

HEALTH AND SAFETY CODE

SECTION 116064.1-116064.2

116064.1. The Legislature finds and declares that the public health interest requires that there be uniform statewide health and safety standards for public swimming pools to prevent physical entrapment and serious injury to children and adults. It is the intent of the Legislature to occupy the whole field of health and safety standards for public swimming pools and the requirements established in this article and the regulations adopted pursuant to this article shall be exclusive of all local health and safety standards relating to public swimming pools.

116064.2. (a) As used in this section, the following words have the following meanings:

(1) "ASME/ANSI performance standard" means a standard that is accredited by the American National Standards Institute and published by the American Society of Mechanical Engineers.

(2) "ASTM performance standard" means a standard that is developed and published by ASTM International.

(3) "Main drain" means a submerged suction outlet typically located at the bottom of a swimming pool that conducts water to a recirculating pump.

(4) "Public swimming pool" means an outdoor or indoor structure, whether in-ground or above-ground, intended for swimming or recreational bathing, including a swimming pool, hot tub, spa, or nonportable wading pool, that is any of the following:

(A) Open to the public generally, whether for a fee or free of charge.

(B) Open exclusively to members of an organization and their guests, residents of a multiunit apartment building, apartment complex, residential real estate development, or other multifamily residential area, or patrons of a hotel or other public accommodations facility.

(C) Located on the premises of an athletic club, or public or private school.

(5) "Qualified individual" means a contractor who holds a current valid license issued by the State of California or a professional engineer licensed in the State of California who has experience working on public swimming pools.

(6) "Safety vacuum release system" means a vacuum release system that ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when a blockage is detected.

(7) "Skimmer equalizer line" means a suction outlet located below the waterline and connected to the body of a skimmer that prevents air from being drawn into the pump if the water level drops below the skimmer weir. However, a skimmer equalizer line is not a main drain.

(8) "Unblockable drain" means a drain of any size and shape that a human body cannot sufficiently block to create a suction entrapment hazard.

(b) Subject to subdivision (c), an ASME/ANSI or ASTM performance standard relating to anti-entrapment devices or systems or an amendment or successor to, or later published edition of an ASME/ANSI or ASTM performance standard relating to anti-entrapment devices or systems shall become the applicable standard in California 90 days after publication by ASME/ANSI or ASTM, respectively, provided that the performance standard or amendment or successor to, or later published edition is approved by the department within 90 days of the publication of the performance standard by ASME/ANSI or ASTM, respectively. Notwithstanding any other law, the department may implement, interpret, or make specific the provisions of this section by means of a policy letter or similar instruction and this action by the department shall not be subject to the rulemaking requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) Subject to subdivision (f), every public swimming pool shall be equipped with anti-entrapment devices or systems that comply with ASME/ANSI performance standard A112.19.8, as in effect December 31, 2009, or any applicable ASME/ANSI performance standard that has been adopted by the department pursuant to subdivision (b).

(d) Subject to subdivisions (e) and (f), every public swimming pool with a single main drain that is not an unblockable drain shall be equipped with at least one or more of the following devices or systems that are designed to prevent physical entrapment by pool drains:

(1) A safety vacuum release system that has been tested by a department-approved independent third party and found to conform to ASME/ANSI performance standard A112.19.17, as in effect on December 31, 2009, or any applicable ASME/ANSI performance standard that has been adopted by the department pursuant to subdivision (b), or ASTM performance standard F2387, as in effect on December 31, 2009, or any applicable ASTM performance standard that has been adopted by the department pursuant to subdivision (b).

(2) A suction-limiting vent system with a tamper-resistant atmospheric opening, provided that it conforms to any applicable ASME/ANSI or ASTM performance standard that has been adopted by the department pursuant to subdivision (b).

(3) A gravity drainage system that utilizes a collector tank, provided that it conforms to any applicable ASME/ANSI or ASTM performance standard that has been adopted by the department pursuant to subdivision (b).

(4) An automatic pump shut-off system tested by a department-approved independent third party and found to conform to any applicable ASME/ANSI or ASTM performance standard that has been adopted by the department pursuant to subdivision (b).

(5) Any other system that is deemed, in accordance with federal law, to be equally effective as, or more effective than, the systems described in paragraphs (1) to (4), inclusive, at preventing or eliminating the risk of injury or death associated with pool drainage systems.

(e) Every public swimming pool constructed on or after January 1, 2010, shall have at least two main drains per pump that are hydraulically balanced and symmetrically plumbed through one or more "T" fittings, and that are separated by a distance of at least three feet in any dimension between the drains. A public swimming pool constructed on or after January 1, 2010, that meets the requirements

of this subdivision, shall be exempt from the requirements of subdivision (d).

