

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(Amended After Comments)

902 KAR 10:120. Kentucky public swimming and bathing facility operations.

RELATES TO: KRS Chapter 13B, 211.015, 211.205, 211.990(2), 15 U.S.C. 8003

STATUTORY AUTHORITY: KRS 194A.050, 211.180(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of Kentucky citizens and to operate programs and fulfill the responsibilities vested in the cabinet[]. KRS 194A.050(2) authorizes the secretary to promulgate regulations to establish a fee schedule for permitting and annual inspection of efforts regarding compliance with program standards administered by the cabinet. KRS 211.180 authorizes the cabinet to adopt administrative regulations relating to public facilities and their operation and maintenance in a safe and sanitary manner to protect public health and prevent health hazards. This administrative regulation establishes uniform standards for public swimming pools and bathing facilities.

Section 1. Definitions.

- (1) "Alkalinity" or "total alkalinity" means the amount of carbonates or bicarbonate present in water solution as expressed in parts per million (ppm).
- (2) "Approved" means that which is acceptable to the cabinet.
- (3) "Backwash" means the flow of water through the filter element or media in the reverse direction sufficient to dislodge the accumulated dirt and filter aid and remove them from the filter tank.
- (4) "Bather" means a person using a public swimming and bathing facility.
- (5) "Cabinet" is defined by KRS 211.015(1)(a).
- (6) "Diatomaceous earth (DE) filter" means a filter that utilizes a thin layer of diatomaceous earth as its filter media that will need to be periodically replaced.
- (7) "Disinfectant" means an approved chemical compound designed for the destruction of pathogenic organisms in bathing facilities and includes chlorine and bromine.
- (8) "Facility operator" means a person or employee of that person who is responsible for the proper operation and maintenance of the facility.
- (9) "Filter" means a device that separates solid particles from water by recirculating it through a porous substance.
- (10) "Filter aid" means an enhancement to the efficiency of the filter media.
- (11) "Filter cycle" means the operating time between cleaning or replacing the filter media or backwash cycles.
- (12) "Filter element" means a device within a filter tank designed to entrap solids and conduct water to a manifold, collection header, pipe, or similar conduit.
- (13) "Flow meter" means a device that measures the flow of water through piping.
- (14) "Holding tank" means a storage vessel to retain water for a spray pad recirculation system.
- (15) "Inlet" means a fitting or fixture through which filtered water returns to a pool or spa.
- (16) "Main outlet" means an outlet fitting at the deepest point of the horizontal bottom of a pool through which water passes to a recirculating pump or surge tank, and is often referred to as a "main drain".

- (17) "Perimeter overflow system" means a channel at normal water level that extends completely around the pool perimeter and is used to remove surface debris, also known as an overflow or scum gutter.
- (18) "Play feature" means a structure or feature that is added to a pool for the purpose of entertainment.
- (19) "Plunge pool" means a pool or area within a pool designed as the termination point for a water slide or water ride.
- (20) "Precoat" means the process of depositing a layer of diatomaceous earth or perlite on the filter element at the start of a filter cycle.
- (21) "Public swimming and bathing facility" or "facility" means a natural or artificial body or basin of water that is modified, improved, constructed, or installed for the purpose of swimming or bathing, except for a pool at a private single family residence intended only for the use of the occupant and guests.
- (22) "Public swimming and bathing facility enclosure" means an enclosure that surrounds and secures the public swimming and bathing facility which includes decking and pool.
- (23) "Readily accessible" means direct access without the necessity of removing any panel, door, or similar obstruction.
- (24) "Septum" means that part of the filter element consisting of cloth, closely woven fabric, or other porous material on which the filter media is deposited.
- (25) "Skimmer" means a device designed to continuously remove surface film and water and return it through the filter.
- (26) "Splash pad" means a public swimming and bathing facility that:
- (a) Has aquatic play features that spray or drop water for the purpose of wetting people;
 - (b) Is designed so that there is no accumulation or ponding of water on the ground;
 - (c) Includes both recirculating and non-recirculating water systems; and
 - (d) Includes splash pads operated by local governments as defined in KRS 211.205.
- (27) "Strainer" means a device used to remove hair, lint, leaves, or other coarse material on the suction side of a pump.
- (28) "Superchlorinate" means the addition to the public swimming and bathing facility water of an amount of chlorine sufficient to produce a free available chlorine that is at least equal to ten (10) times the amount of combined chlorine plus the required minimum level of free available chlorine in order to oxidize the ammonia and nitrogenous materials which may be dissolved in the facility water.
- (29) "Total residual chlorine" means the arithmetical sum of free available chlorine and combined chlorine, which is composed of the following components:
- (a) Free available chlorine, which is the amount of chlorine available to inactivate microorganisms and that has not reacted with ammonia, nitrogenous material, and other contaminants in facility water; and
 - (b) Combined chlorine (also called "chloramine"), which is the amount of chlorine that has reacted and combined with ammonia and other nitrogenous material to form chloro-ammonia compounds.
- (30) "Wading pool" means a pool or area within a pool where the water depth is twenty-four (24) inches or less.

