

above the surface within an area bounded by lat. 46°31'00" N., long. 107°00'00" W.; to lat. 46°22'00" N., long. 106°03'00" W.; to lat. 46°05'00" N., long. 106°21'03" W.; to lat. 46°00'00" N., long. 107°15'00" W.; to lat. 46°15'00" N., long. 107°16'00" W.; to lat. 46°20'00" N., long. 107°00'00" W., thence to the point of beginning.

Issued in Seattle, Washington, on July 26, 2011.

**John Warner,**

Manager, Operations Support Group, Western Service Center.

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BILLING CODE 4910-13-P

## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1450

#### Virginia Graeme Baker Pool and Spa Safety Act; Incorporation by Reference of Successor Standard

**AGENCY:** U.S. Consumer Product Safety Commission.

**ACTION:** Final rule.

**SUMMARY:** The Consumer Product Safety Commission ("Commission," "CPSC," or "we") finds the successor drain cover standard, ANSI/APSP-16 2011, to be in the public interest, and incorporates the standard by reference into its regulations implementing the Virginia Graeme Baker Pool and Spa Safety Act.

**DATES:** The rule takes effect September 6, 2011. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of September 6, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mark Eilbert, Mechanical Engineer, Directorate for Laboratory Sciences, Consumer Product Safety Commission, 5 Research Place, Rockville, Maryland 20850; telephone (301) 987-2232 or e-mail [meilbert@cpsc.gov](mailto:meilbert@cpsc.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. What does the Virginia Graeme Baker Pool and Spa Safety Act do? What standard is involved?

The Virginia Graeme Baker Pool and Spa Safety Act (VGB Act), 15 U.S.C. 8001 *et seq.*, was signed into law on December 19, 2007, and became effective on December 19, 2008. The VGB Act's purpose is to prevent drain entrapment and child drowning in swimming pools and spas.

The VGB Act requires that each swimming pool or spa drain cover manufactured, distributed, or entered into commerce in the United States conform to the entrapment protection standards of the ANSI/ASME A112.19.8

performance standard or any successor standard regulating such swimming pool or spa drain cover. 15 U.S.C. 8003(b). The standard in existence at the time the VGB Act was passed was ANSI/ASME A112.19.8-2007. The VGB Act provides that if a successor standard is proposed, ASME must notify the Commission of the proposed revision. *Id.* The Commission, if it determines that the proposed revision is in the public interest, shall incorporate the revision into the standard, after providing 30 days' notice to the public. *Id.*

On August 11, 2008 and October 22, 2009, ASME approved two addenda to ANSI/ASME A112.19.8-2007, namely, ASME A112.19.8a-2008 and ASME A112.19.8b-2009 (collectively referred to herein as "addenda"). On February 17, 2011, the Association of Pool and Spa Professionals (APSP) approved the ANSI/APSP/IAPMO-16 2011 standard, a successor standard to ASME/ANSI A112.19.8-2007, which is substantively identical to ANSI/ASME A112.19.8-2007 and its two addenda. (In April 2011, IAPMO terminated its status as co-secretariat to the ANSI/APSP/IAPMO-16 2011 standard, so ANSI/APSP/IAPMO-16 2011 became ANSI/APSP-16 2011.) On March 18, 2011, ANSI/ASME began the process of withdrawing the A112.19.8-2007 standard. We have reviewed the successor standard, ANSI/APSP-16-2011, made comparisons to the requirements in ANSI/ASME A112.19.8-2007, and assessed whether the changes are in the public interest.

##### B. What are the changes to the standard, and are the changes in the public interest?

There were two substantive changes between the ANSI/ASME A112.19.8-2007 standard and ANSI/APSP-16 2011, each of which was made in the addenda to ANSI/ASME A112.19.8-2007. The other changes to the standard were minor and were made primarily to add clarity to the standard. We discuss the substantive changes in this part of the preamble.

##### a. Ultraviolet Light Exposure Test

The Ultraviolet Light Exposure Test (UV test) subjects the plastic drain fitting material to the damaging effects of UV rays that accompany sun exposure when the drains are installed in pools and spas. ("Fitting" is a term used in ANSI/ASME A112.19.8-2007 instead of "cover." ANSI/ASME A112.19.8-2007 indicates that "cover" is an obsolete term.) Tests for the structural integrity of the drain fitting are performed after the drain fittings are

exposed to UV light degradation. The structural integrity tests subject the drain fitting to forces expected under normal use and to excessive forces expected under extreme conditions.

