAN DIEGO, CA 92109
(877) 768-2717 –PHONE / (877) 276-POOL (7665) –FAX
INFO@AQUASTARPOOLPRODUCTS.COM –EMAIL
WWW.AQUASTARPOOLPRODUCTS.COM –WEBSITE

Stevenson, Todd

From: Hinson, Kenneth
Sent: Wednesday, September 28, 2011 11:20 AM
To: Stevenson, Todd
Subject: Fw: Do not reverse the "unblockable drains not needing additional protection" position

From: Jim.Cyrus@gwinnettcountry.com [<mailto:Jim.Cyrus@gwinnettcountry.com>]
Sent: Wednesday, September 28, 2011 11:19 AM
To: Whitfield, Troy; Falvey, Cheryl; Hinson, Kenneth; Lee, Dorothy; Adler, Robert; Taylor, Linda; Moore, Autumn; Fellin, Mark
Cc: Tina.Fleming@gwinnettcountry.com <Tina.Fleming@gwinnettcountry.com>
Subject: Do not reverse the "unblockable drains not needing additional protection" position

To the members of the CPSC Committee

If I interpret the statements below correctly, you are considering to reverse a position regarding unblockable drains.

Our industry took a huge hit with the VGB Act financially in complying with requirements that in many cases were not necessary. We agree with the intent to have our pool drains safe, but to add to protection levels to "unblockable drains" is a waste of money that we do not have. Especially, in this economic time, mandates without funding sources is will drive us out of business.

Please do not reverse the current position that CPSC has on unblockable drains

Jim Cyrus
Aquatic/Adult Athletic Section Manager
Gwinnett County Parks and Recreation
(O) 770-564-4686 (F) 770-564-4657

"Those Who Cannot Appreciate Success Will Never Attain It"

CPSC will vote on Wednesday, September 28 to Reverse Current Position on Unblockable Drains!

CPSC will vote on Wednesday, September 28 to Reverse Current Position on Unblockable Drains!

FROM THE NATIONAL SWIMMING POOL FOUNDATION...

On September 7, 2011, the Consumer Product Safety Commission (CPSC) published its intent to change the CPSC position that an unblockable drain cover does not require an additional level of protection. The CPSC will vote and possibly revoke this interpretation on Wednesday, September 28!

NSPF has issued its position that the CPSC not revoke the current interpretation based on the following:

1. Since the Pool & Spa Safety Act was enacted, there have been no U.S. entrapment fatalities and no serious

injuries to justify implementing a costly new requirement.

2. The unintended consequences of revoking this rule may increase the risk of drowning, thus conflicting with the intent of the law

3. This change will create confusion in the market with no net benefit

It is important that experts weigh in to help guide the CPSC on how best to minimize both entrapment AND drowning. If you support the NSPF position, please comment to the CPSC today. Alternatively, if you have other guidance, please forward it to the CPSC as well.

All stakeholders who care about aquatics and public health agree that we must continue to work hard to have zero entrapments AND to work harder to reduce the thousands who drown each year.

Please send your comments to the CPSC before the vote on Wednesday, September 28! Their contact information is below. It is also recommended that your Congressional Representative and/or Senators be copied on any correspondence sent to the CPSC.

Consumer Product Safety Commission

4330 East West Highway

Bethesda, MD 20814

Troy Whitfield, Lead Compliance Officer - twhitfield@cpsc.gov

Cheryl Falvey, General Counsel - cfalvey@cpsc.gov

Kenneth Hinson, Executive Director - khinson@cpsc.gov

Inez Tenenbaum, Chairman - dslee@cpsc.gov

Robert Alder, Commissioner - radler@cpsc.gov

Thomas Moore, Commissioner - ltaylor@cpsc.gov

Nancy Nord, Commissioner - amoore@cpsc.gov

Hon. Anne Northup, Commissioner - mfellin@cpsc.gov

Tina Fleming | Division Director | Gwinnett County Parks & Recreation | 770.822.8875 | 75 Langley Drive •
Lawrenceville, GA 30046 tina.fleming@gwinnettcountry.com | www.gwinnettparks.com

 *Please consider the environment before printing this email.*

From: [Taylor, Linda](mailto:Taylor.Linda)
To: [Gougisha, Michael](mailto:Gougisha.Michael); [Stevenson, Todd](mailto:Stevenson.Todd); [Little, Barbara](mailto:Little.Barbara)
Subject: FW: Do not reverse the "unblockable drains not needing additional protection" position
Date: Wednesday, September 28, 2011 11:15:06 AM

From: McCallister, Robert (Bob) [<mailto:RobertBob.McCallister@cobbcounty.org>]
Sent: Wednesday, September 28, 2011 8:54 AM
To: Whitfield, Troy; Falvey, Cheryl; Hinson, Kenneth; Lee, Dorothy; Adler, Robert; Taylor, Linda; Moore, Autumn; Fellin, Mark
Cc: Jim.Cyrus@gwinnettcounty.com; Canon, L. Eddie; Ramsey, Terrence
Subject: Do not reverse the "unblockable drains not needing additional protection" position

CPSC Committee

If I interpret the statements below correctly, you are considering to reverse a position regarding unblockable drains.

Our industry took a huge hit with the VGB Act financially in complying with requirements that in many cases were not necessary. We agree with the intent to have our pool drains safe, but to add to protection levels to "unblockable drains" is a waste of money that we do not have. Especially, in this economic time, mandates without funding sources is will drive us out of business.

Please do not reverse the current position that CPSC has on unblockable drains.

Thank you.

Bob McCallister
Aquatics Manager
Cobb County Parks, Recreation and Cultural Affairs Dept.
Marietta, Georgia

From: Jim.Cyrus@gwinnettcounty.com [<mailto:Jim.Cyrus@gwinnettcounty.com>]
Sent: Tuesday, September 27, 2011 5:05 PM
To: McCallister, Robert (Bob)
Subject: Did you see this?

Did you see this?

Jim Cyrus
Aquatic/Adult Athletic Section Manager
Gwinnett County Parks and Recreation
(O) 770-564-4686 (F) 770-564-4657

"Those Who Cannot Appreciate Success Will Never Attain It"

From: Fleming, Tina
Sent: Tuesday, September 27, 2011 2:32 PM

To: Cyrus, Jim
Subject: What does this mean?

CPSC will vote on Wednesday, September 28 to Reverse Current Position on Unblockable Drains!

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Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Troy Whitfield, Lead Compliance Officer - twhitfield@cpsc.gov

Cheryl Falvey, General Counsel - cfalvey@cpsc.gov

Kenneth Hinson, Executive Director - khinson@cpsc.gov

Inez Tenenbaum, Chairman - dslee@cpsc.gov

Robert Alder, Commissioner - radler@cpsc.gov

Thomas Moore, Commissioner - ltaylor@cpsc.gov

Nancy Nord, Commissioner - amoore@cpsc.gov

Hon. Anne Northup, Commissioner - mfellin@cpsc.gov

Tina Fleming | Division Director | Gwinnett County Parks & Recreation | 770.822.8875 | 75
Langley Drive • Lawrenceville, GA 30046 tina.fleming@gwinnettcountry.com
| www.gwinnettparks.com

 Please consider the environment before printing this email.