Section 2. Submission of Plans, Annual Permit Fee, and Inspection Fees.

(1) Submission of Plans.

- (a) All new construction, changes in construction and equipment shall be in accordance with the requirements set forth in 902 KAR 10:123.
- (b) New facilities shall receive final construction approval inspections by the cabinet, and other affected state and local regulatory agencies, prior to placing the facility in

operation. It shall be the owner or operator's responsibility to notify the cabinet and other involved agencies of construction completion and call for inspection.

(2) Annual Permit Fee.

(a) An annual permit fee of \$110 for all public swimming and bathing facilities shall be:

1. Paid no later than May 1 each year; and
2. Paid to the Kentucky Department for Public Health by check or money order made payable to the Kentucky State Treasurer.

(b) A late payment fee of fifty-five (55) dollars shall be assessed on all annual permits not received by May 1 each year.

(c) Permits shall not be transferable.

(3) A fee shall be required for inspections conducted by the cabinet or the local health department to determine compliance with this administrative regulation for public swimming and bathing facilities.

(4) For public swimming and bathing facilities the annual inspection fee shall be:

(a) Assessed according to the total square footage of the water surface area;

(b) Calculated as established in this paragraph:

1. 1,000 square feet or less, the fee shall be ninety-nine (99) dollars;
2. 1,001 to 1,500 square feet, the fee shall be \$165;
3. 1,501 to 2,000 square feet, the fee shall be \$220; and
4. 2,001 and above, the fee shall be \$220 plus fifty-five (55) dollars for each additional 500 square feet of water surface area; and

(c) Include eighty-two (82.50) dollars and fifty cents for interactive water features.

(5) For splash pads, the annual inspection fee shall be \$275 per year.

(6) For spas and hot tubs, the annual inspection fee shall be \$165 per year.

(7) The inspection fee required by this section shall be:

(a) Paid to the local health department having jurisdiction by check or money order made payable to the Kentucky State Treasurer;

(b) Deposited in the environmental fee account; and

(c) Sent to the Department for Public Health for deposit with the Kentucky State Treasury.

Section 3. Water Supplies.

(1) Potable water from an approved municipal water system or water district shall be supplied to all public swimming and bathing facilities. If these supplies are not available, a potable water supply meeting the approval of the Energy and Environment Cabinet shall be provided.

(2) The water supply shall be capable of providing:

(a) Sufficient quantities of water under pressure to all water-using fixtures and equipment at the facility; and

(b) Enough water to raise the water level by at least one (1) inch in three (3) hours in:

1. Swimming, diving, or wave pools; and
2. Water slide plunge pools.

Section 4. Sewage and Wastewater Disposal.

(1) Sewage or wastewater generated from the operation of a public swimming and bathing facility shall discharge to a public sanitary sewer.

(2) If a public sanitary sewer is not available, sewage or wastewater shall be discharged to a system which complies with 902 KAR 10:085.

