

**NOTICE OF PROPOSED ACTION
TO
BUILDING STANDARDS
OF THE
CALIFORNIA DEPARTMENT OF PUBLIC HEALTH**

**REGARDING THE CALIFORNIA BUILDING CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2**

Public Pools

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of the California Department of Public Health (CDPH) proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. CDPH is proposing building standards related to public pools.

PUBLIC COMMENT PERIOD

(Government Code Section 11346.5(a)(17))

A public hearing has not been scheduled; however, written comments will be accepted from August 31, 2012 until 5:00 PM on October 15, 2012. Please address your comments to:

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Jim McGowan, Executive Director

Written Comments may also be faxed to (916) 263-0959 or E-mailed to CBSC@dgs.ca.gov.

Pursuant to Government Code Section 11346.5 (a) 17, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, that a public hearing be held.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.

AUTHORITY AND REFERENCE

The California Building Standards Commission proposes to adopt these building standards under the authority granted by the California Health and Safety Code (HSC). The purpose of these building standards is to implement, interpret, and make specific the provisions of the HSC. CDPH is proposing this regulatory action based on the HSC, Sections 116025-116068.

INFORMATIVE DIGEST

Summary of Existing Laws

HSC Section 1797.182 requires that all ocean, public beach, and public swimming pool lifeguards and all firefighters in the state, except those whose duties are primarily clerical or administrative, shall be trained to administer first aid and cardiopulmonary resuscitation.

HSC Sections 116025-116068 requires every public swimming pool and its operation to ensure the safety of its bathers and provides measures to ensure that the public swimming pools at all times are sanitary, healthful and safe.

HSC Sections 116028 and 116033 require lifeguards to possess, as minimum qualifications as determined by the CDPH, current certificates from an American Red Cross or YMCA of the U.S.A. lifeguard training program or to have equivalent qualifications and to have been trained to administer first aid.

HSC 115990 requires a wave pool operator to comply with several specified safety requirements to ensure that there are consistent safety standards to reduce or eliminate drowning and near-drowning cases.

Summary of Existing Regulations

Chapter 31B, Part 2, Title 24, CCR requires standards for the construction, installation, alteration, addition, relocation, replacement or use of any public swimming pool including its appurtenant auxiliary areas, facilities, mechanical equipment, and related piping.

Summary of Effect

The proposal will update the public pool regulations to reflect current health and safety practices, industry standards, and operations. The proposed pool regulations have been posted on the CDPH web site at <http://www.cdph.ca.gov/HealthInfo/environhealth/water/Pages/CaliforniaPublicSwimmingPoolRequirements.aspx>. Pool industry stakeholders have been notified that the proposed regulations are available for review. To date no comments have been received by CDPH.

Comparable Federal Statute or Regulations

Virginia Graeme Baker Pool and Spa Safety Act, 15 USC 8001, Title XIV Sections 1401 – 1408 requires that each public pool in the United States be equipped with antientrapment devices or systems that comply with a specified performance standard, and each public pool and spa in the United States equipped with a single main drain other than an unblockable drain be equipped at a minimum with 1 or more specified devices or systems designed to prevent entrapment by pool or spa drains.

Policy Statement Overview

CDPH is proposing adoption of new public swimming pool regulations including standards for water park facilities such as spray grounds as well as the amendment and repeal of existing public swimming pool regulations. The public health risk associated with spray grounds is significant and has been associated with several illness outbreaks around the country. The purpose of the proposal is to update existing public pool regulations to reflect current health and safety practices, industry standards, and public pool operations. The proposal would incorporate by reference the NSF International Standard/American National Standards Institute 50-2010 effective August 2010 and the United States Diving Inc, Diving Rulebook effective January 1, 2010.

Evaluation of consistency

The proposed regulation is compatible with existing regulations

OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

None

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

CDPH has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

ESTIMATE OF COST OR SAVINGS

- A. Cost or Savings to any state agency: **NO**
- B. Cost to any local agency required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**
- E. Cost or savings in federal funding to the state: **NO**

Estimate: \$ 0 for each new public pool constructed by State agencies.

INITIAL DETERMINATION OF SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

CDPH has made an initial determination that the adoption/amendment/repeal of this regulation will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

DECLARATION OF EVIDENCE

CDPH has determined that there are minimal facts, evidence, documents, testimony, or other evidence upon which the agency relied to support its initial determination of no effect pursuant to the Government Code Section 11346.5 (a)(8). The public is welcome to submit any information, facts, or documents either supporting CDPH's initial determination or finding to the contrary.

FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE

CDPH has made an assessment of the proposal regarding the economic impact of recordkeeping and reporting requirements and has determined that a report pursuant to Government Code Section 11346.3 (c) is not required.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The DCPH is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

The CDPH has assessed whether or not and to what extent this proposal will affect the following:

- The creation or elimination of jobs within the State of California.
The proposed regulations will not create or eliminate jobs within the State of California.

- The creation of new businesses or the elimination of existing businesses within the State of California.
The proposed regulations will not create new businesses or eliminate existing businesses within the State of California.
- The expansion of businesses currently doing business with the State of California.
The proposed regulations will not expand businesses currently doing business with the State of California.
- The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.
The proposed regulations will benefit the health and welfare of California residents in that the changes will result in an enhanced protection of the health and safety of the bathers who use public pools in the state.

INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS

CDPH has made an initial determination that this proposal would not have a significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

The CDPH must determine that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov/>

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

(Government Code Section 11346.5(a)(14))

General questions regarding procedural and administrative issues should be addressed to:

Enrique Rodriguez, Construction Analyst or back up person Michael Nearman, Deputy Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Telephone No.: (916) 263-0916

Facsimile No.: (916) 263-0959

PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

CDPH Contact: Mark Jeude, REHS, Environmental Health Services Section Chief
Mark.jeude@cdph.ca.gov
(916) 449-5693

CDPH Back-up: Candi Zizek, REHS
Candi.Zizek@cdph.ca.gov
(916) 552-9991