U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

December 5, 2008

Dear State Attorney General:

The Virginia Graeme Baker Pool and Spa Safety Act (the "Act" or "P&SSA") standards for pool drain covers and requirements for public pools become effective December 19, 2008. As this deadline quickly approaches, the Commission's enforcement of the Act's provisions requires the cooperation of state and local agencies. We write to advise you of the Act's requirements and enlist your support in enforcement of the Act.

Section 1404(c)(1)(A)(i) of the Act requires each public pool and spa in the United States to be equipped with anti-entrapment devices or systems that comply with ASME/ANSI A112.19.8. The drain covers must comply with the most recent version of the ASME/ANSI A112.19.8 standard, or ASME/ANSI A112.19.8-2007. The drain covers on public swimming pools that meet any or all of the pre-2007 versions of ASME/ANSI A112.19.8 need to be replaced with drain covers meeting the ASME/ANSI A112.19.8-2007 standard on or before December 19, 2008.

Section 1404(c)(1)(A)(ii) of the Act requires each public pool and spa in the United States with a single main drain other than an unblockable drain to be equipped with one or more of the following devices or systems: safety vacuum release system, suction-limiting vent system, gravity drainage system, automatic pump shut-off system, or drain disablement.

The Commission announced on June 18, 2008 that it will not enforce the requirement of section 1404(c)(1)(A)(i) against public pools that are closed on December 19, 2008. These pools will not be in operation and, therefore, there is no possible entrapment hazard until they reopen in the spring and summer. The Commission issued this enforcement policy exception because there were not enough drain covers that complied with the ASME/ANSI A112.19.8-2007 standard for sale earlier this year. Given that compliant drain covers were not available for purchase, the Commission wanted to make sure that drain covers were available in locations where public pools would be open for use on December 19, 2008. Since announcing its enforcement policy, the Commission has maintained a list of manufacturers who claim to be selling compliant drain covers on its website at http://www.cpsc.gov/phth/draincman.html. It should be noted that any pool closed on December 19, 2008 will be subject to the requirements of section 1404(c)(1)(A)(i) once they reopen and must have an ASME/ANSI A112.19.8-2007 compliant drain cover upon reopening.

In advance of the effective date of the Act, the Commission needs your active support and assistance in monitoring compliance with the requirements of the P&SSA. We are aware that certain large and unblockable drain covers may not be available for sale until late November. This will have a significant impact on the ability of many owners and operators in your state to comply with the Act prior to December 19, 2008. We would appreciate your assistance in communicating to all affected owners and operators that they should make every effort to comply with the requirements of the Act, as new companies continue to bring compliant products to the marketplace which can meet the specifications of a particular pool or spa. Due to the lack of availability of certain drain covers, the Commission has had requests to phase-in compliance as drain covers reach the market. Those requests have not yet been resolved.

The P&SSA affects public pools and spas nationwide, but pool requirements are linked to uniquely local issues such as water quality or building code requirements. The involvement of state and local officials in enforcement is critical as we move forward. The Commission has designated Sean Ward (sward@cpsc.gov), in the Office of General Counsel, as a legal contact for coordinating enforcement and monitoring activities. Please feel free to contact him regarding your enforcement activities. Thank you for your cooperation in this important safety matter.

Sean Ward
Office of the General Counsel
Consumer Product Safety Commission