

Frequently Asked Questions Regarding the Public Pool and Spa Safety Act - AB 1020

1. Does the surcharge apply to each swimming pool or to each facility?

The annual fee specified in Health and Safety Code Section 116064.2(l)(1) applies to each public swimming pool.

2. Do facilities that have already complied, received approval by the county, and filled out a form provided by the county, still need to fill out the new form when it is issued by CDPH?

Facilities that have already complied and filled out a form provided by the county before CDPH issues the new form will not need to fill out the new form issued by CDPH as long as 1) the county form contains the minimum required information required for the compliance form as specified in AB 1020, and 2) the county form is completed and submitted to the county before CDPH issues the new form.

3. Can a county use its own compliance form if CDPH has not yet issued the new form?

A county can use its own compliance form as long as 1) the county form contains the minimum required information required for the compliance form as specified in AB 1020, and 2) the county form is completed and submitted to the county before CDPH issues the new form.

4. When will CDPH send notice to the local health departments regarding the amount and collection of the state fee?

Policy letters regarding the fee have already been sent to all local environmental health directors. Policy letter PPSA 09-01 1020 was sent in October 2009, and policy letter PPSA 09-02 was sent in November 2009. Policy letter PPSA 09-01-AB 1020 informed local public health and environmental health jurisdictions of the passage of AB 1020, and the annual surcharge that is to be collected by the applicable local jurisdiction and transmitted to the Controller for deposit into the Recreational Health Fund. Policy letter PPSA 09-02 AB 1020 clarified the amount of the surcharge to be collected by the applicable local jurisdiction, and provided instruction that the amount of the annual surcharge to be collected by the applicable local jurisdiction is \$6 (six dollars).

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5. If a local health department sends bills out at the end of the calendar year, when should they transmit the surcharge (fee) to the Controller?

The local health department should transmit the surcharge (fee) to the Controller as soon as practicable in accordance with the appropriate administrative process of the city/county.

6. To what address should the local health departments send the collected surcharge (fee) when transmitting to the Controller?

The State Controller's Office has informed CDPH that the local health departments should transmit the surcharge (fee) to CDPH's Accounting Section. The remit address for CDPH's Accounting Section is:

**California Department of Public Health
Accounting Section MS 1601
P.O. Box 997376
Sacramento, CA 95899-7376**

When submitting the surcharge (fee) to CDPH's Accounting Section, local health departments should identify the payment/submission with the following information:

**Purpose: Public Pool and Spa Safety Act (AB 1020)
Fund: Recreational Health Fund (3157)**

7. Does CDPH anticipate publishing a list of "approved" equipment?

To avoid confusion with product information already being provided by the Consumer Product Safety Commission (CPSC), CDPH does not anticipate publishing a list of "approved equipment". A complete listing of drain cover manufacturers who have received certification to the ASME/ANSI A112.19.8-2007 standard can be found at www.poolsafety.gov/draincman.html. In addition, a list of certified safety vacuum release system (SVRS) manufacturers can be found at www.poolsafety.gov/svrsman.html. General information about Virginia Graeme Baker Pool and Spa Safety Act (VGB Act) compliant products can be found at www.poolsafety.gov/operators.html.

8. Does CDPH have the authority to issue a waiver for installed VGB Act compliant drain covers that do not meet more stringent Title 24 requirements?

CDPH does not have the authority to issue waivers. In general, drain covers must also satisfy the state regulations located in the California Code of Regulations, Title 24, Section 3134B.3 requirements. However, although CDPH does not have the authority to issue waivers, local

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enforcing agencies may approve alternate equipment, material or method of construction in accordance with Section 3105B of Title 24. The following is the text of Section 3105B:

Sec. 3105B (formerly 2-9005) Alternate Equipment, Materials, and Methods of Construction.

3105B.1 The enforcing agency may approve an alternate equipment, material, or method of construction, provided it finds that the proposed design is satisfactory and complies with the provisions of this Chapter, that the equipment, material, method, or work offered is, for the purpose intended, at least equivalent of that prescribed in suitability, strength, effectiveness, fire resistance, durability, safety, and sanitation, or that the methods of installation proposed conform to other acceptable nationally recognized standards, and providing the alternate has been approved and its use authorized by the enforcing agency.

