

SUPPLEMENTAL STATEMENT OF REASONS

The California Department of Public Health (the “Department”) has instituted additional changes to these proposed regulations, and they are discussed below. These changes are either initiated by the Department or are in response to comments that were received during the 45-day public comment period that ended on October 28, 2013.

SECTION 65501

Subparagraph (a)

The Department proposes a non-substantive change in which the words “or appurtenance” are removed. The deleted phrase is unnecessary and unknown to many.

Subparagraph (b)

Because of public comments expressing confusion over what is considered organic and inorganic material that would lead to a pool being unclean, we have changed the wording. The word “visible” is added, as well as “that would pollute the water.” The regulation now states that clean pool water is water without visible organic and inorganic material that would pollute the pool. Pollutants that would lead to a pool not being clean would include things like leaves, bugs, lawn furniture, and towels.

Subparagraph (c)

In response to a public comment about the meaning of “communicable disease,” the Department proposes adding its definition to the list of definitions governing the chapter. The rest of the subparagraphs of definitions are redesignated (c) through (r).

Subparagraph (c) (now d)

The Department proposes a non-substantive change in which the word “maintained” is removed. The deleted word is redundant.

Subparagraph (d) (now e)

The Department proposes a non-substantive change in which the word “California” is removed and “State” is inserted. This change reflects language in other regulations and statutes dealing with the Department.

Subparagraph (e) (now f)

In response to numerous public comments, the Department proposes amendments to subparagraph (f) that clarify who is ultimately responsible for ensuring public pools are operated in accordance with Title 22. Under the amended proposed regulation text, the ultimate responsibility for following these regulations belongs to the owner of the pool. The amended proposed regulation clarifies that a “pool operator” may or may not be the owner of the public pool but is the person or persons who conduct or manage the daily operation and maintenance tasks as required by these regulations. The owner of the pool, however, is the one ultimately liable if these regulations are not complied with, whether or not the owner delegates the operational and maintenance tasks to another.

Subparagraph (g) (now h)

The Department proposes a non-substantive grammatical change.

Subparagraph (h) (now i)

The Department proposes a non-substantive grammatical change and the deletion of an obscure word.

Subparagraph (i) (now j)

The Department proposes a non-substantive change in which a serial comma is inserted.

Subparagraph (j) (now k)

The Department proposes a non-substantive change to correct a typo.

Subparagraph (k) (now l)

The Department proposes a non-substantive change that would delete the word “competition” from the definition of “Special Purpose Pool.” A pool designed for diving is a special purpose pool whether or not competitions are held in it.

Subparagraph (l) (now m)

The Department proposes a non-substantive change to correct a typo.

Subparagraph (p) (now q)

The Department proposes a non-substantive change to a preposition and the addition of a serial comma.

Subparagraph (q) (now r)

The Department proposes a non-substantive change in which a serial comma is added.

SECTION 65503

Subparagraph (a)(3)

In response to public comments expressing confusion over what a “building or area pool” is, the Department proposes repealing this from the list of examples of public pools. The subparagraphs are redesignated.

Subparagraph (a)(10)

In response to a public comment expressing confusion over what the difference between a “medical facility pool” and a “health establishment pool,” the Department proposes repealing the latter from the list of examples of public pools.

Subparagraph (a)(19)

To avoid confusion over what constitutes a public pool, the Department proposes repealing this subparagraph because “recreation” is a vague term.

Subparagraph (a)(21) – (23)

In response to a suggestion in a public comment, the Department proposes to add “spray grounds,” “special purpose pools,” and “wave pools” to the list of examples of public pools. This is done in an effort to ensure the public is aware these are in fact public pools.

Subparagraph (c)

The Department proposes a non-substantive change in which the words “and appurtenances” are removed. The deleted phrase is unnecessary and unknown to many. Also, a comma is added.

Subparagraph (d)

The Department proposes a non-substantive grammatical change in which “that” is substituted for “which.”

SECTION 65511

The Department proposes a non-substantive change in which “may be” is substituted for “is” to ensure it is clear that the enforcing agency must approve the pool’s being placed into operation.