From: [Taylor, Linda](#)
To: [Gougisha, Michael](#); [Stevenson, Todd](#); [Little, Barbara](#)
Subject: FW: CPSC vote concerning the installation of secondary entapment protection devices on pools/spas
Date: Wednesday, September 28, 2011 11:14:26 AM

From: Rex Cowan [mailto:lofrpc@att.net]
Sent: Wednesday, September 28, 2011 9:01 AM
To: Whitfield, Troy; Falvey, Cheryl; Hinson, Kenneth; Lee, Dorothy; Adler, Robert; Taylor, Linda; Moore, Autumn; Fellin, Mark
Subject: CPSC vote concerning the installation of secondary entapment protection devices on pools/spas

Dear Sir/Madam:

It has been brought to my attention that a representation is being made by certain segments of the pool/spa industry that "[s]ince the Virginia Graeme Baker Act was enacted, there have been no drain entrapment fatalities nor serious injuries in the United States". This statement is, quite simply, incorrect. For a Chronology of pool/spa entrapment and evisceration incidents, having occurred both before and after enactment of the VGBPSA, please click on the following link: <http://www.playitsafetech.com/blog/category/evisceration-entrapment-incidents> .

Respectfully,

Rex P. Cowan, Mgr.
Play It Safe technologies, LLC
P.O. Box 651
Winter haven, FL 33882-0651

1-(888)-300-7032



September 26, 2011

The Honorable Inez Tenenbaum
Chairman
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Dear Chairman Tenenbaum,

We are writing to thank you for bringing the issue of pool drain entrapment back to the forefront for the Commission's consideration, and for your persistence in seeking an outcome in the discussion of un-blockable drain covers that sides with safety.

The Virginia Graeme Baker (VGB) Act was intended by Congress to prevent entrapment by using all safeguards available to the industry. In the Commission's errant decision last year – to which you were justified in your dissenting view – a majority of Commissioners concluded that an un-blockable drain cover on a blockable sump satisfies the definition of an "un-blockable drain" in the VGB Act. In doing so, the Commission turned a blind eye to one of the specific risks that the Act was intended to eliminate and breached its custodial responsibility to protect the public from unreasonable risks of serious injury or death. More disturbing, however, has been the consistent and coordinated effort by the pool and spa industry since passage of the VGB Act to dismantle and roll back the law at both the state and federal levels. This undo pressure led to the error in judgment by the Commission a year ago, and contributed to a two-year delay in the Commission recalling a noncompliant drain cover more recently. It is our hope that when the Commission revisits this issue that it will place the lives of those who use pools and spas across the country ahead of any financial interest.

As parents of a child that has fallen victim to entrapment, we cannot stand by and allow others to experience the loss that we have suffered. While we do not question that the members who supported this decision are concerned by the terrible and preventable nature of entrapment, we believe the ultimate decision removed what should be one of the "layers of protection" that Congress envisioned and the Act requires. And while the pool and spa industry may seek to persuade to the assumption that drains in pools and spas are continuously and accurately installed and maintained, we personally, and tragically, know this not to be the case. After all, our son Zachary lost his life because the drain cover failed. Had there been a secondary layer of protection our precious child would be alive today.

While a Commission reversal of its errant decision certainly would signal a renewed commitment to safety, equally important will be the effectiveness of the Commission in educating the market place regarding what compliance entails and its enforcement of the law. Our Foundation, The ZAC Foundation, is growing rapidly with a grassroots network and educational programs expanding into states across the country. The ZAC Foundation stands ready to assist the Commission in amplifying the message regarding proper VGB compliance, as well as any other message to promote pool and spa safety.

We look forward to the Commission taking action to correct its misinterpretation of the un-blockable drain issue, and we invite you to join us as we work to ensure that no family ever has to endure the loss of a child from a water safety accident.

Sincerely,



Karen Cohn
Co-Founder
The ZAC Foundation



Brian Cohn
Co-Founder
The ZAC Foundation



September 20, 2011

Office of the Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
Suite 502
Bethesda, MD 20814-4408

Dear CPSC Secretary:

On behalf of the Abbey's Hope Charitable Foundation (hereinafter "Abbey's Hope"), we are writing to strongly urge the Consumer Product Safety Commission (hereinafter "CPSC") to revoke its previous interpretation of the term "unblockable drain" as used in the *Virginia Graeme Baker Pool & Spa Safety Act* (VGB Act). Abbey's Hope, at the time of the original interpretation, respectfully disagreed with the CPSC's contention that an otherwise dangerous swimming pool or spa with a single main drain can be made "unblockable" by the simple installation of a drain cover that meets certain larger dimensions and then not be required to use a secondary entrapment prevention device. We understand that the full Commission will soon be voting on whether to revoke its previous interpretation. In our view, this is a very important vote. As you know, our 6 year old daughter died as a result of an evisceration on a drain that had lost its cover. We believe that if that wading pool was equipped with a secondary safety system her injuries would have been much less severe which, in turn, may have saved her life.

I. "Unblockable Drain" Not "Unblockable Drain Cover" Triggers Additional Layer of Protection Exemption

According to the VGB Act, Section 1404(c)(1)(A), public pools and spas in the U.S. must be equipped with both an anti-entrapment drain cover and another layer of anti-entrapment protection unless the pool or spa has an "unblockable drain". Significantly, "unblockable drain" is defined in the Act as "a drain of any size and shape that a human body cannot sufficiently block to create a suction entrapment hazard" (emphasis added). In other words, if a drain, as opposed to a drain cover, is of a certain size and possesses characteristics that make entrapment impossible, then the second layer of protection is not needed.

Abbey's Hope believes that the CPSC was misguided in its original interpretation of the Act by erroneously allowing a drain coupled with a drain cover of specific larger dimensions to be considered an "unblockable drain". A single dangerous drain outlet cannot be made fully safe by only using an anti-entrapment drain cover. The Act, in our view and by its plain language, does not allow for an exemption to the requirement for a second layer of protection (also referred to by the Commission staff as "secondary anti-entrapment systems") simply by using an "unblockable drain cover" of certain larger dimensions over an otherwise hazardous single drain outlet. Safety demands and the Act require that the all-important second layer of anti-entrapment protection also be used.



II. The Original CPSC Interpretation Allows for a Dangerous Scenario

Continuing to allow a so called “unblockable drain cover” to trigger an exemption of the additional layer of protection leads to a significant entrapment risk should that drain cover come off (as they often do and did in our case resulting in our daughter’s death). In fact, the staff mentioned this very possibility and the accompanying risk it poses in its earlier technical guidance when the Commission was deciding how to interpret the “unblockable drain” language of Section 1404(c)(1)(A) . As Abbey’s parents, we know all too well that the risk of a drain cover coming off can become reality and such a situation creates a serious threat to swimmers and bathers especially when there is no back-up secondary system. If the Commission interpretation is allowed to stand it would continue to thwart the intent of the law. In the end, the law should have been interpreted so as to require an additional layer of protection if the single main drain itself is not unblockable.