3105B.2 The enforcing agency shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use.

3105B.3 Whenever there is insufficient evidence of compliance with the provisions of this Chapter, the enforcing agency may require tests as proof of compliance to be made at no expense to the enforcing agency. Tests shall be made in accordance with approved standards, but in the absence of such standards, the enforcing agency shall specify the test procedure.

9. Who should the public contact for questions regarding the collection of the annual fee?

CDPH plans to establish a state telephone line for response to inquiries regarding the new entrapment and compliance requirements.

10. Must a single skimmer equalizer line be split and hydraulically balanced, and/or have a SVRS or some other device/system installed?

Health and Safety Code Section 116064.2(a)(7) specifically excludes a “skimmer equalizer line” from the definition of a main drain. Based on this exclusion, it would appear that state law would not require a skimmer equalizer line to be split and hydraulically balanced, and/or have a SVRS or some other device/system installed.

At the federal level, based on CPSC’s staff interpretation of the VGB Act, skimmer equalizer lines are not considered to be main drains. According

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to CPSC's staff interpretation, skimmer equalizer lines must either have an approved cover or be plugged.

The following questions and answers regarding skimmer equalizer lines can be found at www.poolsafety.gov/pssafaq.html:

Q: Are equalizer lines in public pools covered in the Act?

A: Yes, skimmer equalizer lines are submerged drains and must either be covered (with an ASME/ANSI A112.19.8-2007 compliant cover) or plugged. Equalizer lines are not considered to be main drains based on CPSC staff's interpretation of the law. [Last Updated: January 30, 2009]

Q: If my pool has one main drain and one or more skimmers, does it need a second anti-entrapment device or system?

A: Yes. CPSC staff currently has no technical evidence to support claims that this type of set-up would be equivalent to a multiple main drain system. Therefore, unless the main drain is unblockable this type of set-up would require the installation of a second anti-entrapment system, as outlined in CPSC's staff interpretation. [Last Updated: January 30, 2009]

11. Does the surcharge apply to public swimming pools that are fee exempt?

According to Health and Safety Code Section 116064.2(l)(4), owners that are exempt from local swimming pool permit fees shall also be exempt from the fees imposed pursuant to this subdivision.

12. Effective January 1, 2010, are all anti-entrapment devices or systems published by ASME/ANSI or ASTM acceptable for installation in California?

Health and Safety Code Section 116064.2(c) states that 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 CDPH. In addition, Health and Safety Code Section 116064.2(d)(1) also refers to effective performance standards (ASME/ANSI performance standard A112.19.17 and ASTM performance standard F2387), as in effect on December 31, 2009, or any applicable ASME/ANSI or ASTM performance standard that has been adopted by CDPH.

13. What if California does not approve a performance standard relating to anti-entrapment device or system or amendment or successor to, or later published edition of, an ASME/ANSI or ASTM performance standard relating to anti-entrapment devices or systems within 90 days of publication?

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If CDPH does not approve a new performance standard within 90 days of publication of the new performance standard by ASME/ANSI or ASTM, then the effective performance standard will be the ASME/ANSI or ASTM performance standard, as in effect December 31, 2009, or the latest performance standard that has been adopted by CDPH.

However, according to the VGB Act, each public pool and spa shall be equipped with anti-entrapment devices or systems that comply with the ASME/ANSI A112.19.8 performance standard, or any successor standard. In this case, federal law is stricter than state law and requires that the effective performance standard is any successor standard.

14. What are the minimum requirements for an AB 1020 compliance form?

- CDPH required to issue a form for use by March 31, 2010.
- CDPH required to consult with health officers and environmental health directors in developing form.
- CDPH required to post the form on it's website
- Form is to be completed by owner and filed with local environmental health department:
 - Within 30 days following the completion of the swimming pool construction or installation.
 - Within 30 days of the date that CDPH issues the form if the construction or installation is completed prior to the date that CDPH issues the form.
 - If 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.
 - If form not filed, then may file the following information in lieu of the form:
 - (A) A signed statement attesting that the required work has been completed.
 - (B) A document containing the name and license number of the qualified individual who completed the required work.
 - (C) 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.
 - If no further retrofitting is required 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.

