



International Association
of Amusement Parks and
Attractions

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Office of the Secretary
Consumer Product Safety Commission
Room 820
4330 East West Highway
Bethesda, MD 20814
Submitted electronically: www.regulations.gov

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Re: Docket No. CPSC–2011–0071

The International Association of Amusement Parks and Attractions (IAAPA) is the largest trade association for permanently situated amusement facilities and attractions. IAAPA represents more than 4,000 facility, supplier, and individual members in the U.S. Member facilities include amusement and theme parks, waterparks, attractions, family-entertainment centers, arcades, zoos, aquariums, museums, science centers, resorts, and casinos. Among our members are very large, multi-location facilities as well as small, single-site, family-owned operations.

There are more than 1,000 waterparks in North America, serving over 85 million guests annually. Waterparks are operated by both large and small companies, municipalities, hotel resorts and community centers. They employ between 20 and 5,000 workers per park. Safety is the number one priority for the waterpark industry, and we support the intent of the Virginia Graeme Baker Pool and Spa Safety Act (VGB). The waterpark industry currently employs many safe anti-entrapment features and practices such as the use of larger, unblockable drains as the industry avoids direct, single suction drain systems.

IAAPA appreciates the opportunity to comment on the September 28 vote to repeal the Commission's interpretation of "unblockable drain".

As IAAPA and the World Waterpark Association noted in their September 20 letter to the Commission, the Commission's vote and the subsequent Federal Register notice generated confusion in the waterpark industry. Under the VGB, drains larger than 18" x 23" are considered to be "large unblockable drains", and do not need additional anti-entrapment devices. The Commission's September 28 vote, and subsequent Federal Register notice has left waterpark operators questioning if their large unblockable drains require secondary anti-entrapment devices, if they will need to remodel their pool drain systems, and when the Commission will stop changing the rules.

The implementation of the VGB has been riddled with obscurities for the waterpark industry, but the industry has found a way to comply despite ever-changing interpretations, guidances, and other regulatory and sub-regulatory procedures.

We believe by repealing the Commission's previous interpretation of "unblockable drain", the Commission intends to address situations where a cover intended for a large unblockable drain is affixed to a smaller drain system. To best address these situations, the waterpark industry recommended the Commission not repeal its interpretation of unblockable drain, but instead clarify the previous interpretation to include additional guidance on the requirements for blockable drains until such time that the APSP-16 revision is released. To this end, we submitted suggested language that will accomplish the Commission's goal of preventing facility owners from attaching a cover intended for large unblockable drain on a smaller drain system. The Commission did not address our proposed language, and voted to issue the Federal Register notice as drafted.

We are disappointed the Commission did not provide an opportunity to offer comments on the revocation of the existing interpretation prior to the vote. IAAPA only learned of the impending vote through waterpark industry sources. Additionally, we are disappointed the Commission only sought public comment on the implementation deadline of this change, and not on the interpretation change itself. The Commission's interpretative rule on unblockable drains was issued after lengthy deliberations, including issuance of a proposed position, invitation of public comments, consideration of those comments, and a public hearing. The reversal of the rule was decided without any opportunity for stakeholder input.

It is important to note that there is no record of an entrapment incident occurring in a pool that complied with the previous interpretative definition of unblockable drain, and no evidence that the revocation of that interpretation will do anything to improve pool safety. The incidents that are so widely cited by certain members of the Commission, legislators, and safety advocates occurred in private swimming pools, which are not subject to the VGB.

As far as the implementation deadline of May 28, 2012 is concerned, IAAPA thinks the new requirements should apply prospectively to pools that are built or undergo major renovation after the deadline.

Pool owners spent millions of dollars to make their drain systems compliant with the VGB in 2008. The week before Memorial Day 2011—traditionally the start of the outdoor swimming season in the U.S.—many pool owners had to scramble to find suitable replacement drain covers in order to open their pools, due to a massive drain cover recall. Now, some pool operators will need to change their drain systems a third time, in order to comply with the re-interpreted definition. Pool operators were not trying to skirt the law, and were acting legally and with the best of intentions, why should they continue to bear the financial burden of the Commission's indecision?

In conclusion, IAAPA is disappointed with both the result of the Commission's vote, and concerned with the precedent it sets. While it is still too early to accurately assess the impact of the new interpretative definition on the waterpark industry, we are concerned with disregard for the

Administrative Procedure Act the Commission demonstrated by not consulting stakeholders or even the APSP technical committee before making frequent regulatory changes that will have real financial and potential safety impacts for the pool and spa industry.

Respectfully,

A handwritten signature in cursive script that reads "Stephanie See".

**Stephanie See
Director, Safety & Advocacy**