

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

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