

CHAPTER 2

REQUIREMENTS FOR PLAN SUBMISSION AND SPECIFICATIONS; LICENSE APPLICATION AND ISSUANCE; INSPECTION.

Section 1. Prerequisite for Operation.

(a) No person shall operate a public swimming pool, spa or similar installation without a valid license issued by the regulatory authority.

(i) Each public swimming pool, spa or similar installation which operates on a separate circulation system, shall be licensed.

(ii) When a person operates two (2) or more public swimming pools, spas or similar installations not on the same premises in this state, a separate license shall be required for each.

(iii) A person operating more than one public swimming pool, spa or similar installation which is on the same circulation system, on the same premises may operate under one (1) license.

Section 2. Submission and Contents of the License Application.

(a) Pursuant to W.S. 35-28-108(a), any person operating a public pool, spa or similar installation shall obtain a license from the Wyoming Department of Agriculture or a local health department and shall be thoroughly knowledgeable on good practices of swimming pool and spa operation and with the laws and regulations pertaining to public swimming pools, spas, and similar installations. The license is not transferable, shall be renewed on an annual basis and shall be prominently displayed in the facility. No public pool, spa or similar installation shall operate without a valid license.

(b) Pursuant to W.S. 35-28-108(b), written application for a new license shall be made on a form approved by the Wyoming Department of Agriculture and provided by the Wyoming Department of Agriculture or the local health department and shall be signed by the applicant.

(i) The application shall include:

(A) The name, mailing address, telephone number, and signature of the person applying for the license; the name, mailing address, and telephone number of the registered agent; and the name, mailing address, and location of the public swimming pool, spa or similar installation;

(B) Information specifying whether the public swimming pool, spa or similar installation is owned by an association, corporation, individual, partnership, or other legal entity;

- (C) A statement signed by the applicant that:
 - (I) Certifies to the accuracy of the information provided in the application; and
 - (II) Affirms that the applicant will:
 - (1.) Comply with these Regulations; and
 - (2.) Allow the regulatory authority access to the facility as specified under chapter 2, section 22(a) and to the records specified under chapter 1, section 10.

Section 3. Qualifications and Responsibilities of Applicants.

- (a) To qualify for a license, an applicant shall:
 - (i) Be an owner of the public swimming pool, spa or similar installation or the person legally in charge of the business entity;
 - (ii) Comply with the requirements of these Regulations; and
 - (iii) As specified under chapter 2, section 22(a), agree to allow access to the public swimming pool, spa or similar installation and to provide required information.

Section 4. Issuance of a License.

(a) For public swimming pools, spas or similar installations that are required to submit plans as specified under chapter 2, section 5(a), the regulatory authority shall issue a license to the applicant after:

- (i) A properly completed application is submitted;
- (ii) The required plans, specifications, and information are reviewed and approved; and
- (iii) A pre-operational inspection shows that the public swimming pool, spa or similar installation is built or remodeled in accordance with the approved plans and specifications and that the facility is in compliance with these Regulations.

(b) The regulatory authority may renew a license for an existing public swimming pool, spa or similar installation or may issue a license to a new owner of an existing public swimming pool, spa or similar installation after:

- (i) A properly completed application is submitted, reviewed, and

approved; and

(ii) An inspection shows that the public swimming pool, spa or similar installation is in compliance with these Regulations.

Section 5. When Plans and Specifications Are Required.

(a) A license applicant or license holder shall submit to the regulatory authority properly prepared plans and specifications for review and approval before:

(i) The construction of a public swimming pool, spa or similar installation;

(ii) The conversion of an existing structure for use as a public swimming pool, spa or similar installation; or

(iii) The remodeling of a public swimming pool, spa or similar installation or a change of type of the public swimming pool, spa or similar installation as specified under chapter 2, section 6, if the regulatory authority determines that plans and specifications are necessary to ensure compliance with these Regulations.

Section 6. Contents of the Plans and Specifications.

(a) Plans and specifications with supporting data must be prepared by a professional engineer who is registered in this state, an architect who is registered in this state, or a licensed contractor who holds a license issued by the state contractors' board and shall:

(i) Include the seal or signature of the registered engineer or architect; or

(ii) Include the signature of the licensed contractor.

(b) The plans must be:

(i) Drawn to scale;

(ii) Contain a north arrow; and

(iii) Must be accompanied by proper specifications so as to permit a comprehensive public health review of the plans.

