

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).

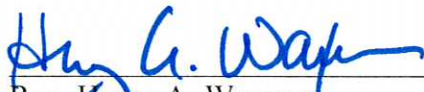
“unblockable” due to concerns that the covers do not in fact protect against entrapment hazards.² An additional layer of protection will ensure that children are protected when so-called “unblockable” drain covers fail to work.

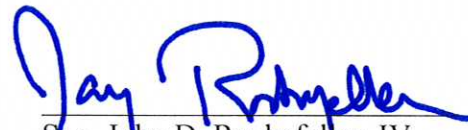
The Commission has already established an ample record on this issue. All interested parties were offered an opportunity to be heard through comments beginning in July 2009 and at a public hearing in November 2009.³ Moreover, we understand that over the last year, members of industry and safety advocates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



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



Mark Pryor
Chairman
Senate Subcommittee on Consumer Protection,
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Senate Commerce, Science &
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Member of Congress



Richard J. Durbin
United States Senator



Debbie Wasserman Schultz
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Bill Nelson
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James A. Himes
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Richard Blumenthal
United States Senator