

INITIAL RULE IMPACT STATEMENT

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 320. PUBLIC BATHING PLACE OPERATIONS

1. **DESCRIPTION:**

310:320-3-2. Personnel [AMENDED] Creates exemption and requirements to lower age from 16 to 15 for lifeguards with provisions.

2. **DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:**

310:320-3-2. Personnel [AMENDED] Public bathing licensed establishments, individuals looking for employment in lifeguarding. Cost impact of request letter from establishments, and cost associated with required classes for lifeguards.

3. **DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:**

310:320-3-2. Personnel [AMENDED] Benefits to licensed public bathing places by expanding the pool of eligible lifeguard candidates. Benefits to 15-year old persons interested in working as lifeguards. Health outcomes expected are more pools able to be open with more staff available. Since lifeguard classes and tests still required, minimal risks expected.

4. **ECONOMIC IMPACT, COST OF COMPLIANCE AND FEE CHANGES:**

310:320-3-2. Personnel [AMENDED] Economic impact: allows pool establishments to operate more hours by having more available lifeguards, and more people able to take lifeguard certification classes. Cost of compliance will be related to staff time of tracking and monitoring the exemption request letters, answering questions, and inspector time when verifying records. No fee changes.

5. **COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY.**

310:320-3-2. Personnel [AMENDED] Minimal cost to the agency. Data storage for documents and staff time to review for completeness.

6. **IMPACT ON POLITICAL SUBDIVISIONS:**

There will be no impact on political subdivisions, and it will not require their cooperation in implementing or enforcing the proposed amendment.

7. **ADVERSE EFFECT ON SMALL BUSINESS:**

There is no known adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.

8. EFFORTS TO MINIMIZE COSTS OF RULE:

There are no less costly means currently identified.

9. EFFECT ON PUBLIC HEALTH AND SAFETY:

310:320-3-2. Personnel [AMENDED] Possible risk of a young lifeguard unable to rescue a large person that is drowning, but the risk is minimized by the lifeguarding certifications swim test and training.

10. DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:

310:320-3-2. Personnel [AMENDED] Some public bathing facilities would not be able to open fully.

11. PREPARATION AND MODIFICATION DATES:

This rule impact statement was prepared on June 14, 2021.

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 320. PUBLIC BATHING PLACE OPERATIONS**

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Operational Provisions

310:320-3-2 [AMENDED]

AUTHORITY:

Commissioner of the Oklahoma State Department of Health; 63 O.S. § 1-104

ADOPTION:

June 17, 2021

EFFECTIVE:

Immediately upon Governor's approval

EXPIRATION:

Effective through September 14, 2022, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Licensed public bathing establishments face a shortage of eligible lifeguard candidates during the peak usage of the facilities. The pool of qualified lifeguard candidates can increase, as needed, to ensure the safety of the public at public bathing establishments if the proposed rules are adopted.

GIST/ANALYSIS:

The proposed emergency rules amend Title 310:320 Public Bathing Place Operations. These rules are submitted to create an exemption and to impose requirements to lower the age from 16 to 15 for lifeguards. The proposed emergency rules allow pool establishments to operate more hours by having more available lifeguards and enables more people to take lifeguard certification classes. The Department may approve an establishment's request to lower the age restriction for lifeguards from 16 to 15. Each exemption is limited to the establishment making the request and to only one physical location operated by the establishment. An approved exemption is valid for one year from the date of approval and may be rescinded by the Commissioner of Health at any time.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):

SUBCHAPTER 3. OPERATIONAL PROVISIONS

310:320-3-2. Personnel

(a) **Transfer of ownership.** Each holder of a permit to construct a public bathing facility shall notify the Department in writing upon sale, lease, or other transfer of responsibility for the premises and shall supply the Department with the name and address of the new operator and/or owner.

(b) **Operation and management.** The bathing place shall be maintained under the supervision and direction of a properly trained operator who shall be responsible for promoting good sanitation and safety, the proper maintenance of the bathing place, and all physical and mechanical equipment and records. Proper training can generally be obtained through attendance at short courses for swimming pool operators sponsored by the state, county, and municipal health departments; state colleges and universities, and organizations such as the YMCA, YWCA, and Red Cross. It is recommended that pool operators attend these training courses.

(c) **Lifeguard.**

(1) One (1) or more lifeguards shall be on duty at the pool side of all bathing places open to the general public, and all pools with diving boards or platforms higher than one (1) meter at all times when the pool is open and in use. These individuals shall be in full charge and shall have authority to enforce all rules and regulations pertaining to sanitation and safety.