In ANSI/ASME A112.19.8-2007, the UV test is conducted by a single method. According to section 3.2 of ANSI/ASME A112.19.8-2007, 12 new drain fittings are placed in a UV test chamber and exposed to UV light and water spray, according to the protocol in ASTM G154, *Standard Practices for Operating Fluorescent Light Apparatus for UV Exposure of Non-metallic Materials*. When the drain fitting is too large to fit in a test chamber, representative sections are tested to the intent of the structural integrity tests. This means that the test procedures in the structural integrity tests must be adapted to suit the diminished size/shape of the drain fitting section.

Changes to the UV testing were made in ANSI/ASME A112.19.8a-2008 and were carried over to ANSI/APSP-16 2011. ANSI/ASME A112.19.8a-2008 includes two UV test methods. Test Method 1 follows the general full-sample UV exposure in ASME A112.19.8-2007, with the addition of two more choices for the UV exposure protocol, specifically, ASTM G155, *Standard Practice for Operating Xenon Arc Light Apparatus for Exposure of Non-Metallic Materials*; and ASTM G153, *Standard Practice for Operating Enclosed Carbon Arc Light Apparatus for Exposure of Nonmetallic Materials*. Test Method 2 is an alternate UV exposure test. Here, the fitting polymeric material is molded into small uniform specimens. Half of the specimens are exposed to UV light and water spray, and half are not exposed. The exposed and unexposed (virgin) material specimens are then tested for tensile strength and impact resistance. The samples of the material must retain at least 70% of the virgin value (meaning that the samples, when tested, must retain at least 70% of the tensile strength and impact resistance values of the unexposed material) when the tensile strength and impact resistance tests are performed. The intensification factor, K, is defined as the inverse of the lowest retained portion. Thus, for example, if 80% of the tensile strength is retained in the exposed material and 85% of the impact resistance, then the intensification factor is  $K=1/0.80=1.25$ .

Complete (as sold) fittings are then tested to the structural integrity tests in sections 3.3 through 3.8 in ANSI/ASME A112.19.8-2007. For Test Method 1, the UV-exposed drain fitting is tested in the structural tests to the forces and pressures specified. This is essentially

the same procedure from the ASME A112.19.8–2007 standard. For Test Method 2, the complete drain fitting, which has not been “weathered” in the UV exposure chamber, is tested in the structural tests to the forces and pressures specified, multiplied by the intensification factor, K. Because only the representative sample was weathered in the UV chamber, the intensification factor, K, is then used on the complete (as sold) fittings to simulate the weathering of the complete fitting. ANSI/APSP–16 2011 has substantially the same language and requirements for the Ultraviolet Light Exposure Test as the ASME A112.19.8a–2008 addendum.

The alternate Test Method 2 in ANSI/APSP–16 2011, incorporating the ANSI/ASME A112.19.8a–2008 Addendum, offers more consistent treatment for large drain fittings that do not fit into standard UV exposure chambers. The use of material tests to predict the structural integrity of entire products is an established industry protocol. We find that this change in test methods is in the public interest because it will enhance test repeatability for large drain fittings.

#### *b. Self-Contained Spa Fittings*

Self-contained spas are manufactured products that include drain fittings and pumps. UL 1563, *Standard for Safety for Electric Spas, Equipment Assemblies, and Associated Equipment*, Sixth Edition, July 16, 2009, requires that all suction fittings are flow rated to ANSI/ASME A112.19.8–2007 and are installed in multiples, such that the suction from the pump cannot be isolated to one blocked fitting. The relevance of UL 1563 is that it contains similar requirements for multiple layers of entrapment protection to those in the VGB Act, but in the controlled environment of a single manufactured system. In addition to multiple drains, UL 1563 requires that the suction fittings be installed with separation on different planes, more than 3 feet apart, or have a suction limiting vent or gravity drainage system. Thus, system flows are split between two or more suction fittings that cannot both be blocked by the same body. Similarly, for hair entanglement, the split flow reduces the flow and entrapment potential at each suction fitting. Because spas have limited available space, the split suction allows smaller suction fittings and at the same time maintains the high flows required for the function of the product.

In ANSI/ASME A112.19.8–2007, the product flow rating is the lesser of the ratings achieved in the hair and body

entrapment tests in sections 4 and 5 of the standard. Each suction fitting is tested by direct connection to a test pump. Self-contained spa fittings are tested like any other suction fitting. The multiple-suction fitting requirements in UL 1563 are ignored. In ANSI/ASME A112.19.8–2007, the test flow is the total system flow from the pump and not the flow through individual suction fittings. As a result, suction fittings in self-contained spas that always perform in multiples are tested in isolation in ANSI/ASME A112.19.8–2007, without the mitigating effect of another source of water to the pump. The resultant flow ratings have been significantly lower in the hair tests, typically due to the hair entering and blocking the pipe behind the single spa suction fitting.

