

Ask Al

Alvaro G. Mendoza | Commercial Energy Specialists, Inc.



Welcome back to our “Ask the Expert” feature, designed to assist you with issues related to swimming pool water, mechanical equipment, space conditioning and code compliance. Ask a question, and we will try to answer to the best of our ability.

Q: We operate a growing swim school, and do all the right things in regards to teaching kids, but there are so many codes and regulations that we're not sure pertain to us. What can we do to stay out of trouble and protect ourselves against liability?

A: So you want a dry, boring article, right? Great!

You're right, there are so many regulations these days, and it sometimes can get very confusing. Here is a partial review of those that could affect a swim school operator, so that you can make sure you are in compliance.

ADA: Some swim school operators are confused as to whether they need to comply with ADA regulations or not in regards to accessibility for their pools. Our May 2011 USSSA article (has it really been that long?) covered the handicap lift issue pretty comprehensively, but in summary... since swim schools normally charge a fee for lessons and for admission to swim

classes or parties, they are considered a Title III facility, and would be required to comply with ADA guidelines. That means you are required to have a functioning handicap lift at each facility.

Title III facilities can be excused if they can demonstrate that reasonable accommodations are not “readily achievable”. These arguments were already heard and addressed preceding the release of the rule, have been unsuccessfully challenged in court, and given the relatively low cost and flexibility of ADA solutions, it would be very tough to escape the ADA responsibility. There has been some confusion regarding type of lift that can be used, but you can install an ADA-approved permanent, removable, OR portable lift as long as each can be anchored to the deck in some way when in use. If you don't keep it in position during open hours, then you should make that notation in your “ADA Implementation Plan”. Don't have a published plan... you really should.

VGB: While the Virginia Graeme Baker (VGB) Act is not getting as much press these days, it is still a strong industry regulation with lots of teeth. Make sure that you have VGB approved grates, and replace them before they reach their expiration dates. Also make sure that the screws

are intact and a periodic inspection is recommended. When building a new facility, it is a great idea to look into installing a collector (or surge) tank that removes all direct suction from the pool envelope, even if it is not required by code. If not, you probably have an SVRS device or vent line, and those need to be inspected, tested, certified, and/or replaced periodically depending on your type and/or location. Many operators even disable in-pool vacuum ports (use a portable or robotic vacuum instead) to help prevent accidents.

State & Local Health Department (DOH): Regulations vary widely from state to state and sometimes between each city and county, but it is safe to say that every pool that charges for lessons probably falls under some type of DOH codes. Lessons in private homes may not be inspected by DOH, but we recommend that these be operated as if they were. They should be upgraded to comply with codes including automatic chemical feeders, NSF® rated mechanical equipment, suitable deck and safety equipment, etc. Additionally, operators should keep daily log sheets and operate as if their health inspection is just around the corner.

If you think you are receiving lax DOH inspections, and want to make sure you comply with codes, then go through the

inspector's checklist yourself and give yourself a thorough evaluation... as if it were being looked at by an attorney (as it just might someday). If you own the pool, then you should fix things that do not comply. If you rent/lease the pool, then document deficiencies to the owner in writing, and ask them to fix for both of your sake.

Certified Operators: One requirement of many DOH codes is that operators be certified using a nationally accredited course of at least 18 hours. The big three courses are CPO (Certified Pool Operator), AFO (Aquatic Facility Operator) and AquaTech (Starfish Aquatics). You should have a certified operator on-site at all times and many leading Swim Schools have certified many, if not all, of their staff so that they have a better grasp of the overall pool operations.

AFO and CPO are normally two-day classroom lectures and the quality of the

course is very dependent on the quality, experience level and degree of non-commercialism by the instructor. The AquaTech course offers an interesting new twist. It is a hybrid class consisting of a pretty interactive online class, coupled with a full-day hands-on session with 10 personalized learning stations covering DOH Compliance, equipment room, pool deck and overall operations. There are also special sessions on ORP, feeder maintenance, test kits and controls. This is a newer course, but we expect it to quickly gain popularity.

National Code (?): The newly released Model Aquatic Health Code (MAHC) is not a national code (yet), but some states have expressed interest in adopting it as a primary or secondary code. More importantly, it is being viewed by many as the new BEST PRACTICE GUIDELINE for operating a pool. While the code has many similarities to codes in Florida, NY, California,

etc., there are some nuances that can be considerably stricter than your local code. If anything, you might want to download it, read it and let it guide your long-term renovation and operational programs.

Summary: While it is not a comprehensive roadmap, you can generally stay out of trouble by following the guidelines above. Regardless of what type of oversight or inspections you are receiving, the law is the law, and liability-related lawsuits can be very devastating. The best course of action is to run an organized, code-approved pool, do things by the book, document your chemical readings and your safety-related actions, and spend money as necessary to keep your staff and patrons out of harm's way. Please let us know if we can help in any way.

Best Regards,

ALVARO G. MENDOZA

Please feel free to forward your questions & comments through the USSSA office, or directly to me via email at amendoza@ceswaterquality.com



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