November 12, 2008

The Honorable Nancy A. Nord, Acting Chairman
U.S. Consumer Product Safety Commission
4330 East West Highway
Suite 502
Bethesda, MD 20814-4408

RE: Virginia Graeme Baker Pool & Spa Safety Act

Dear Chairman Nord:

On behalf of the National Multi Housing Council (NMHC) and the National Apartment Association (NAA), we are deeply concerned about a quickly approaching deadline for compliance with Section 1404 (b) of the Virginia Graeme Baker Pool & Spa Safety Act and urge the Commission to extend the December 19, 2008 effective date for 6 months.

NMHC and NAA represent the nation's leading firms participating in the multifamily rental housing industry. Our combined memberships are engaged in all aspects of the apartment industry, including ownership, development, management, and finance. Many of our member's communities include amenities such as pools and spas and therefore have much at stake in meeting these new requirements. The safety of our residents and their visitors is of critical importance and as such we feel the implementation of this new law should be done in thoughtful and responsible manner.

While our membership is diligently attempting to meet their compliance obligations to install drain covers that meet the ANSI/ASME A112.19.8-2007 standard on every drain and grate, it is becoming very clear that the supply of certified product is simply not meeting the demand. In a recent survey of apartment owners assessing their ability to meet the December 19, 2008 deadline, we found that more than 40 percent of respondents have placed orders for the required products, but have been informed they will not receive them in time to meet the December 19 deadline. Even more troubling is the level of misunderstanding that exists at the state and local government level about compliance obligations. It is unreasonable to expect full compliance by pool owners if the required product is not available and uncertainty at the state and local level persists.

In addition we are also learning of some unanticipated challenges such as state regulatory requirements requiring permits as well as licensed professionals to perform the work. Many of the installations or retrofits (if pool has a single main drain) require the contracting of services from licensed professionals which are in short supply at this time. Pool owners in Florida who keep their pools open year round plan to use licensed divers

to install the products. This will trigger additional OSHA compliance obligations that also have not been considered in the timetable for meeting the deadline.

For these and countless other reasons, we urge the Commission to delay enforcement of these requirements for 6 months or until such time the industry can be assured adequate product is available in the marketplace and installation or retrofits can be done in a safe and responsible manner.

We thank you for your prompt attention and consideration. If you have any questions, please feel free to contact Jeanne McGlynn Delgado, NMHC Vice President, Business and Risk Management Policy at 202-974-2344 or jdelgado@nmhc.org.

Sincerely,

Jim Arbury
Senior Vice President of Government Affairs
National Multi Housing Council

Douglas S. Culkin, CAE
President
National Apartment Association

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