(3) Outdoor deck or surface area drainage water may be discharged directly to storm sewers, natural drainage areas, or to the ground surface without additional treatment. This drainage shall not result in nuisance conditions that create an offensive odor, a stagnant wet area, or an environment for the breeding of insects.

(4) Filter backwash shall be discharged to public sanitary sewers, or if unavailable, to a system approved by the cabinet.

Section 5. Refuse Disposal.

(1) All refuse at a public swimming and bathing facility shall be disposed of in a manner approved by the Energy and Environment Cabinet in KAR Title 401.

(2) An adequate number of refuse containers with tight fitting lids shall be provided at readily accessible locations at all public swimming and bathing facilities.

(3) Refuse containers in women's restrooms shall be kept covered.

(4) Bulk refuse storage areas shall be designed and maintained to prevent rodent harborage.

(5) Bulk refuse containers shall be:

(a) Of approved design and construction;

(b) Kept closed; and

(c) Placed upon an impervious surface within a suitable enclosure to prevent access by animals.

Section 6. Facility Design and Construction.

(1) All public swimming and bathing facilities, and attendant structures, such as bathhouses, dressing rooms, or restrooms shall meet the design, materials, fixture, and construction requirements of 815 KAR 7:120 and 815 KAR Chapter 20.

(2) Bathhouses, restrooms, and drinking fountains shall not be required for the design and construction of splash pads.

Section 7. Facility Water Treatment Systems.

(1) A recirculation system, consisting of pumps, piping, filters, water conditioning, disinfection equipment, and other accessory equipment shall be provided to clarify, chemically balance, and disinfect the water for all swimming and bathing facilities.

(2) The recirculation system shall comply with the requirements set forth in 902 KAR 10:123.

Section 8. Operational Water Quality Standards.

(1) Disinfectant residuals for swimming and diving pools, holding tanks, wading pools, water slides, and wave pools:

(a) Chlorine residual shall be maintained between one (1) and five (5) ppm as free available chlorine.

(b) Bromine residual shall be maintained between two (2) and six (6) ppm as free available disinfectant.

(c) Pools stabilized with cyanuric acid shall meet the following criteria:

1. Be an outdoor facility;

2. Maintain one and five-tenths (1.5) to five (5) ppm free available chlorine residual; and

3. Cyanuric acid concentration not to exceed fifty (50) ppm.

(d) If the presence of chloramines is determined, superchlorination is required, and the chloramine level shall not exceed two-tenths (0.2) ppm.

(2) Disinfectant residuals for spas:

(a) Chlorine residual shall be maintained between two (2) and five (5) ppm as free available chlorine;

(b) Bromine residual shall be maintained between two (2) and six (6) ppm as free available disinfectant; and