(2) Lifeguards of public bathing places in Oklahoma shall have satisfactorily completed an advanced course of instruction in life saving and water safety equivalent to that offered by the American Red Cross or YMCA. Lifeguards shall be carefully selected and shall be not less than sixteen (16) years of age at the time they are employed as a lifeguard for duty at any public bathing place in Oklahoma. Lifeguards shall have a current life saving certificate, be capable swimmers, shall be competent in life saving methods, and be able to perform artificial respiration, shall be in good physical condition, and shall be able to command respect. At least one (1) person holding a current certificate in cardiopulmonary resuscitation (CPR) and trained in multi-media or equivalent first aid shall be on duty at all times the pool is in use. A current advanced life saving certificate for each lifeguard employed shall be prominently displayed or posted at the checking stand or other convenient point so as to be easily read by the patrons. The CPR certificate(s) shall be similarly posted. Bathing places open to the general public with water depths of four (4) feet or less may substitute persons passing an American Red Cross Basic Water Safety Course or its equivalent, rather than the Advanced Life Saving Course. It is recommended that, in addition, such persons also receive instruction in the shallow water "carries and assists" portion of the Red Cross Advanced Life Saving Course or its equivalent.

(3) Lifeguards assigned to the pool side shall not be subject to duties that would distract their attention from proper observation and supervision of persons in the pool area, or that would prevent immediate assistance for persons in distress in the water.

(4) The number of lifeguards on duty shall be such as to provide reasonable general supervision of the activities of all persons in the pool area, with detailed supervision and close observation of those persons in the pool water. The number shall also be sufficient to enable periodic relief or rest periods so that they will be alert while on duty. As a general approximation, it is recommended that the pool management provide at least one (1) lifeguard at the pool side for each seventy-five (75) persons in the swimming pool, with the determining factors being the type of pool, size of pool, ratio of surface area of deep water to the area of pool, temperature of the water, and quality of the water. Lifeguards shall wear distinguishing suits or emblems so that they may be easily identified by persons using the swimming facilities.

(5) In the case of pools not open to the general public, that limit the use of the pool to their tenants or guests, it is recommended that a lifeguard or attendant who is responsible to the pool management be in attendance when the bathing place is in use. No person shall be employed for this duty who has a known communicable disease. Pools not open to the general public which do not have attendants present during all hours of operation must post a sign at the entrance to the pool area stating "NO LIFEGUARD OR ATTENDANT ON DUTY."

(6) If there is a shortage of certified lifeguards (age 16 or older) due to an uncontrollable event, including but not limited to a public health emergency, war, severe acts of nature, or a labor shortage, adversely impacting a licensed public bathing place (establishment), the Department may approve an establishment's request to lower the age restriction stated in (2) of this subsection to individuals who have reached the age of 15. Each exemption is limited to the establishment making the request and to only one

physical location operated by the establishment. An approved exemption is valid for one year from the date of approval and may be rescinded by the Commissioner of Health at any time. A letter submitted to the Department and requesting this exemption, must be signed by an individual with authority to bind the establishment, notarized, and include the following statements:

- (A) the establishment states the nature of the uncontrollable event prompting the request;
- (B) the establishment states how the uncontrollable event adversely impact ability to hire certified lifeguards;
- (C) the establishment attests that the 15-year-old is in compliance with all other lifeguard regulations;
- (D) the establishment attests that the responsibilities for 15-year-old lifeguards will be in compliance with 29 CFR 570.34(1); and
- (E) an estimate of the percentage of 15-year-old lifeguard staff.

(d) **Duties and responsibilities of pool personnel.** The Oklahoma Public Bathing Place Act provides that all owners, managers, operators, and other attendants in charge of any public bathing place shall be responsible for the safety and sanitation of public bathing places. In addition to compliance with the other parts of these standards, the pool personnel must be responsible for the following:

- (1) Duties and responsibilities pertaining to bathers and general pool operation.
 - (A) See that all rules and regulations affecting the users of the bathing place are properly enforced.
 - (B) Report all drownings and accidents requiring hospitalization immediately to the local health authorities by telephone and in writing within seven (7) days. If there is no local health department, contact Environmental Services at the State Health Department, Oklahoma City, Oklahoma.
 - (C) Report to the operator or management any condition of the bathing place or equipment which may be detrimental to its safe operation.
 - (D) See that showers are used and are operating properly.
 - (E) See that all persons known to be infected with a communicable disease are excluded from the pool.
 - (F) See that all persons who are under the influence of an intoxicating liquor or drugs, are excluded from the shower rooms and the pool area.
 - (G) See that all doors and gates to the bathing place are locked when the bathing place is not in use or when the facility is closed for health or safety reasons. Signs stating "POOL CLOSED" shall be placed at all entrances to the pool when not open for use.
 - (H) Conduct two (2) unannounced emergency drills each year are recommended, including at least one (1) with a water rescue, at all pools open to the general public.
 - (I) Submit required records of the pool operations to the county health department. In counties without a county health department, mail the operation record to the State Health Department.
 - (J) See that animals are not allowed inside the pool enclosure.
 - (K) See that safety equipment is not tampered with or played with by bathers or used for anything other than its intended use.
- (2) Duties and responsibilities pertaining to the bathhouse and appurtenances.
 - (A) See that walk areas, overflow gutters, counters, lockers, equipment, furniture, interior partitions, and walls are in good repair and are clean. Where porous deck coverings are used, they shall be disinfected with a one hundred (100) ppm solution of chlorine at least once each day the facility is in use.
 - (B) See that floors of dressing rooms, shower stalls, and other interior rooms are scrubbed, using hot water with a suitable detergent, rinsed thoroughly, and disinfected daily. More frequent attention to floors is recommended during periods of heavy use. It is important that the floors be thoroughly clean prior to disinfection with chlorine compounds. The floors should be scrubbed with soap or a suitable detergent, using hot water, then disinfected with a 0.3 percent to 0.6 percent solution of available chlorine, or a suitable commercial cleaner and disinfecting agent may be used.