Abbey’s Hope is extremely appreciative of the CPSC’s work to enforce the VGB Act and educate the public about its requirements. Much of that work we have done in partnership. We hope, however, that the full Commission will reconsider its interpretation of unblockable drains. The VGB Act was carefully crafted so as to best protect swimmers, especially children, from suction entrapment. The Act should be implemented and the marketplace policed in a manner consistent with that goal. We hope that the CPSC would revise its technical guidance to ensure that an “unblockable drain cover” is no substitute for an “unblockable drain”.

Sincerely,

Scott F. Taylor
Founder & Chairman

Katey P. Taylor
Founder & President

About Abbey’s Hope Charitable Foundation

Abbey’s Hope Foundation was created as a tribute to 6-year-old Abigail Taylor of Edina, Minn., who was disemboweled in a wading pool on June 29th, 2007. After a triple organ transplant and numerous surgeries, Abbey passed away on March 20, 2008. Six year-old Abbey Taylor’s hope was that no child should ever suffer like she did as the result of an improperly maintained pool. In her name, the Foundation works tirelessly for a world with safer pools by providing education and advocating for comprehensive safety standards for all pools. For more information, please visit www.abbeyshope.org.

From: [Moore, Autumn](#)
To: [Nord, Nancy](#); [Martyak, Joseph](#); [Cardon, Nathan](#)
Cc: [Stevenson, Todd](#)
Subject: FW: Equal to or better than other options for compliance
Date: Wednesday, September 28, 2011 4:21:30 PM

VGB Letter

From: Bonnie & Teri Snow [mailto:beesafesystems@gmail.com]
Sent: Wednesday, September 28, 2011 1:35 PM
To: Falvey, Cheryl; Fellin, Mark; Lee, Dorothy; Hinson, Kenneth; Moore, Autumn; Adler, Robert; Taylor, Linda; Whitfield, Troy
Subject: Equal to or better than other options for compliance

Consumer Product Safety Commission

We were disappointed with your vote today. Commissioner Moore seemed to think there are many besides the SVRS systems that can now be used but this is not the case. The other options of secondary back-up are extremely costly, impossible to add on in most retrofits or are only designed for new installations. Most pools that opted for an unblockable cover over their existing drain system cannot go deeper or into their drain lines for vent or gravity systems or they may have an inadequate sump that cannot be changed without going deeper with the entire plumbing line. So they now can add an inadequate SVRS device (made by Paul Pennington) for a lot of money. Thousands of people will tell you that as consumers they have disabled the systems because the back-ups are causing too many problems and don't work when the drain actually is plugged. We know a better way to address the problems of damaged or missing drain covers and would ask that you allow us to bring the solution to CPSC.

BeeSafe Systems is asking for a meeting with the Consumer Product Safety Commission to prove that our product as a stand alone installation is equal to or better than either of the other options that can be used to bring a pool into compliance with the Virginia Graeme Baker Pool and Spa Safety Act. We need this meeting at your earliest possible date. The action of the Commission this morning caused us to lose our manufacturing and marketing partner for our second product. We have invested over \$100,000 in development of this product and would be starting to Manufacture within the month of October as we are close to completing the testing for compliance. We will be facing bankruptcy if we cannot get our product to you for approval within the next 2 months. Customers who have our products will not be able to get replacement parts if we are no longer in business. We need to be able to make sales before the next pool season. This means we need to show our products (especially our new, smaller but still unblockable model) at the November 2-4 International Pool and Spa Trade Show in Las Vegas and to get the product into distributors this fall and winter. It needs to be on the shelves of retailers before spring to be in the pools for the 2012 season. Please let us know your procedure and the soonest possible date for getting us scheduled.

Sincerely,
Bonnie Snow

--

Bonnie Snow, Owner/CEO
BeeSafe Systems

795 W. Center St. #2
Provo, UT 84601

801-375-6881 Phone
801-691-5761 Fax
888-306-0121 Toll Free

beesafesystems@gmail.com
www.beesafesystems.com

From: [Howsare, Matt](#)
To: [Stevenson, Todd](#)
Subject: FW: Message from Email Form
Date: Wednesday, September 28, 2011 6:06:11 PM

This came in this afternoon on drains.

From: emailform@cpsc.gov [mailto:emailform@cpsc.gov]
Sent: Wednesday, September 28, 2011 1:03 PM
To: Chairman
Subject: Message from Email Form

09/28/2011 13:02:49

Name = Bill Robertson
Organization/Affiliation = Bill Robertson Pool Design
Daytime Phone = 2483484960
E-mail address = billrob@comcast.net

Message = I understand your office is looking into the elimination of un-blockable drains. I would suggest you do not remove unblockable drains. I would add a vortex plate over the suction 2 to 4 times the diameter of the suction pipe creating a compliant sump and replacing the grate with known open area. Thanks Bill

Stevenson, Todd

From: Stevenson, Todd
Sent: Thursday, September 29, 2011 8:25 AM
To: Stevenson, Todd
Subject: VGB

-----Original Message-----

From: Robin Taylor [<mailto:rtaylor345@comcast.net>]
Sent: Friday, September 23, 2011 5:39 PM
To: Hinson, Kenneth
Subject: VGB

Please do not confuse things and add extra cost to the swim clubs it is hard enough to stay in business now w/o more regulations and cost. We are here to teach swimming and make everyone safer in and around the water. Let us do our jobs.

Thank you

Robin Taylor

Stevenson, Todd

From: Center, Information
Sent: Wednesday, September 28, 2011 3:17 PM
To: OS - Office of the Secretary
Cc: Wolfson, Scott; Filip, Alexander; Fleming, Nychelle
Subject: FW: Message from Email Form

Todd,

Please review as comment.

Thanks

Maureen

From: emailform@cpsc.gov [<mailto:emailform@cpsc.gov>]
Sent: Wednesday, September 28, 2011 11:52 AM
To: Center, Information
Subject: Message from Email Form

09/28/2011 11:51:45

Name = Douglas Muller
Organization/Affiliation = None
Daytime Phone = 201 280 5353
E-mail address = dougamuller@optonline.net

Message = To commissioner Bob Adler,
Very disturbed to hear of your decision to reverse your vote on the swimming pool drain issue. This country does not need added mandatory retrofitting that brings no incremental benefit to consumers. Congratulations on adding to the burden consumers already feel.

Stevenson, Todd

From: Hinson, Kenneth
Sent: Thursday, September 29, 2011 5:36 PM
To: Stevenson, Todd
Subject: FW: drains

For correspondence tracking / handling. Thanks.