SECTION 65521

Subparagraph (b)

The Department proposes a non-substantive change in which “pool” and “for” are added.

Subparagraph (c)

The Department proposes a non-substantive change in which “for” is added.

SECTION 65523

Subparagraph (a)

In response to public comments expressing concern over the requirement to test the water temperature daily, the Department proposes to make this a requirement only for heated pools and for hot springs. The word “heated” is added. Also the Department proposes a non-substantive change for ease of reading.

Subparagraph (b)

The Department proposes a non-substantive change, adding the word “all.”

Subparagraph (c)

The Department proposes a non-substantive change, adding the word “all.” Also, “concentrations” is substituted for “levels” to ensure clarity and consistency across the regulations.

Subparagraph (e)

The Department proposes a non-substantive change in which it is made clear that, after a fecal, vomit, or blood contamination or after a near drowning or drowning, the pool operator shall identify in which pool the incident occurred in the incident report.

SECTION 65525

Subparagraph (a)

The Department proposes non-substantive changes for ease of reading.

SECTION 65527

The Department proposes a non-substantive change to correct a typo. “Public operator” is changed to “pool operator.” Also, a serial comma is added for consistency.

SECTION 65529

Subparagraph (a)

The Department proposes a non-substantive change to ensure that it is clear that the concentration of disinfectant that the chemical in the water imparts must comport to subparagraph (b) of section 65529.

Subparagraph (b)

The Department proposes non-substantive changes in which “concentrations” is inserted to ensure consistency and clarity across the proposed regulations. Also, the abbreviations in the table are now listed at the bottom of the table to make the table easier to understand, and a proposed footnote is added to clarify that “public pools” in the table excludes the types of public pools listed in the bottom row of the table.

Subparagraph (d)

The Department proposes a non-substantive change clarifying what “they” refers to, as well as other changes for cleaner language and ease of reading.

Subparagraph (e)

The Department proposes a non-substantive change to the capitalization of the chemical name to be in line with the most-used scientific style. Also, “concentrations” replaces “levels” for consistency.

SECTION 65530

Several public comments expressing concern over lowering the maximum cyanuric acid (CYA) concentration in a public pool from 100 ppm to 50 ppm were received. The Department has learned that the Center for Disease Control and Prevention (CDC) has changed their proposed maximum CYA concentration from 50 ppm to 100 ppm in their Model Aquatic Health Code. Until the CDC and public research brings more clarity to the appropriate concentrations of CYA in a public pool, the Department proposes to rescind the proposal to lower the maximum CYA concentration to 50 ppm and proposes maintaining the current maximum allowable CYA concentration in a public pool at 100 ppm.

The Department proposes a non-substantive change in which asterisks are removed and the abbreviation is added to the bottom of the table for ease of reading and understanding the table.

SECTION 65531

Subparagraph (b)

The Department proposes a non-substantive change, the addition of the word “the.”

SECTION 65535

Subparagraph (a)

The Department proposes a non-substantive change in which “appurtenances” is removed.

SECTION 65537

The Department proposes non-substantive changes in which “swimsuit” is one word.

SECTION 65539

Subparagraph (a)

The Department proposes a non-substantive change that clarifies that the provision of lifeguards must comport with the Health and Safety code only when a provision of a lifeguard is made. Also, the Department proposes a non-substantive change that seeks to clarify that certification is required for each lifeguard and must be available for inspection.

Subparagraph (b)

The Department proposes a non-substantive change that clarifies that if a lifeguard is provided, the pool operator shall ensure that the lifeguard continuously watches the pool users, as defined in this chapter.

Subparagraph (d)

The Department proposes non-substantive changes to clarify that lifeguards shall be able to be identified as lifeguards by pool users.

SECTION 65540

Subparagraph (a)

In response to a public comment, the Department proposes to make an addition to this subparagraph that specifies that spray grounds without standing water do not have to comply with this subsection. The Department believes that when there is no standing water, the need for equipment to aid in the rescue of a drowning person is not necessary.

The Department proposes a non-substantive change in which “is” is substituted for “shall.”