- (c) If the level of chloramines exceeds two-tenths (0.2) ppm, superchlorination is required. During the superchlorination process and until the time that free chlorine levels return to five (5) ppm or less, the facility shall be closed.
- (3) The pH of the facility water shall be maintained in a range of seven and two-tenths (7.2) to seven and eight-tenths (7.8). For corrosive water supplies, the alkalinity level shall be suitably adjusted to allow maintenance of the pH level.
- (4) Turbidity. Facility water shall have sufficient clarity at all times so that:
- (a) A black disc, six (6) inches in diameter, is readily visible when placed on a white field at the deepest point of the pool; and
 - (b) The openings of the main outlet grate are clearly visible by an observer on the deck.
- (5) Total alkalinity. The alkalinity of the facility water shall not be less than fifty (50) nor more than 180 ppm, as determined by suitable test kits.
- (6) Temperature.
- (a) The water temperature for indoor swimming and bathing facilities other than spas shall not be less than seventy-six (76) degrees Fahrenheit nor more than eighty-four (84) degrees Fahrenheit. The cabinet may allow variances from the above temperature limits for special use purposes as competition, physical therapy, or instruction of children. Variances may be approved if proof is presented showing that a variance from the temperature requirements is necessary for the special uses stated and that the variance will not jeopardize public health.
 - (b) Air temperature at an indoor facility shall be higher than the water temperature, except for spas.
 - (c) Water temperatures for any facility including spas shall not exceed 104 degrees Fahrenheit.
 - (d) All facilities with heated water shall have at least one (1) break proof thermometer located within the facility water in a conspicuous location. The thermometer shall be securely mounted to prevent tampering by bathers.
- (7) Testing Equipment.
- (a) Testing equipment shall be provided at all swimming and bathing facilities, maintained with fresh reagents, and consist of a DPD (Diethyl-P-Phenylene-Diamine) colorimetric test kit used to determine free disinfectant residual, combined disinfectant residual, total alkalinity, and pH of the facility water. Test kits using orthotolidine reagents shall be prohibited.
 - (b) Test kits shall be used to determine the total residual chlorine either directly or by summation of free chlorine and combined chlorine test results. Chlorine standards shall range from one-tenth (0.1) to five (5.0) ppm.
 - (c) pH standards shall range from six and eight-tenths (6.8) to eight and four-tenths (8.4).
 - (d) Both tests shall be accurate to within two-tenths (0.2) units.
 - (e) Facilities using cyanurates for stabilization shall have a test kit to measure the cyanuric acid concentration. The cyanuric acid test kit shall permit readings up to 100 ppm.
- (8) The facility operator shall perform tests for each of the above water quality characteristics before opening and during all hours of operation based on the frequency schedule listed below, and record all test results on a daily operational log sheet:
- (a) Disinfectant residual, temperature, and pH shall be checked at least three (3) times daily with a greater frequency if bather load or climatic conditions warrant.
 - (b) Turbidity shall be checked daily, or more often as needed.
 - (c) The following shall be checked weekly, or more often as needed:
 - 1. Alkalinity; and
 - 2. Cyanuric acid, if used.

(9) All spas shall be completely drained, thoroughly cleaned, and refilled with potable water at least once per week. Cleaners used shall be compatible with facility wall and bottom finishes.

Section 9. General Facility Operation and Maintenance.

(1) All facilities shall be maintained:

- (a) Free from sediment and debris; and
- (b) In good repair.

(2) Decks shall be kept clean. Indoor decks shall be disinfected at least weekly.

(3) Perimeter overflow and skimmers. The perimeter overflow system or automatic surface skimmers shall be clean and free of leaves or other debris. The strainer baskets for skimmers shall be cleaned daily. The flow through each skimmer shall be adjusted as often as necessary to maintain a vigorous skimming action. The facility water shall be maintained at an elevation so that effective surface skimming is accomplished. The flow returning from the facility shall be balanced or valved so that the majority of flow is returned through the perimeter overflow or skimmer system.

(4) Inlet fittings. Inlets shall be checked frequently to ensure that the rate of flow through each inlet is correct so that a uniform distribution pattern is established.

(5) Bather preparation facilities.

- (a) The floors of dressing rooms, shower stalls, and other interior rooms shall be cleaned and disinfected daily.
- (b) Toilet rooms and fixtures shall be kept clean, free of dirt and debris, and in good repair.
- (c) Floors shall be maintained in a nonslip condition.
- (d) Soap dispensers shall be filled and operable.
- (e) Adequate supplies of toilet tissue, disposable hand drying towels, or suitable hand drying devices shall be maintained.

(6) Street attire. Street shoes shall not be worn on the facility decks or wet areas of the bather preparation facilities, except for those persons engaged in official duties.

(7) Safety.

- (a) All public swimming and bathing facility enclosures shall meet the specifications of Department of Housing, Buildings and Construction. Doors or gates in the facility enclosure shall be kept closed and locked if the facility is closed.
- (b) Facility enclosures shall not be required for splash pads.

(8) Electrical systems. Repairs to any electrical system shall be made by an electrician. All repairs shall be in accordance with the National Electrical Code and shall be approved by a certified electrical inspector.

(9) Diving equipment, ladders, hand rails, and other similar equipment, shall be maintained in good repair, be securely anchored, and have a nonslip surface.

(10) Operation of mechanical equipment.