(c) One set of plans shall be submitted, and must include:

(i) The surface area of the pool;

- (ii) The volume, turn-over time, flow rate, filter and automatic chemical feed apparatus, filter head loss and pump curve showing design flow;
- (iii) The source of the water used;
- (iv) The means of disposing wastewater according to law;
- (v) Plan and sectional views with all necessary dimensions of the facility;
- (vi) A piping diagram showing all appurtenances including treatment facilities in sufficient detail, as well as pertinent elevation data to permit a hydraulic analysis of the system;
- (vii) Details on all treatment equipment, including:
 - (A) The manufacturer, make and model numbers of the pump, filter and automatic chemical feed apparatus,
 - (B) Filter head loss; and
 - (C) Pump curve showing design flow.
- (viii) Catalog identification;
 - (A) If mechanical equipment is specified by the use of a trade name or catalog numbers, individual leaflets, catalogs, equipment specification sheets or other descriptive material must be furnished. This material will be returned to the applicant on his request after the review of the plans.
- (ix) An electrical diagram showing the method of grounding, junction boxes and other pertinent details;
- (x) Detailed plans of bathhouses, equipment rooms, dressing rooms, toilet facilities, showers and other appurtenances;
- (xi) One site plan with a legal description of the pool location; and
- (xii) Any additional data required by the regulatory authority for purposes of clarification, anticipated use or to support any changes in design or scope of the project must be submitted prior to construction.

Section 7. Approval of Plans and Specifications.

- (a) The regulatory authority shall review all plans and specifications to determine if they are in compliance with these Regulations. After reviewing the plans and specifications the regulatory authority shall:

- (i) Complete a plan review sheet.
- (b) If the plans and specifications are approved, a copy of the plan review sheet denoting the approval shall be provided to the license applicant or license holder.
- (c) If the plans and specifications are disapproved, a copy of the plan review sheet stating the reason for disapproval shall be sent to the license applicant or license holder.
- (d) The review of the plans by the regulatory authority will not include a review of the structural design or structural stability of any section or part of the facility. Certification of structural adequacy is the responsibility of the architect, a qualified professional engineer who is licensed by the state board of registered professional engineers or qualified contractor.

Section 8. Pre-operational Inspections.

- (a) The regulatory authority shall conduct one or more pre-operational inspections to verify that the swimming pool, spa or similar installation is constructed and equipped in accordance with the approved plans and approved modifications of those plans and is in compliance with law and these Regulations.
- (b) The regulatory authority shall conduct a pre-opening inspection prior to issuance of a license.

Section 9. Denial of License Application, Notice

- (a) The director may by order deny a license application if he finds:
 - (i) The applicant has made false statements on the license application;
 - (ii) The applicant has violated or failed to comply with any provision of law;
 - (iii) The applicant is the subject of an order within the past two (2) years of any regulatory authority in this state or any other denying, suspending or revoking a license; and
 - (iv) The applicant has failed to correctly and completely fill out the application.
- (b) If a license application is denied, the regulatory authority shall provide the applicant with a notice that includes:
 - (i) The specific reasons and regulation citations for the license application

denial;

(ii) The actions, if any, that the applicant must take to qualify for a license application;

(iii) Advisement of the applicant's right to request a hearing before the director;

(iv) The legal authority under which the hearing is to be held; and

(v) A short plain statement of the matters asserted.

(c) The applicant must request a hearing within twenty (20) days of the receipt of the director's notice.

(d) If a hearing is requested the director shall schedule a time and place for the hearing, to be held not later than thirty (30) days) from the date of the request unless a later date is agreed to by the parties.

(e) The applicant shall be notified of the time, date and place of the hearing at least seven (7) days before the date of the hearing.

(i) The legal authority under which the hearing is to be held; and

(ii) A short plain statement of the matters asserted.

(f) If the applicant supplies evidence of correction and all other license requirements have been met a license shall be issued.

Section 10. Responsibilities of the License Holder.

(a) Upon acceptance of a license issued by the regulatory authority, the license holder in order to retain the license shall:

(i) Post the license in a location at the public swimming pool, spa or similar installation that is conspicuous to the public;

(ii) Comply with the provisions of these Regulations including the conditions of a granted variance as specified under chapter 1, section 5, and approved plans as specified under chapter 2, section 7;

(iii) Immediately discontinue operations and notify the regulatory authority if a health or safety hazard exists;

(iv) Allow representatives of the regulatory authority access to the establishment as specified under chapter 2, section 22;

(v) Replace existing facilities and equipment with facilities and equipment that comply with these Regulations if:

(A) The regulatory authority directs the replacement because the facilities and equipment constitute a public health or safety hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted;

(B) The regulatory authority directs the replacement of the facilities and equipment because of a change of ownership; or

(C) The facilities and equipment are replaced in the normal course of operation;

(vii) Comply with directives of the regulatory authority including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the regulatory authority in regard to the license holder's swimming pool, spa or similar installation or in response to community emergencies;

(viii) Accept notices issued and served by the regulatory authority according to law; and

(ix) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with these Regulations or a directive of the regulatory authority, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives.