Subparagraph (a)(1)

The Department proposes a non-substantive change in which “minimum” is moved to ensure clarity with regard to the size of the throw rope. Also, there is a proposed non-substantive change clarifying that when rescue can be effected from the perimeter of a spa without the life ring, the pool operator may be exempt from the requirement of having one.

Subparagraph (a)(2)

In response to a public comment, the Department proposes to amend this subsection to allow shorter rescue poles for spas, when the enforcing agency approves. Because spas are smaller, a 12-foot or longer rescue pole could be unwieldy and actually hinder a rescue attempt. Therefore, if the enforcing agency agrees, a short rescue pole is allowed. This is for spas only, not spas and swimming pools.

The Department proposes non-substantive changes in which hyphens are added.

Subparagraph (d)

The Department proposes a non-substantive grammatical change in which “to perform” is replaced with “performing.”

SECTION 65541

Subparagraph (b)

In response to public comments regarding confusing over what constitutes a communicable disease for the purposes of this subsection, the Department proposes to list some of the types of communicable diseases most likely to affect pool users, as well as times, such as when suffering from a cough or open wound, people should not enter a pool. These provisions are necessary to protect other pool users from potential exposure to communicable diseases and unhealthful situations.

Subparagraph (c)

Due to public comments expressing concern over pool operators having to monitor whether pool employees and pool users have or have had diarrhea in the last 14 days, the Department proposes to remove language stating that such persons “shall not” enter the water. A sign as specified in the California Building Code in Title 24 states that such persons shall not enter the water, but it is up to each individual whether he or she goes into the public pool or not; it is *not* the responsibility of the pool operator to find out whether someone has had diarrhea.

Another proposed change in this subsection rearranges a phrase for ease of reading.

Subparagraph (d)

Due to public comments and concerns regarding pool operators having to ensure persons with diarrhea do not enter the pool, the Department proposes removing the language requiring a sign be posted regarding pool users having or having had diarrhea. This requirement does, however, remain in chapter 31B of the California Building Code in Title 24.

SECTION 65545

Subparagraph (a)

The Department proposes non-substantive changes to ensure the ease of reading and understanding of the subparagraph. The semicolons are proposed so that the reader may easily distinguish between the items in the list.

SECTION 65546

Subparagraph (a)

The Department proposes a non-substantive change clarifying how a pool operator follows the requirements of the section.

Subparagraph (a)(3)

The Department proposes a non-substantive change that eliminates a redundancy and an unnecessary word.

Subparagraph (a)(4)

The Department proposes a non-substantive change to ensure ease of reading.

Subparagraph (a)(5)

In response to a public comment, the Department proposes replacing “proper” with “required” in order to ensure clarity that pools must have the free-chlorine concentrations stated in these regulations.

Subparagraph (a)(5) through (9)

The Department proposes non-substantive grammatical changes, adding hyphens.

Subparagraph (a)(7)

Due to a public comment, the Department proposes replacing “proper” with “required” in order to ensure clarity that pools must have the free-chlorine concentrations stated in these regulations. Also, the Department proposes a non-substantive change in which an unnecessary word is deleted.

Subparagraph (a)(8)

In response to a public comment, the Department proposes to clarify that the filter backwash shall not return to the pool water. Filter backwash is waste and requires proper disposal. Also, the Department proposes a non-substantive change in which a hyphen is added.

Subparagraph (b)(1)

The Department believes it important to ensure the incident report after a fecal, vomit, blood, near-drowning, or drowning incident be as complete as possible. Therefore, the Department proposes to add the requirement that all known facts regarding the circumstances and cause of the incident be placed in the incident report.

The Department proposes non-substantive changes in which “concentration” is added, and “level” after “pH” is removed for consistency.

SECTION 65551

Subparagraph (b)

In response to a public comment, the Department proposes to change the requirement that all showers have soap dispensers. If a shower is required under Chapter 31B of the California Building Code, all showers shall have soap in dispensers. However, deck showers need not have soap, because the proximity of the shower to the pool could result in the soap getting into and polluting the pool water.

Subparagraph (d)

The Department proposes a non-substantive change that moves a phrase to another part of the sentence for ease of reading.