



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

Record of Commission Action
Commissioners Voting by Ballot

1111 18th Street, N.W.
Washington, D.C.

Voting: Chairman King
Commissioner Franklin
Commissioner Pittle
Commissioner Sloan

ITEM

Revisions to Safety Standard for Swimming Pool Slides (16 CFR Part 1207)

(Briefing material transmitted by the Office of the Secretary on December 4, 1978.)

DECISION

The Commission voted to approve for publication a Federal Register document revising the standard for swimming pool slides to delete provisions of the standard set aside by a federal court of appeals. (Aqua Slide 'N' Dive Corporation v. CPSC, 569 F.2d 831 (5th Cir. 1978)). Attached is a copy of the Federal Register Notice published December 18, 1978.

VOTE

Concurring: Chairman King (12/11/78 and amended 1/4/79) *Susan B. King*

Commissioner Franklin (12/8/78) *Barbara H. Franklin*

Commissioner Pittle (12/4/78) *R. David Pittle*

Commissioner Sloan (12/8/78) *Edith B. Sloan*

Not Voting: Commissioner Zagoria (12/8/78) *Sam Zagoria*

Submitted by the Office of the Secretary

[6355-01-M]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER B—CONSUMER PRODUCT SAFETY ACT REGULATIONS

PART 1207—SAFETY STANDARD FOR SWIMMING POOL SLIDES

Revisions to Safety Standard

AGENCY: Consumer Product Safety Commission.

ACTION: Amendment to final regulation.

SUMMARY: On January 19, 1976, the Commission issued a final safety standard for swimming pool slides. On March 3, 1978, a federal court of appeals set aside portions of that standard. For purposes of clarity, the Commission, in this document, is deleting those provisions of the standard set aside by the court and making editorial changes in the standard to reflect the deletions.

EFFECTIVE DATE: The revised standard became effective on March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

David Thome, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6400.

SUPPLEMENTARY INFORMATION: On January 19, 1976, the Commission issued in final form a consumer product safety standard applicable to swimming pool slides (16 CFR Part 1207; 41 FR 2751). This standard took effect on July 17, 1976.

On March 3, 1978, the U.S. Court of Appeals for the Fifth Circuit decided a petition for review of certain provisions of the Commission's swimming pool slide standard. The court set aside §§ 1207.6 and 1207.7 of the standard, the sections relating to installation instructions and warning signs, respectively. (*Aqua Slide 'N' Dive Corporation v. Consumer Product Safety Commission*, 569 F.2d 831 (5th Cir. 1978)). The provisions of the standard concerning construction specifications for slides remain in effect (Sections 1207.4 and 1207.5).

In the interest of clarity, the Commission is amending the standard to delete the text of those sections set aside by the court. Section 1207.8, concerning inspection of installed slides, while not specifically set aside by the court, is dependent on § 1207.7. Since § 1207.7 has been set aside by the court, the text of § 1207.8 is being de-

leted as well. The Commission is also making editorial changes in the standard to reflect the deletions, particularly at § 1207.4. Section 1207.4(d), furthermore, has been amended to reference, instead of the previous Federal Hazardous Substances Act (FHSA) regulations, the Commission's new regulations under the Consumer Product Safety Act (CPSA) concerning lead-containing paint. (16 CFR Part 1303, 42 FR 44192). Therefore, the Commission amends Title 16, Code of Federal Regulations, Chapter II, Part 1207, as follows:

1. The table of contents to Part 1207 is amended by deleting the headings for §§ 1207.6, 1207.7 and 1207.8 and substituting the word "revoked."

2. The following footnote is added at § 1207.1(b) Findings:

(b) Findings*

*The Commission's findings apply to the swimming pool slide standard that it published on January 19, 1976 (42 FR 2751). On March 3, 1978 the U.S. Court of Appeals for the Fifth Circuit set aside portions of that standard (*Aqua Slide 'N' Dive Corporation v. CPSC*, 569 F.2d 831 (5th Cir. 1978)). On December 18, 1978, the Commission published revisions to the standard which reflect the court's decision. However, the findings have not been revised and they are therefore not fully applicable to the revised swimming pool slide requirements. For example, the revised standard does not address the risk of quadriplegia and paraplegia (except insofar as the standard specifies a low angle of attack of the slider into the water) because the court set aside the provisions concerning installation instructions and warning signs.

§ 1207.3 [Amended]

3. Section 1207.3 is amended to delete the text of subsections (11), (14), (20), and (31) and to insert the word "revoked" under subsections (11), (14), (20), and (31).

4. Section 1207.4 is amended to read as shown below:

§ 1207.4 Recommended standards for materials of manufacture.

(a) *General* The materials used in swimming pool slides should be compatible with man and compatible with the environment in which they are installed. These materials should be capable of fulfilling the design requirements prescribed by § 1207.5.

(b) *Effects of environment* The choice of materials for swimming pool slides should be such that the operational strength of the entire slide assembly, as defined by the performance tests in § 1207.5, should not be adversely affected by exposure to rain, snow, ice, sunlight, local, normal temperature extremes, local normal wind variations, expected local air pollution products, and the mechanical, electrical, and chemical environment in and around swimming pools. For purposes

of this Part 1207, "local normal" temperature extremes and wind variations are defined as the average annual record limits for the past 10 years at any slide installation point in the U.S.A. where such statistical information exists (see reference (a) in § 1207.11)

(d) The selection of materials used in swimming pool slides should be such that the assembled and installed products should not be toxic to man or harmful to the environment under intended use and reasonably foreseeable abuse or disposal. All paints and finishes used on swimming pool slides shall comply with 16 CFR 1303.2(b)(2) and 1303.4(a).

§ 1207.6 [Revoked] Figures N, O, P and Tables 3, 4, and 5 [Deleted]

5. The text of § 1207.6 is deleted, and the word "revoked" substituted. Figures N, O, and P, and tables 3, 4, and 5 are deleted.

§ 1207.7 [Revoked] Figures Q—X [Deleted]

6. The text of § 1207.7 is deleted, and the word "revoked" substituted. Figures Q, R, S, T, U, V, W, and X are deleted.

§ 1207.8 [Revoked]

7. The text of § 1207.8 is deleted, and the word "revoked" substituted.

(Secs. 2, 7, 9, 14, 30. Pub. L. 92-573, 86 Stat. 1207, 1212, 1215, 1220, 1236; (15 U.S.C. 2051, 2056, 2058, 2063, 2079))

Dated: December 12, 1978.

SADYE E. DUNN,
Secretary, Consumer
Product Safety Commission.

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