Section 11. Ceasing Operations and Reporting.

(a) Except as specified in chapter 2, section 11(b), a license holder shall immediately discontinue operations and notify the regulatory authority if an imminent health or safety hazard may exist because of an emergency such as, but not limited to, a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, or gross insanitary occurrence or condition.

(b) A license holder need not discontinue operations in an area of the swimming pool, spa or similar installation that is unaffected by the imminent health or safety hazard.

Section 12. Resumption of Operations.

(a) If operations are discontinued as specified under chapter 2, section 11, or otherwise according to law, the license holder shall obtain approval from the regulatory authority before resuming operations.

Section 13. Conditions Warranting Remedy.

(a) The regulatory authority may seek an administrative or judicial remedy including an administrative meeting to achieve compliance with the provisions of these Regulations if a person operating a public swimming pool, spa or similar installation or employee:

(i) Fails to have a valid license to operate a public swimming pool, spa or similar installation as specified under chapter 2, section 1;

(ii) Violates any term or condition of a license as specified under chapter 2, section 10;

(iii) Allows serious or repeated Regulation violations to remain uncorrected beyond time frames for correction approved, directed, or ordered by the regulatory authority under chapter 2, sections 24 and 26;

(iv) Fails to comply with an order issued as a result of a hearing for an administrative remedy;

(v) Fails to comply with a summary suspension order issued by the regulatory authority as specified in chapter 2, sections 15; or

(vi) Fails to comply with any other Rule or Regulation.

Section 14. Administrative Meetings.

(a) The Wyoming department of agriculture, or a local board of health may initiate an administrative meeting for the licensee if:

(i) There is a history of non-compliance with the act or the Regulations adopted under the act; or

(ii) There was refusal to grant access by the regulatory authority.

(b) Notice of administrative meeting shall state:

(i) The reasons for the notice of administrative meeting with reference to the provisions of the Regulations that are in violation;

(ii) The location and time the administrative meeting will be held; and

(iii) The licensee may appear in person or by or with counsel licensed to practice in the State of Wyoming.

(c) The Wyoming Department of Agriculture, or local board of health will conduct the administrative meeting and hear opposing opinions regarding the issue(s) in question.

(d) The purpose of the administrative meeting is to facilitate a mutually agreed upon plan of compliance for the license holder.

(e) The plan of compliance shall be:

(i) Presented, in writing to the license holder after the meeting;

(ii) Effective immediately upon presentation with a correction completion date ten (10) business days from the presentation date at which time a re-inspection will be performed; and

(iii) Signed by both the license holder and the regulatory authority.

(f) The administrative meeting may have three (3) possible outcomes:

(i) A mutually agreed upon plan of compliance with a reinspection date;

(ii) No agreement of cooperation by the license holder resulting in a revocation notice being issued; or

(iii) Dismissal of the meeting by the Wyoming Department of Agriculture or local board of health

(g) If no agreement is reached between the Wyoming Department of Agriculture or local board of health and the license holder or the re-inspection finds the plan of compliance has been ignored, a revocation notice shall be issued within ten (10) business days of the no agreement date or the re-inspection date.

Section 15. Summary Suspension.

(a) The regulatory authority may summarily suspend a license to operate a public swimming pool, spa or similar installation if it determines through inspection, water quality testing, records, or other authorized means, or after consultation with the state health officer, that an imminent health or safety hazard exists including, but not limited to, fire, flood, extended interruption of electrical or water service, sewage backup, or waterborne illness or disease.

(i) The regulatory authority may summarily suspend a license by providing written notice of the summary suspension to the license holder or the person in charge without prior warning, notice of a hearing, or a hearing.

(ii) A summary suspension notice shall state:

(A) That the license is immediately suspended and that all operations shall immediately cease;

(B) The reasons for summary suspension with reference to the provisions of these Regulations being violated;

(C) The type of imminent threat to the public health that may be caused by the violation;

(D) The name and address of the regulatory authority representative to whom notice for reinspection may be made and who may certify that reasons for the suspension are eliminated;

(E) The license holder may request a contested case hearing within five (5) business days of the summary suspension. The regulatory authority shall hold a hearing, if requested, within ten (10) business days of the summary suspension; and

(F) The regulatory authority shall provide the name and address of the regulatory authority representative to whom a request for a contested case hearing may be made.

