



COMMENTS ON TEXAS PUBLIC INTERACTIVE WATER FEATURES REGULATIONS EFFECTIVE MAY 1, 2010

History

For just over a decade now the fastest growing segment of the aquatic industry in the U.S. has been the *mini-water park, splash pad or spray ground* or whatever other name may have been assigned to water features where spraying fountains are used for play on hard surface play grounds which did not pool water to any appreciable depth. The design of these features was initially trial and error as engineers, suppliers and contractors struggled with a variety of issues including, and certainly not limited to:

- Security
- Water conservation
- Fall prevention
- Water treatment and filtration
- Improper use and abuse

As popularity rose, so obviously did the number of park sites. For several years now health officials and owners of interactive water parks, splash pads, spray grounds have seen a rise in the number of water-borne illnesses and unfortunately a few deaths. In famous cases in New Jersey and New York and later in Fort Worth and Dallas, water play facilities were closed due to *cryptosporidiosis*, a particularly dangerous parasite-induced digestive tract disorder with the potential to spread quickly, but the carriers of this parasite simply moved on to other water play areas and the disease became even more widespread and hard to contain.

Unfortunately, chlorine and bromine disinfection systems widely used in the U.S. do not effectively kill or control the cryptosporidium parasite. Supplemental equipment would need to be installed in most cases.

Most states have been aggressive in creating regulations and passing laws and remarkably there has been some degree of uniformity since state health officials traded information with one another. Texas, with much reliance on the Center for Disease Control in Atlanta, Georgia began drafting rules as early as 2008 and in late 2009 completed draft regulations. After a significant number of public comments during the draft's consideration, rules were finally published in April, 2010 and passed by the Texas Department of State Health Services in May, 2010.

In truth, most of us in the aquatic profession felt that, as with the Virginia Graeme Baker Act of 2007 which mandated anti-entrapment drain installations nationwide, there would be some grace period in which owners could budget, purchase, and install equipment to get their facilities compliant. While, unofficially compliance is lenient in the early months, the department has the authority to close down interactive water features immediately if the need arises.

Overview of the Regulation

The regulations can be found at Title 25 Health Services of the Texas Administrative Code, Part 1, Chapter 265, Subchapter M, sections 265.301 through 265.308 inclusive. You can download the law from the Department's website at www.dshs.state.tx.us.

The regs divide what they call Public Interactive Water Features (PIWFs) into two distinct categories at the outset:

- 1) PIWFs circulating and filtering water for re-use.
- 2) PIWFs dependent on pass-through water from a public water supply wasted or recycled for other uses OR from a natural watercourse freshwater stream and returned to that stream. (Texans will instantly recognize the input of Schlitterbahn Water Park in the regulations since they have only one of a handful of freshwater fed parks in the country!)

THESE RULES DO NOT APPLY FOR PIWFs WITH PASS-THROUGH WATER SOURCES WHICH ARE NOT FILTERED NOR RECIRCULATED THROUGH THE PIWF.

Secondly, the regulations also divide PIWFs into two more categories:

- 1) Those for whom construction started prior to May 1, 2010
- 2) Those commenced after May 1, 2010

PIWFs commenced (meaning ground breaking or electrical service extension whichever comes first) prior to May 1, 2010 are given options which could preclude installation of supplemental disinfection equipment. We will discuss those options later under "grandfathering".

PIWFs commenced after May 1, 2010 must install supplemental treatment equipment in addition to the normal filter, sanitizer and pH control systems.

And finally, the regulations further classify the PIWFs by whether or not the PIWF is "stand alone" or shares a treatment system and water supply with a swimming pool or similar body of water.

What Is A Public Interactive Water Feature?

Definition (49) of Section 265.302 "Definitions" defines a PIWF as "*Any indoor or outdoor installation maintained for public recreation that includes water sprays, dancing water jets, waterfalls, dumping buckets, or shooting water cannons in various arrays for the purpose of wetting the persons playing in the spray streams.*" Additionally:

- The PIWFs may be publicly or privately owned;
- May be operated by an owner, lessee, operator, licensee, or concessionaire, regardless of whether a fee is charged for use;
- Includes facilities at fraternal organizations, apartments, health clubs, country clubs, home owner's and condo associations, camps, hotels or other accommodations, schools, universities, Y's or JCC's.

As you can see, the list of included facilities encompasses pretty much all recreational aquatic facilities in the state. Specifically exempted are:

- Facilities at and serving only a single family or duplex living unit.
- Display or landscape fountains not intended for public contact.
- Amusement rides or other attractions where the spray is incidental. (Slides are exempted from these regulations.)

What Supplemental Equipment is Required?

This regulation also requires that all facilities maintain prescribed levels of cyanuric acid, free chlorine residual, and pH with automatic, continuous feed chemical equipment.

The common misconception is that you must install UltraViolet (UV) equipment to be in compliance with the requirements for supplemental treatment and that is simply not true. Properly designed and installed UV equipment will meet the intent of the rules but so will other equipment:

- Ozone generation and application
- NSF/ANSI-50 approved products (such as some filters) or process to control cryptosporidium.
- Weekly hyperchlorination
- An “equivalent product, process, or system approved by the Department.”

Can My Facility Be Grandfathered?

If constructed prior to May 1, 2010, a facility can install the supplemental equipment above OR be exempted IF

- For stand alone PIWF (not circulating with a pool for example): Test the water for cryptosporidium every 14 days of operation!
- For shared water PIWF (that is, sharing equipment and water supply): Test the water for cryptosporidium every 30 days of operation!

Obviously this provision implies a **negative** test for crypto! If you test **positive**, you will likely find yourself having to install equipment before you can re-open. And be aware, there are few laboratories that can perform this testing and the tests themselves are expensive. You will likely want to find other options very quickly other than testing.

Other Stuff

The rules also contain certain provisions requiring testing, recording and maintaining sanitizer levels, cyanuric acid levels (outdoor only), and pH. Turnover rates are imposed. Automatic water level control is required as is cross connection prevention. Specifically worded signage is also required.

The regulations provide that cities, counties and the department may require permits for PIWFs and may charge fees. They may also close PIWFs in violation of this subchapter of the code.

Be advised the regulation is not simply about disinfection equipment. It imposes rules for operating these facilities as well!