- (C) See that toilet rooms and fixtures are kept clean, sanitary, and in good repair.
 - (D) See that liquid soap dispensers, paper towel dispensers, and toilet paper holders are kept adequately supplied.
 - (E) See that no food, drinks, debris, or foreign substances are thrown or carried into the pool. No glass containers any type may be used in or near the pool. Beverages should be dispensed in paper cups to avoid the hazard of broken glass. Waste containers for disposal of used cups and food wrappers shall be located at convenient points within the walk areas.
 - (F) Exclude unauthorized persons from the bathing place area.
 - (G) Exclude spectators and non-bathers from the toilet rooms provided for the persons using public pool facilities.
- (3) Duties and responsibilities pertaining to mechanical equipment.
- (A) See that the pool is free from sediment and accumulations of lint and hair. See that the walls and bottom of the pool are free from dirt and discoloration and that the overflow gutters and skimmers are clean and flushing properly. See that the bottom and sides of the bathing place are brushed or suction cleaned as often as is necessary to keep the pool free of solids that may settle, algae, and slime.
 - (B) See that the level of the water is maintained at such a height as to ensure a constant slight overflow into the overflow gutter when no bathers are in the pool.
 - (C) Operate the pool equipment so as to maintain a clear and safe water and be responsible for maintaining the disinfection residuals and other chemical parameters as given under Regulations Sections 310:320-3-7 and 310:320-3-8.
 - (D) Keep on hand at all times at least a two (2) weeks supply of chemicals for disinfection and pH control of bathing water.
 - (E) Keep on hand diatomite filter aid sufficient for two (2) weeks operation for filtration with diatomite filters, including diatomite skimming filters.
 - (F) When adjusting flow from inlets, give consideration to the fact that children, who are more susceptible to infectious diseases than older persons, will be more or less restricted to the shallow sections; the greatest pool loads with subsequent contamination are likely to come in this section of the pool. Inlets should be adjusted to provide approximately ten (10) PSI pressure on the effluent gauge when the filter is clean. Approximately seventy (70) percent of the water should return to the pool through the inlets in shallow portion of the pool.
 - (G) Provide for filtration plant operation.
 - (i) All bathing place operators shall know how to properly operate the filtration system and its appurtenances. These include hair catchers, filters, pumps, chemicals, and vacuum cleaners.
 - (ii) Where surface skimmers are provided as a means of control of floatage, bathing place personnel shall regularly insure that the flow of makeup water is adequate to assure proper skimming operation. Baskets or screens provided to trap large solids shall be cleaned regularly.
 - (iii) An adequate supply of septa and diatomite filter aid shall be available at all times where skimmer filters are provided. When two (2) or more skimmer filters are in operation, they shall be inspected periodically to ensure balanced operation.
 - (iv) Pool volume and turnover rate shall be posted in the equipment area of all existing and all new pools.
- (4) Duties and responsibilities pertaining to water chemistry.
- (A) Be responsible for taking all tests as per Regulations Section 310:320-3-8.
 - (B) No pool shall be allowed to remain open for use if the free active chlorine, pH, or turbidity are not within the limits required by these regulations as per Regulations Section 310:320-3-7. It is the responsibility of the pool personnel to close the pool if any one (1) of these three (3) are not within the required parameter limits.

(C) Store all chemicals in a safe manner and in an area not accessible to unauthorized persons. No chemical shall be stored in a container that does not have a complete label on it for that product.

(D) See that the proper chemicals are on hand for the type disinfection feeder in use. Hand feeding of chlorine is permitted only for super-chlorination or cleaning the pool. Only chemicals recommended by the manufacturer of solution or flow-through feeders should be used.

(E) Chlorine and pH readings from an electrode type automatic controller may be substituted, with approval of the Department for three (3) of the four (4) required daily readings in Regulations Section 310:320-3-8.