(iii) The regulatory authority shall conduct a reinspection of the public swimming pool, spa or similar installation for which the license was summarily suspended within forty-eight (48) hours after receiving notice from the license holder stating that the conditions cited in the summary suspension order no longer exist.

(iv) A summary suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and their elimination has been confirmed by the regulatory authority through reinspection and other means as appropriate or until a court of competent jurisdiction otherwise orders.

(v) The suspended license shall be reinstated immediately if the regulatory authority determines that the imminent health or safety hazard no longer exists. A notice of reinstatement shall be provided to the license holder or person in charge.

Section 16. Revocation.

(a) The regulatory authority may initiate revocation proceedings for a license if:

(i) The condition for which the summary suspension was issued is not corrected; or

(ii) There is a history of noncompliance with the act or the regulations adopted under the act; or

(iii) There was a refusal to grant access to the regulatory authority.

(b) The revocation notice shall state:

(i) That the license shall be revoked fifteen (15) calendar days after receipt of the revocation notice and that all operations shall cease at that time unless a contested case hearing is requested;

(A) The revocation notice shall be sent by certified mail, return receipt requested, or personally served on the person in charge.

(ii) The reasons for revocation with reference to the provisions of these Regulations alleged to have been violated;

(iii) That the license holder may request a hearing by submitting a request within fifteen (15) days of the receipt of the notice of revocation;

(iv) The name and address of the regulatory authorities representative to whom a request for a hearing may be made;

(v) If a hearing is requested, the hearing shall be conducted by a hearing officer in accordance with the Wyoming Administrative Procedure Act, W.S. 16-3-107 through 115; and

(vi) The licensee may appear in person or by or with counsel licensed to practice in the State in Wyoming.

(c) The final decision, accompanied by written findings of fact and conclusions of law and order, shall be issued by the director of the Wyoming Department of Agriculture or local board of health.

(d) The final decision shall be delivered to the license holder by certified mail, return receipt requested.

Section 17. Hearings.

(a) All hearings provided for in this Regulation shall be conducted in accordance with the Wyoming Administrative Procedure Act, W.S. 16-3-107 through 115. Appeal from any final order of the Wyoming Department of Agriculture or local board of health shall be taken as provided by the Wyoming Administrative Procedure Act and the Wyoming Rules of Appellate Procedure.

Section 18. Service of Notices.

(a) A notice issued in accordance with these Regulations, except for a notice of summary suspension which shall be considered properly served pursuant to chapter 2, section 15, shall be considered to be properly served if it is served by one of the following methods:

(i) The notice is personally served by the regulatory authority, a law enforcement officer, or a person authorized to serve a civil process to the license holder, the person in charge, or person operating a public swimming pool, spa or similar installation without a license;

(ii) The notice is sent by the regulatory authority to the last known address of the license holder or the person operating a public swimming pool, spa or similar installation without a license, by registered or certified mail return receipt requested or by other public means so that a written acknowledgment of receipt may be acquired;

(iii) If the notice is unable to be delivered after reasonable attempts to serve, then the notice shall be clearly posted by the regulatory authority at a public entrance to the public swimming pool, spa or similar installation; or

(iv) The notice is provided by the regulatory authority in accordance with another manner of service authorized in law.

Section 19. When Service is Effective.

(a) Service is effective at the time of the receipt of the notice or at the time of the posting of the notice.

Section 20. Establishing Inspection Interval.

(a) The regulatory authority shall inspect public swimming pools, spas and similar installations based on the relative risk to public health and safety, with no such facility receiving less than one (1) inspection per year.

(b) The regulatory authority may increase the interval between inspections beyond once per year:

Section 21. Performance and Risk-Based Inspections.

(a) Within the parameters specified under chapter 2, section 20, the regulatory authority shall prioritize and conduct more frequent inspections based upon its assessment of a public swimming pool, spa or similar installations relative risk to public health and safety and the history of compliance with these Regulations by evaluating:

(i) Past performance, for nonconformance with these Regulations;

(ii) Past performance, for numerous or repeat violations of these Regulations;

- (iii) Past performance, for complaints investigated and found to be valid;
- (iv) The health or safety hazards associated with the particular public swimming pool, spa or similar installation;
- (v) The type of operation; and
- (vi) The number of people served.