In ANSI/ASME A112.19.8b–2009, self-contained spa fittings are treated as a special case in the hair tests. In the new section 4.2.2.1, self-contained spa fittings are installed in pairs. One fitting is tested for hair entrapment, while the other is free flowing. The pull from the water is less because the pump can pull water from the unblocked suction fitting. The new test models the actual installation of self-contained spa fittings, as required in UL 1563. The body block test remains unchanged with no special treatment for spa fittings. ANSI/APSP–16 2011 has substantially the same language and requirements as ASME A112.19.8b–2009 for self-contained spa fittings.

ANSI/APSP–16 2011, incorporating the ASME A112.19.8b–2009 addendum, corrects a severe ratings test in ASME A112.19.8–2007 for self-contained spa fittings. Modeling the requirements in UL 1563 ensures that manufactured spa drains are not isolated with a pump and thus, have multiple layers of safety. This change in test methods recognizes the UL 1563 spa drain requirements and is a more representative test of actual manufactured spas. We find the change to be in the public interest.

#### **C. Why is the CPSC issuing a final rule?**

Under the Administrative Procedure Act (5 U.S.C. 553(b)(B)), a notice of proposed rulemaking is not required when an agency, for good cause, finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. The successor standard, ANSI/APSP–16–2011, is substantively identical to ANSI/ASME A112.19.8–2007 and its two addenda, and, as stated in part A of this preamble, ASME is in the process of withdrawing ANSI/ASME A112.19.8–2007. It is, therefore, important to have a successor standard in place before ANSI/ASME completes its withdrawal of ANSI/

ASME A112.19.8–2007 so that each swimming pool or spa drain cover manufactured, distributed, or entered into commerce in the United States continues to conform to entrapment protection standards. We are giving 30 days’ notice of the incorporation of this successor standard by providing for an effective date 30 days following the rule’s publication.

#### **D. Paperwork Reduction Act**

This rule does not impose any information collection requirements. Accordingly, this rule is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501–3520.

#### **E. Environmental Considerations**

The Commission’s regulations provide a categorical exemption for the Commission’s rules from any requirement to prepare an environmental assessment or an environmental impact statement as they “have little or no potential for affecting the human environment.” 16 CFR 1021.5(c)(2). This rule falls within the categorical exemption.

#### **F. Preemption**

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), provides that where a “consumer product safety standard under [the CPSA]” is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the State requirement is identical to the Federal standard. (Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to the Commission for an exemption from this preemption under certain circumstances.) Section 8003(a) of the VGB Act provides that the requirements in section 8003(b) of the VGB Act “shall be treated as a consumer product safety rule issued by the Consumer Product Safety Commission under the Consumer Product Safety Act.” Therefore, this rule will invoke the preemptive effect of section 26(a) of the CPSA when it becomes effective.

#### **List of Subjects in 16 CFR Part 1450**

Consumer protection, Incorporation by reference, Infants and children, Law enforcement.

For the reasons stated above, the Commission amends title 16 of the Code of the Federal Regulations as follows:

#### **PART 1450—VIRGINIA GRAEME BAKER POOL AND SPA SAFETY ACT REGULATIONS**

■ 1. The authority citation for part 1450 continues to read as follows:

**Authority:** 15 U.S.C. 2051–2089, 86 Stat. 1207; 15 U.S.C. 8001–8008, 121 Stat. 1794.

■ 2. Add § 1450.3 to read as follows:

**§ 1450.3 Incorporation by Reference.**

(a) Each swimming pool or spa drain cover manufactured, distributed, or entered into commerce in the United States shall conform to the entrapment protection standards of ANSI/APSP–16 2011, *Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs*, approved on February 17, 2011. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from the Association of Pool & Spa Professionals, 2111 Eisenhower Avenue, Alexandria, Virginia 22314; <http://www.apsp.org>, telephone 703–838–0083. You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(b) [Reserved]

Dated: August 2, 2011.

**Todd A. Stevenson,**

Secretary, U.S. Consumer Product Safety Commission.

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**BILLING CODE 6355–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 232

[Release Nos. 33–9246; 34–64996; 39–2477; IC–29740]

### Adoption of Updated EDGAR Filer Manual

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Securities and Exchange Commission (the Commission) is adopting revisions to the Electronic Data Gathering, Analysis, and Retrieval System (EDGAR) Filer Manual to reflect updates to the EDGAR system. The revisions are being made primarily to retire the offline EDGARLink tool and the associated templates; to support the electronic filing of submission form

types 13H, 13H–A, 13H–Q, 13H–I, 13H–T, 13H–R, for large trader registration, and N–PX–CR, N–PX–FM, N–PX–NT, N–PX–VR and their amendments; to update submission form types N–PX and N–PX/A; to update the OMB information on Forms 3, 4, 5, and 25–NSE; to support minor validation updates for Form N–MFP submissions; and to add four new applicant types to the Form ID. The EDGAR system is scheduled to be upgraded to support this functionality on August 1, 2011.

