



UNITED STATES
 CONSUMER PRODUCT SAFETY COMMISSION
 4330 EAST WEST HIGHWAY
 BETHESDA, MD 20814

BALLOT VOTE SHEET

Date: **OCT - 7 2009**

TO : The Commission
 Todd A. Stevenson, Secretary

THROUGH: Cheryl A. Falvey, General Counsel *CAF*
 Maruta Budetti, Executive Director *MB*

FROM : Philip Chao, Assistant General Counsel *PC*
 Barbara E. Little, Attorney *BEL*

SUBJECT : Unblockable Drain Hearing

BALLOT VOTE Due: OCT 15 2009

Attached is a draft *Federal Register* notice to announce that the Commission will hold a public hearing on November 4, 2009, on the "July 2009 CPSC Staff Draft Technical Guidance on Unblockable Drains."

Please indicate your vote on the following options.

I. Approve the attached draft *Federal Register* notice as drafted.

 Signature Date

II. Do not approve the draft *Federal Register* notice.

 Signature Date

Note: This document has not been reviewed or accepted by the Commission.
 Initials RLH Date 10/7/09

~~CPSA 6(b)(1) CLEARED for PUBLIC~~
~~NO MFRS/PRVT LBLRS OR~~
~~PRODUCTS IDENTIFIED~~
 — EXCEPTED BY: PETITION
 RULEMAKING ADMIN. PRCDG
 — WITH PORTIONS REMOVED: —

III. Approve the draft *Federal Register* notice with changes (please specify).

Signature

Date

IV. Take other action (please specify):

Signature

Date

Attachments: Draft *Federal Register* Notice – Virginia Graeme Baker Pool and Spa Safety Act;
Draft Technical Guidance on Unblockable Drains; Notice of Hearing

CONSUMER PRODUCT SAFETY COMMISSION

Virginia Graeme Baker Pool and Spa Safety Act; Draft Technical
Guidance on Unblockable Drains; Notice of Hearing

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of public hearing.

SUMMARY: The Consumer Product Safety Commission (Commission) will conduct a public hearing to receive views from all interested parties about the draft guidance for industry entitled "July 2009 Staff Draft Technical Guidance on Unblockable Drains." The guidance specifies requirements for a drain cover, such that, when attached to a drain, it constitutes an unblockable drain. The Commission invites public participation at the hearing. Oral presentations concerning the Unblockable Drain guidance should be limited to approximately ten minutes and will become part of the public record.

DATES: The public hearing will begin at 9 a.m. on November 4, 2009. Requests to make oral presentations and the written text of any oral presentations must be received by the Office of the Secretary not later than 5 p.m. Eastern Standard Time (EST) on October 28, 2009.

ADDRESSES: The hearing will be in the Hearing Room, 4th Floor of the Bethesda Towers Building, 4330 East West Highway, Bethesda,

Maryland 20814. Requests to make oral presentations and texts of oral presentations should be captioned "Unblockable Drain Guidance" and sent by electronic mail ("e-mail") to *cpsc-os@cpsc.gov*, or mailed or delivered to the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814, no later than 5 p.m. EST on October 28, 2009.

FOR FURTHER INFORMATION CONTACT: For information about the public hearing or to request an opportunity to make an oral presentation, please send an e-mail, call, or write Todd A. Stevenson, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814; e-mail *cpsc-os@cpsc.gov*; telephone (301) 504-7923; facsimile (301) 504-0127. An electronic copy of the "July 2009 CPSC Staff Draft Technical Guidance on Unblockable Drains" can be found at <http://www.poolsafety.gov/unblockable.pdf>.

SUPPLEMENTARY INFORMATION:

The Virginia Graeme Baker Pool and Spa Safety Act (Pub. L. 110-140, 121 Stat. 1794 ("Act")) was signed into law on December 19, 2007. The Act is designed to prevent drain entrapments and eviscerations in pools and spas. Pub. L. No. 110-140. The law became effective on December 19, 2008. The Act defines an

"unblockable drain" as "a drain of any size and shape that a human body cannot sufficiently block to create a suction entrapment hazard." Section 1403(7) of the Act (15 U.S.C. 8002(7)).

In August 2009, CPSC staff announced the availability of Draft Guidance on what constitutes an "unblockable drain" under the Act and asked for written comments concerning the draft guidance from interested persons ("July 2009 CPSC Staff Draft Technical Guidance on Unblockable Drains," <http://www.poolsafety.gov/unblockable.pdf>). The Commission received comments in support of and in opposition to the staff guidance, in addition to some technical comments concerning the guidance itself. For example, some commenters pointed out that, in addition to the size requirements of the unblockable drain cover, the guidance should stress the importance of proper flow rates and the drain cover fastener integrity. CPSC agrees with these technical comments and intends to amend the guidance to include the following sentence: "In reaching this definition for an unblockable drain, the characterization of a suction fitting is taken from the standard to include the sump and cover as a unit, along with the following: (1) the blocking element dimensions and the diagonal measure to define a minimum size

requirement (in excess of 18" x 23" or a diagonal measurement greater than 29"); (2) the need for the remaining open flow area of the cover, once shadowed, to provide sufficient flow to prevent entrapment; and (3) the general requirements of the standard for fasteners and fastening integrity (i.e., the cover must stay in place)." Parties who wish to attend the public meeting should be aware of this contemplated change to the guidance when preparing their presentations. The Commission, through this notice, is announcing a public hearing to hear further from interested parties on the staff draft guidance, and the Commission reserves the ability to ask questions of presenters at the public hearing.

Persons who desire to make oral presentations at the hearing on November 4, 2009, should send an e-mail, call, or write Todd A. Stevenson, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814, e-mail cpsc-os@cpsc.gov, telephone (301) 504-7923, facsimile (301) 504-0127 not later than 5 p.m. EST on October 28, 2009. Presentations should be limited to approximately ten minutes.

Persons desiring to make presentations must submit the text of their presentations to the Office of the Secretary not later

than 5 p.m. EST on October 28, 2009. The Commission reserves the right to impose further time limitations on all presentations and further restrictions to avoid duplication of presentations. The hearing will begin at 9 a.m. on November 4, 2009, and will conclude the same day.

Dated:

Todd A. Stevenson, Secretary
Consumer Product Safety Commission