Kenneth R. Hinson
301-504-7854

From: Bill Robertson [<mailto:billrob@comcast.net>]
Sent: Thursday, September 29, 2011 5:19 PM
To: Hinson, Kenneth
Subject: drains

States don't care what your position is. Why bother to create provisions for Certifying drains by professionals when some could care less as long as they can force their interpretation of compliance on all of us. Some have not adopted the A112 for the sumps and look for compliant covers only, using common sense over unblockable. Some ignore VGBA all together for they have had drain standards in place for decades. Congratulations to those States with these common sense approach. Congratulations for Florida for creating a law no longer requiring pool drains.

States like Illinois found they can ride your coat tails, ignore your September change to adopting ANSI/APSP-16, force existing facilities to follow the A112 since it is part of their existing code, subject compliance to their interpretation, mandate compliance by October 1, 2011, take months to review and rationalize their position citing "safety" as the excuse. Yet now you accept the influence of manufacturers to force even further restrictions.

Please let us all know when the target will stop moving. The Rules, The Law, well that speaks for itself. Sorry for being frustrated.
Thank for taking the time to read this for I know you have your hands full. Bill

*BILL ROBERTSON POOL DESIGN/BUILD INC
913 WHITEGATE DRIVE
NORTHVILLE, MICHIGAN 48167
248348 4960 FX 248348 4968
billrob@comcast.net*

Stevenson, Todd

From: Hinson, Kenneth
Sent: Friday, September 30, 2011 12:18 PM
To: Stevenson, Todd
Subject: Fw: Bad VGB ruling

From: Shannon Synan [<mailto:ssynan@verizon.net>]
Sent: Friday, September 30, 2011 12:16 PM
To: Fellin, Mark; Moore, Autumn; Taylor, Linda; Adler, Robert; Lee, Dorothy; Hinson, Kenneth; Falvey, Cheryl; Whitfield, Troy
Subject: Bad VGB ruling

I am very disappointed by the ruling last Wednesday. It makes absolutely no sense. There have been no deaths or injuries in the last three years.

Robert Adler, Inez Tenenbaum, Thomas Moore – in my heart I will hold you responsible for every drowning death in communities where the pool has been closed down directly or indirectly by this ruling.

Anne Northup and Nancy Nord thanks for proving that not all Republicans are idiots.

I am sorry this is not how I usually conduct my comments but I am shocked and angry.

Shannon Synan
8 Howe St.
Belchertown MA, 01007

Stevenson, Todd

From: Whitfield, Troy
Sent: Friday, September 30, 2011 2:43 PM
To: Little, Barbara; Stevenson, Todd
Subject: FW: Message from Email Form

I suppose this could be considered a comment...

Troy

From: Bill Robertson [<mailto:billrob@comcast.net>]
Sent: Friday, September 30, 2011 2:04 PM
To: Whitfield, Troy
Cc: Toro, Mary; Cohen, Neal
Subject: RE: Message from Email Form

Thank you Mr. Whitfield,

I understand why you accepted ANSI/APSP 16 to replace A112, however A112 is included under "related standards". Under A112 everything is treated as direct suction with some states requiring greater open area which is acceptable in many instances. However this takes a facility constructed in 2000 and earlier and forces already cash strapped Public Facilities to spend \$150,000 vs \$5,000. The \$5,000 meets the intent and they can be certified but does not meet current standards of construction in some States. This whole thing has snowballed in some States.

States are applying their own interpretation to the 18" X 23" standard and for a pool with a 12" X 15' feet trench drain it no longer complies, even when the Engineer is willing to sign off on it, the State wants it certified via a test. Which is what we will do. The sump size does not need to match the covers especially if both sides are equal to or greater than the width of the cover. There is no way to block a raised cover, especially if the cover is above the sides.

I am also aware of your completion date and some have their own like Illinois which is more than 6 weeks behind in initial review, 6 additional weeks in final review and will as of tomorrow close a guesstimated 400 facilities around the State. Some initially waited many months to be approved only to have to go thru this all over again. In two instances we offered to cap the main drain until the State could get caught up but State Law says main drains are required. No place in the standard is elimination of the main drain an option.

Thank you for your time. Respectfully submitted. Bill Robertson

*BILL ROBERTSON POOL DESIGN/BUILD INC
913 WHITEGATE DRIVE
NORTHVILLE, MICHIGAN 48167
248348 4960 FX 248348 4968
billrob@comcast.net*

From: Whitfield, Troy [<mailto:TWhitfield@cpsc.gov>]
Sent: Friday, September 30, 2011 12:50 PM
To: billrob@comcast.net
Cc: Toro, Mary; Cohen, Neal
Subject: RE: Message from Email Form

Bill,

The VBGA (Pub. Law 110-140) Section 1403 simply defines the 'term' ASME/ANSI within the Act. Section 1404 (b) requires that all drain covers manufactured, distributed, or entered into commerce meet the performance requirements of the ASME/ANSI standard..or **any successor standard**...regulating such drain covers. The Commission voted at the end of July to incorporate ANSI/APSP-16 as the successor standard to the ASME standard, effective Sept. 6, 2011.

Troy Whitfield
Mechanical Team Lead
Regulatory Enforcement
U.S. Consumer Product Safety Commission
(301) 504-7548 (tel)
(301) 504-0359 (fax)

From: emailform@cpsc.gov [<mailto:emailform@cpsc.gov>]
Sent: Thursday, September 29, 2011 2:54 PM
To: Section 15
Subject: Message from Email Form

09/29/2011 14:53:37

Name = Bill Robertson
Organization/Affiliation = Bill Robertson Pool Design
Daytime Phone = 2483484960
E-mail address = billrob@comcast.net

Message = I am aware of the recent change adopted yesterday in unblockable drains. We seem to have a multitude of interpretations be various States giving them free reign to dictate and then the change in unblockable for whatever reason. Public Law 110-140 Section 1403 specifically States, "ASME/ANSI". Just to be clear the beginning of the month you amended the Law to now follow ANSI/APSP-16 2011. There are also sections in 1401 which defer to A112. Is 1401 now being amended and revoted on by the Legislature to include ANSI/APSP 16 into Public Law? It is my understanding that the Law must include the standard. Thanks Bill

*****!!! Unless otherwise stated, any views or opinions expressed in this e-mail (and any attachments) are solely those of the author and do not necessarily represent those of the U.S. Consumer Product Safety Commission. Copies of product recall and product safety information can be sent to you automatically via Internet e-mail, as they are released by CPSC. To subscribe or unsubscribe to this service go to the following web page: <https://www.cpsc.gov/cpsclist.aspx> *****!!!

Stevenson, Todd

From: Center, Information
Sent: Friday, September 30, 2011 3:28 PM
To: OS - Office of the Secretary
Cc: Wolfson, Scott; Filip, Alexander; Fleming, Nychelle
Subject: FW: Message from Email Form

Todd,

For your review.

