CLIENT ALERTS & INSIGHTS

Ohio Department of Health Proposes Swimming Pool Rules

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Introduction

The Ohio Public Swimming Pools and Spas rules are currently in the revision process. The Ohio Department of Health has recently published the proposed swimming pool rules, which will be filed with the Joint Committee on Agency Rule Review. These rules apply to public swimming pools, which include wading pools, public spas, special use pools, and spray grounds. The rules cover public swimming pools at apartment buildings, hotels, nursing homes, recreation centers, fitness centers, retirement communities and other facilities. Spray grounds are included in the draft rules for the first time. This memorandum provides an overview of the most significant changes proposed in the draft rules.

Rules Proposed by the Committee

Definitions

The proposed rules include several revisions of existing definitions and the addition of several new definitions. New defined terms include "imminent health hazard," "recreational water illness," "safety vacuum release system," and "spray ground." "Spray ground" is defined as a public swimming pool play area for bathing and/or interaction with fountains, sprays, jets and other special features designed without standing water when the fountains are turned off so that users have full body exposure with circulated water.

Responsibilities of the Director of Health

The proposed rules provide that the Director of Health will approve forms to be used by the Department of Health and licensor (defined as a city board of health, a general health district, or an authority having the duties of a city board of health) for plan approval, construction verification inspections, compliance inspections and the equipment inventory of public swimming pools. The Director is also responsible for ensuring that fees for licenses are collected and used for administration and enforcement of the rules.

Responsibilities of the Licensor

The proposed rules address the licensor's responsibilities during the licensure process. Before issuing a license to operate a newly constructed or substantially altered public swimming pool, the licensor is responsible for determining that the plans have been approved and all plan verification construction inspections have been completed in accordance with the rules.

License renewal applications will be filed with the licensor in April of each year. License renewal applications received after April 30th are assessed a penalty. Applications post marked on or before April 30th will be considered timely.

The current prohibition on the transfer of licenses is deleted in the draft rules. The licensor may allow the transfer of a license to operate a public swimming pool provided the applicant has or will have the legal right to operate or maintain the public swimming pool. Licenses subject to current enforcement action may not be transferred.

During the licensor's annual inspection of each public swimming pool, the inspection must include an equipment inventory on forms prescribed by the Director. The licensor is also responsible for verifying that the licensee maintains complete records on file in accordance with the rules.

Responsibilities of the Licensee
The rules for operations, disinfection and quality of water, and health and safety are now included in the section detailing the responsibilities of the licensee (defined as the person specified on the application for a license to operate or maintain a public swimming pool and to whom a currently valid license has been issued by the licensor).

- **Operations**:
  There are significant revisions to the rules relating to the operations of a public swimming pool. The licensee shall not operate a public swimming pool when an imminent health hazard is present. Provisions have been added to provide specific examples of imminent health hazards.

  The licensee is responsible for maintaining the equipment in accordance with the manufacturer's specifications, the approved plans, and the rules in this chapter of the Ohio Administrative Code. The rules provide a list of maintenance and repair requirements that the licensee must meet.
- **Disinfection and Quality of Water**:
  The proposed rules change some of the water quality parameters. There are also revisions to the regulations of automatic chemical controllers. Automatic chemical controllers are required to have more features than previously required, including an audible or visual signal in the event of a system malfunction or when certain levels are not within acceptable limits. The device must be on the list of acceptable units maintained by the director. The licensee is required to test the device daily.

- **Health and Safety**:
  Under the proposed rules, a licensee has the authority to exclude from a public swimming pool, without a written statement of a doctor, anyone known to have or suspected of having an obvious wound or infectious disease. In addition, the rules provide an updated list of safety equipment that must be on hand and a list of signs that must be posted.

  The proposed rules make changes to the lifeguard schedule, which states the number of lifeguards required based on the number of bathers and the pool surface area. Public swimming pools that have a surface area of 6,000 square feet or larger are no longer included in the schedule and instead must have a written plan that shows adequate lifeguard coverage based on certain surveillance criteria. The rules detail the information that must be included in the written plan. The proposed rules also provide additional regulations on lifeguard placement.

Submission of Plans Prior to Licensure

The fees for submission and approval of plans prior to licensure are increased beginning April 1, 2011, with a further increase beginning April 1, 2012. The process for plan review and approval remains mostly unchanged. The number of plan verification construction inspections is increased to two or more.

Design Criteria

The design criteria rules include design criteria for the construction or substantial alteration of a public swimming pool. The current regulations for design requirements have been reworded and expanded upon. Much of the same topics are covered, such as pool walls and floors, diving areas, depth markers, and equipment storage areas.

Spray Grounds

Within 18 months of the effective date of the rules, the licensee of a spray ground who is not in compliance with the rules must apply to the Director of Health for a design variance and submit plans for compliance. All spray grounds must be compliant with the design requirements in the rules within five years of the effective date of the rules.

A spray ground must include a circulation system consisting of at least one drain outlet, a mixing-holding tank (with some exceptions), disinfection equipment, piping, and other necessary equipment to clarify and disinfect the water adequately.
A spray ground must operate separate from any other public swimming pool except that a spray ground may operate as part of a primary public swimming pool circulation system if the supply water to the spray ground is from the circulation system of an approved public swimming pool or it may draw water directly from the public swimming pool itself. Spray grounds that operate independently must have a mixing-holding tank.

The circulation system and the special features system of a spray ground must be separate systems. A spray ground must have a disinfection system and an automatic chemical controller to monitor and adjust water quality. The spray pad of the spray ground must have specified design characteristics, including a maximum floor/pad slope, a slip resistant spray pad surface, and drain outlets.

In addition, the rules also regulate spray ground special features, such as fountains and misters/foggers. A list of warning signs that must be posted is also included in the rules.

Conclusion

The proposed rules are currently open for public comments. A complete copy of the draft rules can be found on the Ohio Department of Health web site at http://www.odh.ohio.gov/rules/drafts/drafts.aspx. The Department of Health is holding public meetings to discuss the draft rules through October 26, 2010. If you would like Benesch to submit comments on your behalf, please contact Martha Sweterlitsch at (614) 223-9367 or msweterlitsch@beneschlaw.com.