- (a) Manufacturers' instructions for operation and maintenance of mechanical and electrical equipment, as well as pump performance curves, shall be kept available at the facility.
- (b) Pumps, filters, disinfectant feeders, pH controls, flow indicators, gauges, and all related components of the facility water recirculation system shall be kept in continuous operation twenty-four (24) hours a day.
- (c) Recirculation pumps. The pump shall not be throttled on the suction side during normal operation, except for the main drain, and shall be kept in good repair and condition. The flow control valve on the discharge side shall be adjusted as necessary to maintain the design flow rate.

(11) Filtration.

- (a) Sand filters.

1. The filter air release valve shall be opened, as necessary, to remove air which collects in the filter and following each backwash.
 2. The filter shall be backwashed if the design flow rate can no longer be achieved, or as specified by the filter manufacturer, whichever occurs first.
- (b) Diatomaceous earth filters.
1. The dosage of diatomaceous earth precoat shall be at least one and one-half (1 1/2) ounces per square foot of element surface area. Pressure diatomaceous earth filters shall be backwashed if the design flow rate can no longer be achieved or as specified by the filter manufacturer, whichever occurs first. If the recirculation pump stops or is shut off, the filter shall be thoroughly backwashed and the elements shall be precoated before placing the pump back into operation. Vacuum diatomaceous earth filters shall be washed if the design flow rate can no longer be achieved or as specified by the filter manufacturer, whichever occurs first;
 2. Following the precoating operation, the initial filter effluent shall be either recirculated through the filter until the filter effluent is clear, or the initial filter effluent shall be discharged to waste until properly clarified water is produced; and
 3. If continuous diatomaceous earth feed is required (filter loading rate exceeds one and five-tenths (1.5) gallons per minute per square foot of filter surface area), it shall be applied at a rate of one-half (1/2) to one and one-half (1 1/2) ounces per square foot of surface area per day, or as needed to extend filter cycles.
- (12) Hair and lint strainers. Hair and lint strainers shall be cleaned to prevent clogging of the suction line and cavitation. The pump shall be stopped before the strainer is opened. In all cases, the hair strainer basket shall be cleaned during the time the filter is being backwashed.
- (13) Flow meters. Flow meters shall be maintained in an accurate operating condition and readily accessible. The glass and the connecting tubes shall be kept clean.
- (14) Vacuum and pressure gauges. The lines leading to the gauges shall be bled occasionally to prevent blockage.
- (15) Positive displacement feeders.
- (a) Positive displacement feeders shall be periodically inspected and serviced;
 - (b) To minimize sludge accumulation in the unit, the lowest practicable concentration of solution shall be used. If liquid chlorine solution is used, the dilution with water is not critical to the operation of the unit; and
 - (c) Sludge accumulations shall be cleaned periodically from the unit.
- (16) Chlorinated cyanurates. The use of chlorinated cyanurates shall be prohibited.
- (17) pH adjustment.
- (a) Soda ash or caustic soda may be used to raise the facility water pH.
 - (b) Caustic soda shall only be used in accordance with the manufacturer's instructions. If caustic soda is intended for use, the cabinet shall be notified in writing. Protective equipment and clothing, including rubber gloves and goggles, shall be available for the handling and use of this chemical.
 - (c) Sodium bisulfate or muriatic acid may be used to lower pool water pH.
 - (d) Hydrochloric (muriatic) acid may only be used with proper supervision and care. Protective equipment and clothing, including rubber gloves and goggles, shall be available for handling this chemical.
 - (e) The cabinet shall be consulted if there are unusual pH problems including corrosion, scaling, or wide fluctuations in pH.
- (18) Algae control.
- (a) The development of algae shall be eliminated by superchlorinating. The facility shall not be open for use during this treatment. If superchlorination fails to eliminate the algae, the cabinet shall be consulted for further advice.

(b) Treated algae which cling to the bottom and sides of the facility shall be brushed loose and removed by the suction cleaner and filtration system.

(19) Miscellaneous chemicals.

(a) Chemicals other than approved disinfectants shall be used only with the advice and under the supervision of the cabinet.