Thanks

Maureen

From: emailform@cpsc.gov [mailto:emailform@cpsc.gov]

Sent: Thursday, September 29, 2011 9:51 PM

To: Center, Information

Subject: Message from Email Form

09/29/2011 21:50:19

Name = Carol Cameron

Organization/Affiliation =

Daytime Phone = 813 253-3671

E-mail address = carolcameron@gmail.com

Message = Would you please reconsider your vote regarding new guidelines for drain covers for public pools? I am 72 year old lap swimmer in my city public pool that is over 30 years old. Due to budget cuts, we have been fighting to keep the pool open. I live in Florida and since the pool is heated, swim all year. Your new regulation will certainly mean the pool will close and there is no money to build a new one. I have to swim since I have health issues that prevent me from other exercise. Please realize the "law of unintended consequences" applies here. In an attempt to MAYBE make the pools safer, thousands of swimmers will no longer be able to swim. Is there any chance that you will reconsider your vote? I am heartsick about the new guidelines! Please, please reconsider.

Stevenson, Todd

From: Howsare, Matt
Sent: Monday, October 03, 2011 8:28 AM
To: Stevenson, Todd
Subject: Fw: Message from Email Form

From: emailform@cpsc.gov [mailto:emailform@cpsc.gov]
Sent: Friday, September 30, 2011 04:07 PM
To: Chairman
Subject: Message from Email Form

09/30/2011 16:07:22

Name = John Riley
Organization/Affiliation = City of Frisco
Daytime Phone = 972-670-3873
E-mail address = jriley@friscotexas.gov

Message = Dear Chairman Tenenbaum:

I want to congratulate you and the commission for your reversal in defining "unblockable". I read your letter from the original commission approval as to why you could not support the decision and it was if I had read my own letter. I'm sure you and the others disapproving the definition are under pressure, especially Mr. Adler who changed his mind, but please reassure them both there are others that feel you got it right this time. Below I have attached an email that I sent to the CPSC during the original review process. It never made the website and I never received a reply to the other emails I sent asking if it was received and or forwarded to the right department. In any case, if you read my correspondence below, you will see that there were several items we would require prior to considering approval of a single main drain suction system. Approval would include a scenario of what we might consider as a version of an "unblockable" sump in conjunction with other required conditions.

Please let the other commissioners know how much we appreciate your hard work and the integrity you have shown in making this decision.

Best Regards,

John Riley

Building Inspector
Multi-Family Coordinator
City of Frisco
Development Services
Building Inspections Division
6101 Frisco Square Blvd, 3rd Floor
Frisco TX, 75034
972-292-5378
Fax 972-292-5388
jriley@friscotexas.gov
www.friscotexas.gov
ATTACHED PREVIOUS CORRESPONDENCE BELOW
Dear Sirs:

I have not received a response to the last two emails forwarded to the CPSC (please read below). It might be that they are not being forwarded to the right department. I used a link provided in the Staff Draft Technical Guidance on Unblockable Drains, July 2009 (due by August 5, 2009) which defaults to os@cpsc.gov This morning, I was using a different link and it defaulted to cpsc-os@cpsc.gov. In any case, could someone please reply to the email below as it is extremely frustrating

to take the time and effort to reply to your requests for comments using your websites referenced links and not be included in the referenced comment data.

Thank you,
John Riley

Health Inspector
City of Frisco
Development Services
Health & Food Safety
6101 Frisco Square Blvd, 3rd Floor
Frisco TX, 75034
972-292-5378
Fax 972-292-5388
jriley@friscotexas.gov
www.friscotexas.gov

From: John Riley
Sent: Thursday, September 10, 2009 10:55 AM
To: 'os@cpsc.gov'
Subject: FW: Unblockable Drain Guidance

Dear Sirs:

I would like to know why my comments sent to you on July 30th (see original email below) are not contained in CPSC website link.
"Public Comments Received (Comments 1 through 69, August 11, 2009) on Technical Guidance on Unblockable Drains (July 2009 CPSC Staff Draft)"
Thank you,
John Riley

Health Inspector
City of Frisco
Development Services
Health & Food Safety
6101 Frisco Square Blvd, 3rd Floor
Frisco TX, 75034
972-292-5378
Fax 972-292-5388
jriley@friscotexas.gov
www.friscotexas.gov

From: John Riley
Sent: Thursday, July 30, 2009 4:30 PM
To: 'os@cpsc.gov'
Cc: Health
Subject: Unblockable Drain Guidance

Office of the Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
Suite 105

Dear Sirs:

This reply is in response to your request for public comments regarding guidance on unblockable drains. Although the definition of an unblockable includes the requirements of an approved cover/grate, sump, and fasteners, there is no

requirement for a secondary form of safety such as an SVRS, or the operation of the suction system not to exceed the approved flow rate of the cover/grate. The focus of the definition seems to heavily lean towards the size of the cover/grate both rectangular (minimum 18x23) or diagonal (minimum 29") as means to render it unblockable by the human body with the condition that if the cover/grate is missing, it is then no longer unblockable.

Our training over the last 5 years (State, National, Products, and Professional Organizations) has documented and shown that most drowning deaths from suction entrapment are due to a single suction outlet system with no additional protection such as an SVRS and the main drain cover was broken or missing. We do not see how a single main drain regardless of its size is safe when the cover is broken or missing. Meaning, a 29" diagonal or 18"x23" cover/grate is no safer than a 10" round when it has a missing cover. We have not heard or seen proof of any drowning by suction entrapment where there have been dual drain suction systems with approved covers, sumps, 3 ft separation and an approved SVRS.

We might feel more comfortable regarding an approved single unblockable suction system is if it met the following conditions:

1. Was approved by the Texas Department of State Health Services
2. Was installed with an approved cover, sump and fasteners
3. Was installed with pump size not to exceed the approved flow rate of the cover/grate
4. The cover and sump were large enough to allow it to be plumbed with dual pipe fittings installed at bottom or sides of sump, hydraulically balanced piping from the sump to the single suction line, with minimum of 3 ft separation between the pipe outlets attached to the sump.

With the above scenario, we feel there is a better chance to avoid suction entrapment, if the cover/grate were to become broken or missing, because there would be two areas of suction within the sump separated 3 ft apart.

Thank you for your consideration.

Best Regards,
John Riley

Health Inspector
City of Frisco
Development Services
Health & Food Safety
6101 Frisco Square Blvd, 3rd Floor
Frisco TX, 75034
972-292-5378
Fax 972-292-5388
jriley@friscotexas.gov
www.friscotexas.gov

UNBLOCKABLE DRAIN LETTERS

(Received in the Secretariat September 23 - 26, 2011)

UNBLOCKABLE DRAIN LETTERS

(Received in the Secretariat September 22 and 23, 2011)

Stevenson, Todd

From: Taylor, Linda
Sent: Friday, September 23, 2011 12:10 PM
To: Stevenson, Todd; Little, Barbara
Subject: FW: U Drains

From: Walt Sanders [<mailto:wsanders@vmqthehill.com>]
Sent: Tuesday, September 20, 2011 2:56 PM
To: Taylor, Linda
Subject: RE: U Drains

Linda,

I represent Harry Newhard, of Worldwide Sports, LLC on the unstoppable drain issue. He is coming into down from St. Louis next Monday and would like to meet with either Michael or Pamela on Monday, September 26 on the issue of why revoking the interpretative rule on unstoppable drain would cause his business economic injury. Could you please see if Michael or Pamela could meet with him?