The filer manual is also being revised to address changes previously made in EDGAR.

**DATES:** *Effective Date:* August 5, 2011. The incorporation by reference of the EDGAR Filer Manual is approved by the Director of the Federal Register as of August 5, 2011.

**FOR FURTHER INFORMATION CONTACT:** In the Division of Corporation Finance, for questions concerning Form 8–K Item 1.04, Exhibit 95, and Forms 3, 4, 5 contact Cecile Peters, Chief, Office of Information Technology, at (202) 551–3600; in the Division of Investment Management for questions regarding submission form types N–PX, N–PX/A, N–PX–CR, N–PX–FM, N–PX–NT, N–PX–VR, and Form N–MFP contact Ruth Armfield Sanders, Senior Special Counsel, Office of Legal and Disclosure, at (202) 551–6989; in the Division of Trading and Markets for questions concerning Form 13H contact Richard R. Holley III, Senior Special Counsel, at (202) 551–5614, for questions concerning addition of new applicant types contact Catherine Moore, at (202) 551–5718, and for questions concerning Submission form type 25–NSE contact Steven Kuan, at (202) 551–5624; in the Office of Interactive Disclosure for questions concerning US GAAP 2011 Taxonomy contact Jeffrey Naumann, Assistant Director of the Office of Interactive Disclosure, at (202) 551–5352 and in the Office of Information Technology, contact Rick Heroux, at (202) 551–8800.

**SUPPLEMENTARY INFORMATION:** We are adopting an updated EDGAR Filer Manual, Volume I, Volume II, and Volume III. The Filer Manual describes the technical formatting requirements for the preparation and submission of electronic filings through the EDGAR system.<sup>1</sup> It also describes the requirements for filing using

EDGARLink Online,<sup>2</sup> and the Online Forms/XML Web site.

The revisions to the Filer Manual reflect changes within Volume I entitled EDGAR Filer Manual, Volume I: “General Information,” Version 10 (August 2011), Volume II entitled EDGAR Filer Manual, Volume II: “EDGAR Filing,” Version 17 (August 2011), and Volume III entitled EDGAR Filer Manual Volume III: “N–SAR Supplement” Version 2 (August 2011). The updated manual will be incorporated by reference into the Code of Federal Regulations.

The Filer Manual contains all the technical specifications for filers to submit filings using the EDGAR system. Filers must comply with the applicable provisions of the Filer Manual in order to assure the timely acceptance and processing of filings made in electronic format.<sup>3</sup> Filers may consult the Filer Manual in conjunction with our rules governing mandated electronic filing when preparing documents for electronic submission.<sup>4</sup>

The EDGAR system will be upgraded to Release 11.2 on August 1, 2011 and will retire the offline EDGARLink tool and the associated templates. As communicated in a notice posted on April 26, 2011 on the Information for EDGAR Filers Web page (<http://www.sec.gov/info/edgar.shtml>), starting August 1, 2011, filings created by the offline tool EDGARLink client or those constructed by filers according to the EDGAR XFDL Technical Specification will no longer be accepted by EDGAR. The EDGARLink Online Application, available from the EDGAR Filing Web site (<https://www.edgarfiling.sec.gov/>), must be used to file all submissions previously supported by the offline EDGARLink tool. Those filers that use the EDGAR XFDL Technical Specification to create filer-constructed submissions without the use of the EDGARLink tool, and wish to do the same outside of the EDGARLink Online Application, can do so by following the EDGARLink Online XML Technical Specification, available from the Information for EDGAR Filers Web page.

New submission form types 13H, 13H–A, 13H–Q, 13H–I, 13H–T, and 13H–R will be added to the EDGAR Filing Web site and will be available for use if the Commission adopts a final rule associated with Proposing Release

<sup>2</sup> This is the filer assistance software we provide filers filing on the EDGAR system.

<sup>3</sup> See Rule 301 of Regulation S–T (17 CFR 232.301).

<sup>4</sup> See Release No. 33–9169 (January 5, 2011) [76 FR 1514] in which we implemented EDGAR Release 10.4. For additional history of Filer Manual rules, please see the cites therein.

<sup>1</sup> We originally adopted the Filer Manual on April 1, 1993, with an effective date of April 26, 1993. Release No. 33–6986 (April 1, 1993) [58 FR 18638]. We implemented the most recent update to the Filer Manual on January 11, 2011. See Release No. 33–9169 (January 5, 2011) [76 FR 1514].