(b) Chemicals shall be kept covered and stored in the original container, away from flammables and heat, and in a clean, dry, and well-ventilated place that prevents unauthorized access to the chemicals.

(c) The chemicals used in controlling the quality of water shall be used only in accordance with the manufacturer's instructions.

(d) If polyphosphates are used for sequestering iron, the concentration of polyphosphates shall not exceed ten (10) ppm.

(20) Equipment rooms shall comply with the following requirements:

(a) Equipment necessary for facility operation shall be housed in a lighted, ventilated room that affords protection from the weather and prevents unauthorized access.

(b) Suitable space, if not provided in the equipment room, shall be provided for storage of chemicals, tools, equipment, supplies, and records where they can be acquired by the facility operator without leaving the premises. The storage space shall be dry and protected from unauthorized access; and

(c) The equipment room and all other storage areas shall be maintained in a clean, uncluttered condition, and shall not be used for storage of materials not essential to operation and maintenance of the facility.

Section 10. Facility Records.

(1) The operator of each facility shall keep a daily record of information regarding operation of the facility on the DFS-352, Swimming Pool Log Sheet. This data shall be kept on file by the operator and submitted to the cabinet as requested. Proper operating records shall be kept showing daily or weekly results, as applicable, for:

(a) Disinfectant residuals;

(b) pH readings, total alkalinity, cyanuric acid level, if applicable; and

(c) Equipment malfunctions.

(2) If two (2) or more facilities are operated on the same site, separate records shall be maintained for each facility.

Section 11. Safety.

(1) Operator. A facility operator shall be responsible for the operation and maintenance of all swimming and bathing facilities. The operator shall be available at all times when the facility is open for use.

(2) Lifeguards shall comply with the requirements set forth in 902 KAR 10:125 Section 2.

(3) Safety equipment shall comply with the requirements set forth in 902 KAR 10:125 Section 3.

Section 12. Spectator and Bather Administrative Regulations.

(1) Management of each facility shall adopt rules for controlling of food, drink, and smoking in the facility and surrounding areas.

(2) Rules governing the use of the facility and instructions to bathers shall be displayed on placards at the entrance to dressing rooms and enforced by the facility operator. Posting of rules and other instructions shall provide that:

(a) Admission to the facility shall be refused to a person:

1. Having any contagious disease or infectious conditions, such as colds, fever, ringworm, foot infections, skin lesions, carbuncles, boils, inflamed eyes, ear discharges, or any other condition that has the appearance of being infectious;

2. Having excessive sunburn, abrasions that have not healed, corn plasters, bunion pads, adhesive tape, rubber bandages, or other bandages of any kind; and
 3. Under the influence of alcohol, illegal substances, or exhibiting erratic behavior;
- (b) Food, drink, gum, tobacco, or vapor producing products shall not be allowed, other than in specially designated and controlled sections of the facility area;
 - (c) Personal conduct within the facility shall assure that the safety of self and others is not jeopardized;
 - (d) Running and boisterous or rough play shall not be permitted, except for supervised water sports;
 - (e) Spitting, spouting of water, blowing the nose, or otherwise introducing contaminants into the facility water shall not be permitted;
 - (f) Glass, soap, or other material that creates hazardous conditions or interferes with efficient operation of the facility shall not be permitted in the facility or on the deck;
 - (g) All apparel worn in the facility shall be clean;
 - (h) Diving in shallow water shall not be permitted;
 - (i) Caution shall be exercised in the use of diving boards; and
 - (j) Service animals may be allowed in the deck area but shall be excluded from the water.
- (3) Due to the nature of splash pads, animals shall be excluded from the splash pad and deck area.
- (4) In addition to the requirements of subsection (2) of this section, a caution sign shall be mounted adjacent to all spas and contain the following warnings:

"CAUTION

Pregnant women, elderly persons, and persons suffering from any heart condition or disease, diabetes, or high or low blood pressure should not enter the spa without prior medical consultation and permission from their doctor.

Do not use the spa while under the influence of alcohol, tranquilizers, or other drugs that cause drowsiness, or that raise or lower blood pressure.