His information is below.

Harry W. Newhard
Worldwide Sports LLC
2 Pebble Creek Road
St. Louis, MO 63124

Walt A. Sanders
Vice President Law & Government Affairs
Van Fleet Associates, Inc.
1800 Diagonal Road, Suite 600
Alexandria, VA 22314
(703) 647-7504 (Main Phone)
(703) 647-7522 (Direct Phone)
(703) 728-2431 (cell)
(703) 647-7531 (fax)

From: Harry Newhard [<mailto:newhard@firstadvisers.net>]
Sent: Tuesday, September 20, 2011 2:51 PM
To: wsanders@vmqthehill.com
Subject: RE: U Drains

I will try to get there Sun. evening [9/25 for a meeting Mon. [9/26].I think its very important to have commissioners or staff in attendance as the CPSC guys have heard my story before and might consider me a pest. Harry

Harry W. Newhard
Worldwide Sports LLC

2 Pebble Creek Road
St. Louis, MO 63124
newhard@firstadvisers.net
www.worldwidesportsllc.com
314-692-8001 Office
314-692-8004 Fax

From: Walt Sanders [<mailto:wsanders@vmgthehill.com>]
Sent: Tuesday, September 20, 2011 12:56 PM
To: newhard@firstadvisers.net
Subject: RE: U Drains

I can try and set up a meeting with Troy Whitfield and other Compliance staff, and possibly Commissioners staff, for Monday, September 26 if you think you can travel to the Washington, DC area.

Walt A. Sanders
Vice President Law & Government Affairs
Van Fleet Associates, Inc.
1800 Diagonal Road, Suite 600
Alexandria, VA 22314
(703) 647-7504 (Main Phone)
(703) 647-7522 (Direct Phone)
(703) 728-2431 (cell)
(703) 647-7531 (fax)

From: Harry Newhard [<mailto:newhard@firstadvisers.net>]
Sent: Tuesday, September 20, 2011 1:47 PM
To: wsanders@vmgthehill.com
Subject: RE: U Drains

Walt; TNX, I would like to proceed Harry

Harry W. Newhard
Worldwide Sports LLC
2 Pebble Creek Road
St. Louis, MO 63124
newhard@firstadvisers.net
www.worldwidesportsllc.com
314-692-8001 Office
314-692-8004 Fax

From: Walt Sanders [<mailto:wsanders@vmgthehill.com>]
Sent: Tuesday, September 20, 2011 12:07 PM
To: newhard@firstadvisers.net
Subject: FW: U Drains

Harry,

Please see note below from Linda Taylor, who works for Commissioner Moore. Apparently, my rabble rousing has caused the Commission to delay the decision for a week on unblockable drains. This may give us an opportunity to present our case. That is, if you are willing to come to meet with the CPSC staff early next week.

However, I cannot proceed further to represent you without an engagement agreement. If you want to retain my services as a CPSC outside counsel, I will send you an engagement agreement. My billing rate is \$300 per hour. Please let me know if you would like to proceed.

Walt A. Sanders
Vice President Law & Government Affairs
Van Fleet Associates, Inc.
1800 Diagonal Road, Suite 600
Alexandria, VA 22314
(703) 647-7504 (Main Phone)
(703) 647-7522 (Direct Phone)
(703) 728-2431 (cell)
(703) 647-7531 (fax)

From: Taylor, Linda [<mailto:LTaylor@cpsc.gov>]
Sent: Tuesday, September 20, 2011 12:28 PM
To: 'wsanders@vmgthehill.com'
Subject: U Drains

Hi Walt,

Regarding your call yesterday, there will NOT be a decision tomorrow morning on Unblockable Drains. It will now occur Sept. 28.

Take care,
Linda

*****!!! Unless otherwise stated, any views or opinions expressed in this e-mail (and any attachments) are solely those of the author and do not necessarily represent those of the U.S. Consumer Product Safety Commission. Copies of product recall and product safety information can be sent to you automatically via Internet e-mail, as they are released by CPSC. To subscribe or unsubscribe to this service go to the following web page: <https://www.cpsc.gov/cpsclist.aspx> *****!!!

Stevenson, Todd

From: Howell, Robert
Sent: Thursday, September 22, 2011 4:30 PM
To: Mallory, Meredith; Stevenson, Todd
Cc: Whitfield, Troy; Hinson, Kenneth; Falvey, Cheryl; Ray, DeWane
Subject: RE: Drain [unblockable] Cover Manufacturers

Importance: High

Meredith – In keeping with the direction provided in this morning's email from General Counsel, I am forwarding your question to Todd, with a copy to Kenny, Cheri, DeWane and me.

We will provide a response as soon as possible.

Regards,

Robert J. Howell, Jr
Deputy Executive Director, Safety Operations
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, Maryland 20814
phone (301) 504-7621
fax (301) 504-0407
e-mail: rhowell@cpsc.gov

From: Mallory, Meredith
Sent: Thursday, September 22, 2011 4:14 PM
To: Whitfield, Troy; Howell, Robert
Subject: RE: Drain [unblockable] Cover Manufacturers
Importance: High

Troy, can you provide us the emails of these key contacts? I figured you must have them. We really may not have the time (and it's less efficient) to call each one. Thank you!

m

From: Whitfield, Troy
Sent: Thursday, September 22, 2011 2:47 PM
To: Mallory, Meredith; Avitabile, Gregg; Levine, Jason; Fong-Swamidoss, Jana; Gougisha, Michael; Howsare, Matt; Duncan, Janell; Kaye, Elliot; Martyak, Joseph; Cardon, Nathan
Cc: Elder, Jacqueline; Howell, Robert; Falvey, Cheryl; Hinson, Kenneth
Subject: Drain [unblockable] Cover Manufacturers

Meredith,

Per your request, the attached list of manufacturers offer unblockable drain covers.