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 - (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.
- 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.
- Form must contain the following information:
 - A statement of whether the pool operates with a single or split main drain.
 - Identification of the type of anti-entrapment devices or systems that have been installed, and the date or dates of installation.
 - Identification of the type of devices or systems designed to prevent physical entrapment that have been installed 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.
 - Safety Vacuum Release System
 - Suction-limiting Vent System
 - Gravity Drainage System
 - Automatic Pump Shut-off System
 - Any other system deemed to be equally or more effective in accordance with federal law
 - Identification of 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, and the date or dates of installation of the split drains (required for public swimming pools constructed on or after January 1, 2010).
 - A signature and license number of a qualified individual who certifies that the factual information provided on the form is true to the best of his or her knowledge.
- A qualified individual who improperly certifies information shall be subject to potential disciplinary action at the discretion of the licensing authority.
- Health officers and environmental health directors shall consider documentation filed on or with the form by the owner as evidence of compliance. Local environmental health department may verify the accuracy of the information filed on or with the form.

15. Who is qualified to perform AB 1020 compliant work on a public swimming pool?

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Health and Safety Code Section 116064.2(a)(C)(5) defines “qualified individual” as 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 expertise working on public swimming pools.

In addition, the following information is posted on the California Department of Consumer Affairs, Contractors State License Board (CSLB) website at:

<http://www.cslb.ca.gov/Consumers/HireAContractor/SwimmingPoolConstruction/SelectingAPoolContractor.asp>

“Contractors who build or repair swimming pools must be licensed as swimming pool specialty contractors. A general building contractor may also contract for swimming pool work provided the general building contractor holds the swimming pool specialty classification, or the general building contractor hires a licensed swimming pool specialty contractor to perform the work.”

“Other contractors like plumbers, landscapers, solar workers, etc., should work within their specific areas of licensure, and cannot be responsible for the overall project.”

According to information provided by staff of CSLB, the following types of pool work can be performed by contractors with the following contractor license types:

Type of Pool Work	Contractor License Types
Splitting drains	C53, C36, “A” (general engineering)
Modifying sumps	C53, C36, “A” (general engineering)
Changing drain covers	C53, C36, C61/D35, “A” (general engineering)
Installation of SVRS	C53, C61/D35, “A” (general engineering)

Local health jurisdictions are advised to consult with CSLB to verify the appropriateness of the contractor’s license type with the pool work to be performed prior to the work being performed.

16. Are municipal swimming pools exempt from the requirements of AB 1020?

Based on the following definition of public swimming pool, a municipal pool is considered a public swimming pool and is subject to the requirements of AB 1020:

Health and Safety Code Section 116064.2(a)(4) defines a “Public Swimming Pool” as 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:

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(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.

17. What enforcement options are available to local jurisdictions if a public swimming pool does not comply with AB 1020 requirements by the July 1, 2010, deadline?

California Code of Regulations, Title 22, Section 65545(a) states “If, in the opinion of the enforcing agent, a pool is maintained or operated in a manner which creates an unhealthful, unsafe, or unsanitary condition, the pool may be closed by the enforcing agent. Such a pool shall not be reopened until correction is made, and upon, specific written approval of the enforcing agent”.

18. Will CDPH be issuing a policy letter to clarify the definition of “unblockable” main drain?

To avoid confusion with CPSC’s definition, CDPH will not be issuing a policy letter to clarify the definition of “unblockable” main drain. CPSC staff issued a draft technical guidance on unblockable drains in July 2009, and received comments on the draft technical guidance in August 2009. CPSC recently held a public hearing on the draft technical guidance in November 2009. CPSC’s draft technical guidance on unblockable drains can be found at <http://www.poolsafety.gov/unblockable.pdf>.