Do not use at water temperatures greater than 104 degrees Fahrenheit.

Do not use alone.

Unsupervised use by children is prohibited.

Enter and exit slowly.

Observe reasonable time limits (that is, ten (10) to fifteen (15) minutes), then leave the water and cool down before returning for another brief stay.

Long exposure may result in nausea, dizziness, fainting, or death.

Keep all breakable objects out of the area.

Shower before entering the spa."

- (5) A sign shall be posted in the immediate vicinity of the spa stating the location of the nearest telephone and indicating that emergency telephone numbers are posted at that location.

Section 13. Swimming Suits and Towels Furnished by Management. All swimming suits and towels used by swimmers and maintained for public use shall be cleaned after each use. These items shall be handled in a sanitary manner.

Section 14. Facility Inspection.

- (1) Seasonal facilities.

- (a) All owners or operators of seasonal facilities, prior to opening to the public, shall certify to the cabinet, in writing, that the facility is in compliance with the requirements of this administrative regulation, except in instances where the cabinet has made an inspection prior to its opening. For seasonal facilities, the cabinet shall make at least two (2) full facility inspections during the operating season. The cabinet may require one (1) of the full facility inspections to be performed prior to a facility's opening.
 - (b) The facility owner or operator shall be responsible for notifying the cabinet of the proposed opening date.
- (2) Continuous operation indoor facilities shall receive a full facility inspection by the cabinet at least once each six (6) months.
- (3) Facilities shall be inspected at a minimum of once each thirty (30) day period by the cabinet on a monitoring basis. The monitoring inspection shall consist of:
- (a) Disinfectant residual testing and combined disinfectant in ppm;
 - (b) pH testing;
 - (c) Total alkalinity testing;
 - (d) Cyanuric acid testing, if cyanuric acid stabilizers are used;
 - (e) Turbidity assessment;
 - (f) Temperature testing, if heated water facility;
 - (g) Review of operator's daily log;
 - (h) Visual scanning for algae or debris; and
 - (i) Other checks as necessary.
- (4) The cabinet may make as many additional inspections and reinspections as necessary for the enforcement of this administrative regulation.
- (5) When an agent of the cabinet makes an inspection of a public swimming and bathing facility, the findings shall be recorded on the DFS-349, Public Swimming and Bathing Facilities Inspection Report and a copy provided to the facility owner or operator. The inspection report shall:
- (a) Set forth any violation observed;
 - (b) Establish a specific and reasonable period of time for the correction of the violation observed; and
 - (c) State that failure to comply with any notice issued pursuant to the provisions of this administrative regulation may result in closure of the facility.

Section 15. Water Sampling and Testing.

- (1) A water sample may be collected from facilities if inspections or monitoring indicates water quality standards are not being maintained, or there is a suspected water borne disease outbreak. These samples shall be submitted to the Division of Laboratory Services in an approved container and by approved sampling procedures for analysis.
- (2) Samples shall be collected and analyzed for any of the following or other contaminants:
- (a) Total coliform;
 - (b) E. coli; and
 - (c) Pseudomonad organisms.
- (3) If a sample tests positive for a contaminant, the test shall be repeated within one (1) to seven (7) days.
- (4) For a facility, no more than two (2) consecutive samples shall be positive for:
- (a) More than two (2) coliform organisms per 100 milliliter (mL);
 - (b) Pseudomonas organisms; or
 - (c) E. coli.
- (5) Additional samples may be requested to ensure compliance with this administrative regulation.

Section 16. Bacteriological Quality of Facility Water. No more than two (2) consecutive samples shall:

- (1) Contain more than 200 bacteria per mL;
- (2) Have a positive confirmatory test for coliform organisms in any of the five (5) ten (10) mL portions of a sample or more than two (2) coliform organisms per 100 mL when the membrane filter test is used;
- (3) Have a positive confirmatory test for pseudomonas organisms; or
- (4) Have a positive test for fecal coliform organisms.

Section 17. Conditions requiring Closure of a Facility and Enforcement Provisions.