Troy Whitfield
Mechanical Team Lead
Regulatory Enforcement
U.S. Consumer Product Safety Commission
(301) 504-7548 (tel)

(301) 504-0359 (fax)

From: [Steve Dunn](#)
To: [Fellin, Mark](#); [Little, Barbara](#); [Falvey, Cheryl](#); [Lee, Dorothy](#); [Moore, Autumn](#); [Chao, Phillip](#); [Adler, Robert](#); [Wolfson, Scott](#); [Taylor, Linda](#); [Northup, Anne](#); [Tenenbaum, Inez](#); [Nord, Nancy](#); [Moore, Thomas](#)
Cc: [Whitfield, Troy](#); [Harry Newhard](#); wsanders@vmgthehill.com
Subject: Unblockable drains
Date: Friday, September 23, 2011 12:58:46 PM
Attachments: [CPSC Unblockable Letter September 19 2011.pdf](#)

September 23, 2011

To CPSC Commissioners, Counsels and other team members:

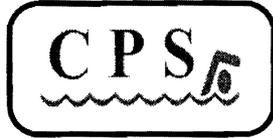
Attached is correspondence I had forwarded previously this week to Troy Whitfield's attention regarding the repeal of the definition of "Unblockable Suction Cover/Sump."

We forward this information to all parties in preparation of your meeting with Walt Sanders of Van Fleet Associates, Inc. and Harry Newhard Worldwide Sports, LLC.

We appreciate your review of our letter and consideration of its content in making your decision regarding the definition of "Unblockable".

The repeal of the "Unblockable" does not provide any guidance regarding channel drains which measure approximately 3" x 31". As it stands now the repeal leaves a gray area which will lead to much confusion.

Steve Dunn
Commercial Pool Systems, Inc.
Phone & Fax: 925-938-7665
Email: Steve@CommercialPoolSystems.com



Commercial Pool Systems, Inc.

252 Appalachian Drive Martinez, CA 94553

Voice/Fax: 925-938-7665

E-Mail: Sales@CommercialPoolSystems.com

Contractor's License # 794637

September 19, 2011

Troy Whitfield
Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Subject: Virginia Graeme Baker Pool and Safety Act; Unblockable Drain Rule

Dear Troy Whitfield:

I am considered an expert in several areas pertaining to the aquatics industry. In addition to water quality, recreational illnesses and hydraulics is entrapment. I have been involved with entrapment/anti-entrapment hydraulics, education and training for over eleven (11) years. I have been educating the aquatics industry for approximately 10 years to the issues of hydraulics, entrapment and anti-entrapment.

I applaud the CPSC for requiring anti-entrapment suction covers be retested and issuing a recall. I have been espousing for over two (2) years that I anticipated a major recall would occur. The recall was very poorly written and has presented many problems with complying.

Now the CPSC has plans on repealing its definition of an unblockable suction cover fitting and sump. I again applaud the CPSC for acting prudently in reversing its current definition of an unblockable drain. I personally believe your first definition was based upon being uneducated at that time and it was irresponsible toward providing a safe environment in the aquatics industry.

However, your current viewpoint that every single suction outlet will require a secondary device because all covers may become dislodged/loose and/or broken is now going to the extreme.

I understand that the code/law needs to be simplified enough so that all parties are able to understand and comply with the law, and simplifying it allows for easier compliance verification. However, your new definition is not taking into consideration the number of fasteners or the quantity or quality of the construction material.

Examples:

Covers with only two (2) fasteners/screws definitely have the ability of one (1) of them becoming loose and missing allowing for the cover to spin on the remaining fastener/screw revealing the sump and suction pipe.

When the ASME A112.19.8 standard became in effect I reviewed it and found that it was well written and an excellent start. Like all documents/standards, it needed to be a work in progress. One of the items which I found to be deficient was the minimum number of fasteners/screws required.

Covers should have a minimum of four (4) screws.

It is extremely remotely possible that all four fasteners/screws would become loose or missing at the same time. With a minimum of only three(3) fasteners/screws will prevent a cover from rotating and exposing the sump and suction pipe. A cover cannot rotate with two fasteners/screws. The requirement to have a minimum of four fasteners/screws increases the safety factor.

There are several anti-entrapment suction covers manufactured which have a minimum of four (4) fasteners, some even have as many as eight (8).

Again, I definitely agree with the CPSC repealing its definition of unblockable drains. I firmly believe covers which are 24" x 24" and channel drains which measure approximately 3" x 31" are an entrapment hazard. However, I also believe that there are anti-entrapment covers manufactured which are unblockable, such as the Neptune Benson 30" x 30", Lawson Aquatics 18" x 36" or even an existing channel drain which measures 14.5" x 30' (feet).

This thirty (30) foot channel drain has only a single suction port underneath it. The existing flow rate is such that its velocity is a fraction of one (1) feet per second (fps). Grates, covers and sumps of this size are unblockable and extremely safe due to its size and very low flow and velocity.

Your new requirement that all single drain suction be equipped with one of five (5) secondary devices based upon the argument that all covers may crack or break is not taking into consideration the quantity of material used to construct the suction cover nor the type or properties of the materials used in construction. The most common materials that have been used to date are:

- ABS Plastic
- Schedule 40 PVC Plastic
- Schedule 80 PVC Plastic
- Schedule 40 CPVC Plastic
- Schedule 80 SPVC Plastic
- Polypropylene
- Fiberglass
- Stainless Steel

I am not a chemistry or plastics expert but covers made of ABS plastic should not be allowed to a life span of three (3) years as opposed to the life span of some of these inferior covers with a 5, 7, 8 or even 10 year life span as currently rated.

Polypropylene and all of the above mentioned PVC/CPVC plastics have excellent characteristics/compatibility with chemically treated water that we find in the aquatics environment. These products also have excellent ultra-violet (UV) and heat resistance. These products should not crack or break during their lifespan, provided the lifespan is reasonable. With a reasonable lifespan assigned these covers will exceed their lifespan providing a built in safety factor.

Fiberglass is far superior to all of the plastics and stainless steel is even better. Covers manufactured of these materials should be allowed to have longer life spans. Again, these products will not crack or break during their lifespan.

The following is a partial list of suction covers which are made of superior materials, of sufficient size to prevent entrapment, and have a minimum of four (4) fasteners.

Neptune Benson Aegis AEC3030, (30" x 30")
Lawson Aquatics MLD-FGD-1836 and larger, (18" x 36")

We will be happy to provide specification sheets or other materials regarding these or any other suction covers.

We also recommend the CPSC confer with plastics and other material experts to ascertain the property characteristics and qualities of each type of material currently being used for the manufacture of anti-entrapment suction covers. To avoid biased opinions we recommend that these experts not be employed with any aquatics industry manufacturer.

Please reconsider your new proposed requirement that all single drain suction ports require a secondary device.

Again, don't get me wrong, I am very much a proponent & believe very firmly in layers of protection and constantly promote their use. However, this new proposed requirement is going to cost a lot of safe facilities to expend unnecessary funds.

Sincerely,

Steve Dunn
Vice-President

CC: Scott Wolfson



September 23, 2011

Mr. Troy Whitfield
Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Re: Revocation of the Interpretative Rule "Unblockable Drain"

Dear Mr. Whitfield:

Westport Pools has been in business since 1967 and is an aquatic construction and service company serving an 8 state area in the Midwest. We have built commercial aquatic facilities ranging from hotel pools to municipal aquatic centers to high level Olympic and NCAA competition facilities. Our sister company Midwest Pool Management operates 60+ commercial facilities employing over 1,500 lifeguards in the St. Louis and Kansas City area.

