

**REVISED* NOTICE OF PROPOSED ACTION
TO BUILDING STANDARDS OF THE
CALIFORNIA DEPARTMENT OF PUBLIC HEALTH
REGARDING THE 2019 CALIFORNIA BUILDING CODE,
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2
(CDPH 01/18)**

Note to agencies: The laws associated with the instructions in this form are found primarily in Government Code Section 11346.5 et sequentes. For clarity during the administrative review process, do not remove the headings or statutory references to applicable sections being completed.

Notice is hereby given that the California Building Standards Commission (CBSC) on behalf of 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. The CDPH is proposing building standards related to 2019 California Building Code.

PUBLIC COMMENT PERIOD

Reference: Government Code Section 11346.5(a)(17).

A public hearing has not been scheduled; however, written comments will be accepted from **September 7, 2018**, until **5:00pm** on **October 22, 2018**. Please address your comments to:

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

Written comments may also be emailed to CBSC@dgs.ca.gov.

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.

The public will have an opportunity to provide both written and/or oral comments regarding the proposed action on building standards at a public meeting to be conducted by the CBSC to be scheduled at a date near the end of the current adoption cycle. A meeting notice will be issued announcing the date, time and location of the public meeting.

POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS

Reference: Government Code Section 11346.5(a)(18).

Following the public comment period, 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

Reference: Government Code Section 11346.5(a)(2).

The CBSC proposes to adopt these building standards under the authority granted by Health and Safety Code (H & SC) §§18934.5 and 18942(b) and Government Code (GC) §14617. The purpose of these building standards is to implement, interpret, or make specific the provisions of H & SC §§16600, 16601, 18928, 18928.1, 18930.5 18934.5, 18938 and 18940.5.

The CDPH is proposing this regulatory action based on HSC Sections 116035, 116043, and 116050.

INFORMATIVE DIGEST

Reference: Government Code Section 11346.5(a)(3).

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 to 116068 require that every public swimming pool be operated and maintained in a manner that is sanitary, healthful, and safe and that ensures the safety of swimming pool users.

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

HSC Section 115952 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

CCR, Title 24, Part 2, Chapter 31B, requires certain 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 proposed amendments seek to provide clarity to the CCR in order to achieve greater alignment between federal and state anti-discrimination laws, the California Building Standards Code's signage requirements for public swimming pools, and the Department's duty to protect the health and safety of persons using public swimming pools.

Comparable Federal Statute or Regulations

The Virginia Graeme Baker Pool and Spa Safety Act, Title 15 United States Code sections 8001 to 8008, requires that each public pool in the United States be

equipped with anti-entrapment devices or systems that comply with a specified performance standard, and each public pool and spa in the United States that has a single main drain other than an unblockable drain be equipped with, at minimum, one or more specified devices or systems designed to prevent entrapment by pool or spa drains.

Policy Statement Overview

This proposal seeks to amend existing requirements to achieve greater alignment and consistency with federal and state standards governing housing discrimination.

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

Reference: Government Code Section 11346.5(a)(4).

None.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Reference: Government Code Section 11346.5(a)(5).

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

ESTIMATE OF COST OR SAVINGS

Reference: Government Code Section 11346.5(a)(6).

CDPH has provided an estimate, prepared in accordance with instructions adopted by the Department of Finance, of cost or savings to any state agency, local agency, or school district as part of its "Economic and Fiscal Impact Statement" (Form 399).

- 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**

Estimates:

\$0 for newly constructed pool sites. Existing regulations already require that a warning sign be posted at a public swimming pool or spa pool where no lifeguard service is

provided; it is not anticipated that a change to the language on the required warning sign will affect the cost of the sign.

\$96,890 for existing public pools for which the owner elects to purchase new pool signs. For existing pool sites, replacement of the pool signs is not statutorily required. (Health & Safety Code, § 116050.) It can be anticipated that because the signage changes covered by these proposed amendments are not statutorily required that less than one percent of pool owners of existing pool sites would be expected to purchase a new sign upon adoption of the proposed amendments. Even assuming that two percent of pool owners of existing pool sites will choose to purchase new signs, the average statewide cost would be \$96,890.

INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES

Reference: Government Code Section 11346.5(a)(8).

If the agency makes an initial determination that the adoption/amendment/repeal of this regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect.

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

DECLARATION OF EVIDENCE

Reference: Government Code Section 11346.5(a)(8).

In making the declaration, the agency shall provide in the record of facts, evidence, documents, testimony, or other evidence that the agency relies upon to support its initial determination of no effect.

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 Government Code, section 11346.5, subdivision (a)(8). The public is welcome to submit any information, facts, or documents either supporting or contradicting CDPH's initial determination.

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

Reference: Government Code Section 11346.5(a)(11).

Any regulation that requires a report shall not apply to businesses, unless the agency makes a finding that it is necessary for the health, safety, or welfare of the public that the regulations apply to businesses.

CDPH has made a determination that the proposed regulatory amendment does not require a report.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

Reference: Government Code Section 11346.5(a)(9).

Describe all cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. If no cost impact, provide the following statement:

CDPH 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

Reference: Government Code Section 11346.5(a)(10).

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

A. 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.

B. 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.

C. The expansion of businesses currently doing business within the State of California.

The proposed regulations will not expand businesses currently doing business with the State of California.

D. 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 achieve a better alignment between the protection of the health and safety of members of the public who use public swimming pools in the state and the federal and state anti discrimination laws that protect the rights of children and their families.

ESTIMATED COST OF COMPLIANCE OF STANDARDS THAT WOULD IMPACT HOUSING

Reference: Government Code Section 11346.5(a)(12).

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

CONSIDERATION OF ALTERNATIVES

Reference: Government Code Section 11346.5(a)(13).

CDPH has determined that no reasonable alternative considered by CDPH or that has otherwise been identified and brought to the attention of CDPH 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

Reference: Government Code Sections 11346.5(a)(16) and 11346.5(a)(20).

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 [CBSC website](http://www.bsc.ca.gov): www.bsc.ca.gov.

Reference: Government Code Section 11346.5(a)(19).

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 [CBSC website](http://www.bsc.ca.gov): www.bsc.ca.gov

Reference: Government Code Section 11346.5(a)(21).

CDPH shall provide, upon request, a description of proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action.

CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS

Reference: Government Code Section 11346.5(a)(14).

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

Gary Fabian, Associate Architect
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Gary.Fabian@dgs.ca.gov
Telephone: (916) 263-0916

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:

Eric Trevena, REHS
California Department of Public Health
(916) 210-8548 *
Eric.Trevena@cdph.ca.gov