Section 22. Access for Inspection.

(a) After the regulatory authority presents official credentials and states the purpose of, and an intent to conduct an inspection, the person in charge shall allow the regulatory authority to determine if the swimming pool, spa or similar installation is in compliance with these Regulations by:

- (i) Allowing access to the swimming pool, spa or similar installation;
- (ii) Allowing inspection; and
- (iii) Providing information and records specified in these Regulations and to which the regulatory authority is entitled according to law, during the swimming pool, spa or similar installation hours of operation and other reasonable times.

- (b) Denial of access to inspect shall be grounds for revocation of a license.
- (c) The details of the denial of access shall be recorded on the inspection report form.

Section 23. Documenting Information and Observations.

- (a) The regulatory authority shall document on an inspection report form:
 - (i) Administrative information about the public swimming pool, spa or similar installations legal identity, street and mailing addresses, type of facility and operation as specified under chapter 2, section 2(b), inspection date, and other information such as type of water supply and sewage disposal, status of the license, and personnel certificates that may be required; and
 - (ii) Specific factual observations of violative conditions or other deviations from these Regulations that require correction by the license holder including but not limited to:
 - (A) Failure of the public swimming pool, spa or similar installation

being maintained in whole or in part in a clean and sanitary condition, in good repair and free of safety hazards;

(B) Testing verifies the pool, spa or similar installation water does not comply with the requirements set forth in these Regulations;

(C) Is failing to meet generally accepted health and safety practices for pool, spa and similar installation operation in compliance with the laws and regulations pertaining to public swimming pool, spa and similar installations;

(C) Failure of the appropriate employees to demonstrate sufficient knowledge of good practices of swimming pool, spa and similar installation operation;

(D) Failure of the appropriate employees to demonstrate sufficient knowledge of the laws and regulations pertaining to public swimming pool, spa or similar installations; and

(E) Failure to keep and maintain records pertaining to the operation and maintenance of the public pool, spa or similar installation as required in chapter 1, section 10.

Section 24. Timely Correction for Critical Item Violation.

(a) Except as specified in chapter 2, section 24(b), a license holder shall at the time of inspection correct a critical violation of these Regulations.

(b) Considering the nature of the potential health or safety hazard involved and the complexity of the corrective action needed, the regulatory authority may agree to or specify a longer time frame, not to exceed ten (10) calendar days after the inspection, for the license holder to correct critical violations of these Regulations.

(i) If a determination by the inspector that the corrective action cannot be completed within 10 (ten) days, the inspector may request an extension be granted which must be approved in writing by a supervisor.

Section 25. Verification and Documentation of Correction for Critical Item Violation.

(a) After observing at the time of inspection a correction of a critical item violation the regulatory authority shall enter the violation and information about the corrective action on the inspection report.

(b) After receiving notification that the license holder has corrected a critical item violation or at the end of the specified period of time, the regulatory authority shall verify

correction of the violation, document the information on an inspection report, and enter the report in the regulatory authority's records.

Section 26. Time Frame for Correction for Noncritical Violation.

(a) Except as specified in chapter 2, section 26(b), the license holder shall correct noncritical violations by a date and time agreed to or specified by the regulatory authority but no later than ninety (90) calendar days after the inspection.

(b) The regulatory authority may approve a compliance schedule that extends beyond the time limits specified under chapter 2, section 24(b), if a written schedule of compliance is submitted by the license holder and no health or safety hazard exists or will result from allowing an extended schedule for compliance.

Section 27. Issuing Report and Obtaining Acknowledgment of Receipt.

(a) At the conclusion of the inspection, the regulatory authority shall provide a copy of the completed inspection report to the license holder or to the person in charge, and request a signed acknowledgment of receipt.

Section 28. Refusal to Sign Acknowledgment.

(a) The regulatory authority shall:

(i) Inform a person who declines to sign an acknowledgment of receipt of inspection findings that:

(A) An acknowledgment of receipt is not an agreement with findings;

(B) Refusal to sign an acknowledgment of receipt will not affect the license holder's obligation to correct the violations noted in the inspection report within the time frames specified; and

(C) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the regulatory authority's historical record for the public swimming pool, spa or similar installation.

Section 29. Examining, Sampling, and Testing Water Used in Public Swimming Pools, Spas or Similar Installations.

(a) The regulatory authority may examine, sample, and test water used in public swimming pools, spas or similar installations in order to determine its compliance with these Regulations.