We urge the CPSC to NOT revoke the interpretative rule on "unblockable drains as suggested in 16CFR Part 1450.

There is absolutely no scientific or empirical data available that justifies the revocation of this rule. According to the National Swimming Pool Foundation: since the implementation of the Virginia Graeme Baker Act there have been no entrapment fatalities or serious injuries. **NOT ONE!**

According to the information sent out by the CPSC on September 7, 2011 consideration of this revocation is based on the receipt of 156 letters! 156 letters are swaying the CPSC to consider a very costly and unneeded regulatory requirement solely based on an assumption that drain covers can be broken or come off. Who are the letters from? Would 157 letters opposed to revocation be enough to stop this action?

It is our experience building, operating and servicing swimming pools for the past 47 years that the installation of safety vacuum release systems provides a false sense of security. We have also seen dozens of them disabled by the pool owner's maintenance personnel because of the unreliability of the systems.

In May immediately prior to the summer swimming season the CPSC irresponsibly recalled VGBA compliant grates which placed an impossible burden on swimming pool owners. Since the replacement grates were not even available, the pool owners were faced with the choice of not opening or open in violation of the rules.

Now the CPSC is considering yet another regulation that will most assuredly force the closure of many swimming pools across the country due to the financial burden that imposed thus denying the opportunity for millions of people to learn how to swim. This will especially affect economically disadvantage areas. Some of the facilities we built and operate will be faced with over \$10,000 - \$15,000 in additional expense.

WESTPORT POOLS

How many of the hundreds of lifeguards that we have operating inner city pools in Kansas City will be unemployed next year because the city will not have the funds to make the modifications required to comply with this revocation? How many children will be denied wholesome leisure time activities and the opportunity to learn to swim because the local pool is shut down due to 156 letters received by the Consumer Safety Product Commission?

Words do not exist that express how strongly we feel about the potential damage that will result should revocation of this rule be enacted.

We appreciate your careful consideration of our concerns and should you need additional information, please do not hesitate to contact us.

Sincerely,



James H. Bastian
Chairman

CC: U.S. Consumer Product Safety Commission
Cheryl Falvey, General Counsel
Ken Hinson, Executive Director
✓ Neze Tenenbaum, Chairman
Robert Alder, Commissioner
Thomas Moore, Commissioner
Nancy Nord, Commissioner
Anne Northup, Commissioner



Healthy Pools. Healthy Bodies

September 20, 2011

Mr. Troy Whitfield
Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Dear Mr. Whitfield:

RE: Revocation of the Interpretative Rule “Unblockable Drain”

The National Swimming Pool Foundation[®] (NSPF[®]), founded in 1965, is a 501(c)(3) non-profit organization dedicated to improving public health worldwide by attracting more people to safe aquatic environments and encouraging healthier living through aquatic education and research. NSPF is the leading research funder and educator for pool and spa professionals who service and operate public and private pools and spas and for public health officials who are responsible for pool safety. This research is disseminated via the World Aquatic Health Conference, which NSPF hosts, and the International Journal of Aquatic Research & Education, which NSPF publishes in partnership with Human Kinetics.

The Foundation works toward its educational mission with leading training programs like Certified Pool/Spa Operator[®] certification training, Certified Pool/Spa Inspector online training, and the Pool & Spa Safety Act online training developed under contract with the CPSC. The Foundation has certified over 300,000 pool operators, managers, and health officials since 1965. In 2010 alone, over 25,000 people were trained.

Please do not revoke CPSC’s interpretative rule on “unblockable drain” as suggested in 16CFR Part 1450. This position is justified based on three arguments:

1. Since the Pool & Spa Safety Act (P&SSA) was enacted, there have been no U.S. entrapment fatalities and no serious injuries to justify implementing a costly new requirement.
2. The unintended consequences of revoking this rule may increase the risk of drowning, thus conflicting with the intent of the law.
3. This change will create confusion in the market with no net benefit.

These justifications are further clarified below.

1.Lack of Scientific Support to Implement

There have been no U.S. entrapment fatalities or serious injuries since the Pool & Spa Safety Act was enacted to justify implementing a costly new requirement. As a result, there is no scientific evidence to justify adding another level of protection when compliant unblockable drain covers have been used.

2.Unintended Consequences May Increase Drowning Risk

The unintended consequences of this change may increase the risk of drowning, thus conflicting with the intent of the P&SSA. The nation has suffered the most severe economic recession since the Great Depression. Though justified, the Pool & Spa Safety Act and the Americans with Disabilities Act have placed an additional burden on aquatic facilities during a financially vulnerable time. In addition, the CPSC issued a recall prior to the 2011 swim season that resulted in new resource challenges for facilities to comply with the P&SSA.

Changing the P&SSA interpretation to require an additional level of protection for pools protected with compliant “unblockable drains” - when there are no failures that resulted in serious morbidity or mortality - places another financial burden on aquatic facilities. In contrast, this new requirement will provide a financial benefit to “safety equipment manufacturers” and “pool service/construction” companies. However, that benefit is at the expense of the aquatic facilities, making them more vulnerable to closure and thus shrinking the markets for manufacturers over time.

The National Drowning Prevention Alliance reported that for the period May 1, 2011, through August 26, 2011, a total of 1,592 drownings were noted by local media outlets. Public swimming pools play a key role in helping the general population learn to swim and for lifeguards to become trained and certified. Increasing arbitrary costs during difficult financial times has resulted in pool closures. Tragically, closures are more likely in economically-disadvantaged regions where drowning is a greater risk. Pool closures reduce the opportunity for many people to learn to swim, potentially increasing the risk of drowning. Thus arbitrary rule changes that impart cost should be avoided.

3.Confusion with No Net Benefit

The CPSC has funded several millions of dollars with contractors to create and disseminate educational materials to consumers, industry, and health officials. Changing the interpretation after all training contracts have ended will create confusion. Additional confusion may occur since there have been no serious injuries or deaths, suggesting that the proposed rule change would be ill-justified.

This rule change and resulting pool closures provides another drawback that is in direct conflict with the commitments of the President of the United States and both Houses of Congress. Our representatives are in debate on how to stimulate the economy to create jobs. It appears to be a direct conflict of the wishes of our elected officials to implement a rule change with no net benefit that may increase drowning risk AND may increase unemployment.

NSPF respectfully asks that the CPSC reject the revocation of this interpretive rule until scientific evidence justifies the change and can demonstrate the change will not increase drowning risk.

Respectfully,



Thomas M. Lachocki, Ph.D.
Chief Executive Officer
National Swimming Pool Foundation
4775 Granby Circle
Colorado Springs, Co 80919-3131
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Ken Hinson, Executive Director
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Robert Alder, Commissioner
Thomas Moore, Commissioner
Nancy Nord, Commissioner
Anne Northup, Commissioner

The Honorable Doug Lamborn, Colorado 5th Congressional District