(f) A public swimming pool constructed prior to January 1, 2010, shall be retrofitted to comply with subdivisions (c) and (d) by no later than July 1, 2010, except that no further retrofitting is required for a public swimming pool that completed a retrofit between December 19, 2007, and January 1, 2010, that complied with the Virginia Graeme Baker Pool and Spa Safety Act (15 U.S.C. Sec. 8001 et seq.) as in effect on the date of issue of the construction permit, or for a nonportable wading pool that completed a retrofit prior to January 1, 2010, that complied with state law on the date of issue of the construction permit. A public swimming pool owner who meets the exception described in this subdivision shall do one of the following prior to September 30, 2010:

(1) File the form issued by the department pursuant to subdivision (g), as otherwise provided in subdivision (h).

(2) (A) File a signed statement attesting that the required work has been completed.

(B) Provide a document containing the name and license number of the qualified individual who completed the required work.

(C) Provide either a copy of the final building permit, if required by the local agency, or a copy of one of the following documents if no permit was required:

(i) A document that describes the modification in a manner that provides sufficient information to document the work that was done to comply with federal law.

(ii) A copy of the final paid invoice. The amount paid for the services may be omitted or redacted from the final invoice prior to submission.

(g) Prior to March 31, 2010, the department shall issue a form for use by an owner of a public swimming pool to indicate compliance with this section. The department shall consult with county health officers and directors of departments of environmental health in developing the form and shall post the form on the department's Internet Web site. The form shall be completed by the owner of a public swimming pool prior to filing the form with the appropriate city, county, or city and county department of environmental health. The form shall include, but not be limited to, the following information:

(1) A statement of whether the pool operates with a single or split main drain.

(2) Identification of the type of anti-entrapment devices or systems that have been installed pursuant to subdivision (c) and the date or dates of installation.

(3) Identification of the type of devices or systems designed to prevent physical entrapment that have been installed pursuant to subdivision (d) in a public swimming pool with a single main drain that is not an unblockable drain and the date or dates of installation or the reason why the requirement is not applicable.

(4) A signature and license number of a qualified individual who certifies that the factual information provided on the form in response to paragraphs (1) to (3), inclusive, is true to the best of his or her knowledge.

(h) A qualified individual who improperly certifies information pursuant to paragraph (4) of subdivision (g) shall be subject to potential disciplinary action at the discretion of the licensing authority.

(i) Except as provided in subdivision (f), each public swimming pool owner shall file a completed copy of the form issued by the department pursuant to this section with the city, county, or city and county department of environmental health in the city, county, or city and county in which the swimming pool is located. The form shall be filed within 30 days following the completion of the swimming pool construction or installation required pursuant to this section or, if the construction or installation is completed prior to the date that the department issues the form pursuant to this section, within 30 days of the date that the department issues the form. The public swimming pool owner or operator shall not make a false statement, representation, certification, record, report, or otherwise falsify information that he or she is required to file or maintain pursuant to this section.

(j) In enforcing this section, health officers and directors of city, county, or city and county departments of environmental health shall consider documentation filed on or with the form issued pursuant to this section by the owner of a public swimming pool as evidence of compliance with this section. A city, county, or city and county department of environmental health may verify the accuracy of the information filed on or with the form.

(k) To the extent that the requirements for public wading pools imposed by Section 116064 conflict with this section, the requirements of this section shall prevail.

(1) (1) Until January 1, 2014, the department may assess an annual fee on the owners of each public swimming pool, to be collected by the applicable local health department, in an amount not to exceed the amount necessary to defray the department's costs of carrying out its duties under Section 116064.1 and this section but in no case shall this fee exceed six dollars (\$6).

(2) The local health department may retain a portion of the fee collected pursuant to paragraph (1) in an amount necessary to cover the administrative costs of collecting the fee, but in no case to exceed one dollar (\$1).

(3) The local health department shall bill the owner of each public swimming pool in its jurisdiction for the amount of the state fee. The local health department shall transmit the collected state fee to the Controller for deposit into the Recreational Health Fund, which is hereby created in the State Treasury. The local health department shall not be required to take action to collect an unpaid state fee, but shall submit to the department, every six months, a list containing the name and address of the owner of each public swimming pool who has failed to pay the state fee for more than 90 days after the date that the bill was provided to the owner of the public swimming pool.

(4) Owners that are exempt from local swimming pool permit fees shall also be exempt from the fees imposed pursuant to this subdivision.

(5) Except as provided in paragraph (2), all moneys collected by the department pursuant to this section shall be deposited into the Recreational Health Fund. Notwithstanding Section 16305.7 of the Government Code, interest and dividends on moneys in the Recreational Health Fund shall also be deposited in the fund. Moneys in the fund shall, upon appropriation by the Legislature, be available to the department for carrying out its duties under Section 116064.1 and this section and shall not be redirected for any other purpose.