(1) The cabinet shall immediately order the closure of a facility and prohibit any person from using the facility by written notice to the facility owner or operator if:

- (a) There is an immediate danger to health or safety;
- (b) Violations of the Virginia Graham Baker Act;
- (c) The water does not conform to the bacteriological standards contained in this administrative regulation;
- (d) Turbidity levels of facility water do not meet the requirements of Section 8(4) of this administrative regulation;
- (e) The disinfectant residual is outside the range prescribed in this administrative regulation;
- (f) The pH is outside the range prescribed by this administrative regulation;
- (g) The cyanuric acid level exceeds fifty (50) ppm;
- (h) There is no pool operator available;
- (i) There has been a fecal accident in the pool;
- (j) The owner, operator, an employee, or representative of the owner interferes with duly authorized agents of the cabinet who bear proper identification, in the performance of their duties;
- (k) If recirculation systems, filtration systems, or disinfectant systems are not in operation, with exceptions for maintenance and seasonal shut down, or replaced without prior approval; or
- (l) If serious or repeated violations of any of the requirements of the administrative regulations are found.

(2) The notice shall state the reasons prompting the closing of the facility, and a copy of the notice shall be posted conspicuously at the facility by the owner or operator.

(3) Any owner or operator affected by an order may request an administrative conference in accordance with 902 KAR 1:400.

(4) If the conditions rendering closure are abated or further analyses prove to not render closure, the cabinet may authorize reopening the facility.

(5) In all other instances of a violation of the provisions of this administrative regulation the cabinet shall serve upon the owner or operator a written notice specifying the violation in question and afford a reasonable opportunity to correct the violation. An owner or operator who fails to comply with any written notice issued under the provisions of this administrative regulation shall be notified in writing that the facility shall be closed at the end of ten (10) days following service of the notice, unless a written request for a conference pursuant to 902 KAR 1:400 is filed with the cabinet by the owner or operator within the ten (10) day period.

(6) All administrative hearings shall be conducted in accordance with KRS Chapter 13B.

(7) Any person whose facility has been closed may, at any time, make application for a reinspection for the purpose of reopening the facility. Within ten (10) days following receipt of a written request, including a statement signed by the applicant that in his or her opinion the conditions causing closure of the facility have been corrected, the cabinet

shall make a reinspection. If the facility is found to be in compliance with the requirements of this administrative regulation, the facility shall be reopened.

(8)

(a) For serious or repeated violations of any of the requirements of this administrative regulation, or for interference with the agents of the cabinet in the performance of their duties, the facility may be permanently closed after an opportunity for a conference has been provided in accordance with 902 KAR 1:400.

(b) Prior to the action, the cabinet shall notify the owner or operator, in writing, stating the reasons for which the facility is subject to closure and advising that the facility shall be permanently closed at the end of ten (10) days following service of the notice unless a request for a conference is filed with the cabinet by the owner or operator, within the ten (10) day period.

Section 18. Existing Facilities and Equipment. Existing facilities and equipment being used prior to the effective date of this administrative regulation that do not fully meet the design, construction, and materials requirements of this administrative regulation, may continue to be used if the facilities and equipment:

- (1) Are in good repair;
- (2) Are capable of being maintained in a sanitary condition;
- (3) Meet facility water quality standards; and
- (4) Create no health or safety hazard.

Section 19. Effect on Local Administrative Regulations. Compliance with this administrative regulation shall not relieve any person from compliance with any other state or local laws dealing with pool operation and maintenance matters or zoning requirements that may also be applicable.

Section 20. Incorporated by Reference.

(1) The following material is incorporated by reference:

(a) "DFS-349, Public Swimming and Bathing Facilities Inspection Report", 11/2024; and

(b) "DFS-352 Swimming Pool Log Sheet", 5/2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Public Health Protection and Safety, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. and online at <https://chfs.ky.gov/agencies/dph/dphps/emb/Pages/pools.aspx>.

STEVEN J. STACK, MD, MBA, Commissioner

ERIC C. FRIEDLANDER, Secretary

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