



April 16, 2020

The Honorable Lee Chatfield, House Speaker
Michigan House of Representatives
P.O. Box 30014
Lansing, MI 48909-7514

Submitted via email to: LeeChatfield@house.mi.gov

RE: Public health concern due to inability to maintain pools

Dear Speaker Chatfield:

The Pool & Hot Tub Alliance (PHTA) on behalf of our Michigan Chapter, submit this letter urging action by the Legislature to prevent community health issues that will compound the challenges facing our healthcare infrastructure due to COVID-19. We thank you in advance for any consideration that can be given to this critical issue.

1. ABOUT THE SUBMITTING ORGANIZATION

The Pool and Hot Tub Alliance (PHTA), *formerly the Association of Pool and Spa Professionals*, represents over 3,500 company members nationwide, we have 40 Michigan based member companies. The pool and hot tub industry contribute \$36.5B and 382,000 job equivalents for the U.S. economy. PHTA is the world's oldest and largest association representing swimming pool, hot tub and spa manufacturers, distributors, manufacturers' agents, designers, builders, installers, suppliers, retailers, and service professionals. PHTA facilitates the expansion of swimming, water safety and related research and outreach activities aimed at introducing more people to swimming, making swimming environments safer and keeping pools open to serve communities.

2. THE PROBLEM

During this pandemic, PHTA has shared recommended actions and updates with the pool and hot tub industry in Michigan and throughout the country related to safe practices, including social distancing, working from home, and, where appropriate, closing or limiting operations until conditions have changed. To prevent additional outbreaks and serious injury to pool owners and their families, we are also working to ensure that existing pools are continuously tended to, that pool owners and industry professionals have access to necessary chemicals, and that partially completed projects are finished.

The Michigan Stay-At-Home Order (Order) and the U.S. Cybersecurity and Infrastructure Security Agency (CISA) guidance of March 19, 2020, which is incorporated in this Order by reference in Section 8 of the Order provides the following:

o PUBLIC WORKS: “Workers such as plumbers, electricians, exterminators, builders, contractors, HVAC Technicians, landscapers, and other service providers who provide services that are necessary to maintaining ***the safety, sanitation, and essential operation of residences, businesses and*** buildings such as hospitals, senior living facilities, any temporary construction required to support COVID-19 response.”

It should be noted that virtually every state that has enacted an Order either cites to or repeats the above language. PHTA believes the services of retail stores and maintenance of pools and spas have been identified as essential under the CISA guidance. However, the Governor’s office has interpreted the Order and the CISA guidance as not allowing for pool or spa stores to remain open nor provide services to the public.

EO 2020-42: Can pool or spa stores remain open to the public?

No, employees at these businesses are not critical infrastructure workers, and they may not be designated to leave their homes to provide goods or services to the public. As needed, however, a business may designate workers to leave their homes for work if their in-person presence is strictly necessary to conduct the minimum basic operations listed in section 4(b) of the order. Minimum basic operations do not include serving members of the public. Under the order, all work must be carried out remotely to the greatest extent possible, and any in-person work that is permitted must be done in accordance with the mitigation measures required under section 10 of the order.

This is resulting in what will be an increasing level of unsafe conditions for homeowners and the public. We fear that a new public health crisis will occur as stagnant pool water leads to disease transmission of both waterborne and mosquito born illnesses.

3. THE CONCERN

Research from PK Data in 2019 estimates that there are approximately 75,797 inground and 119,982 aboveground residential pools in Michigan, representing over 2.7 billion gallons of water. As of 2018, there are 4,944 public pools in Michigan.

It is widely recognized by health authorities in the U.S. and elsewhere that the continued treatment of water in both residential and public pools, spas and hot tubs is absolutely necessary to maintain the safety and sanitation of residences, buildings and the surrounding areas.

The U.S. Centers for Disease Control and Prevention has stated there is no evidence that COVID-19 can be spread to humans through the use of pools and hot tubs and have stated that: “Proper operation, maintenance, and disinfection (e.g., with chlorine and bromine) of pools and hot tubs should remove or inactivate the virus that causes COVID-19.”² Additionally, the World Health Organization states that controlling water quality is necessary to prevent the transmission of infectious diseases.

Without proper pool and hot tub maintenance (which includes circulation and treatment of water) various pathogens can grow, such as Pseudomonas, Cryptosporidium, E. Coli, Shigella, etc. It can also create a breeding ground for mosquitoes, other pests and the diseases (West Nile Virus and Zika Virus) they may carry, which presents a risk not only to bathers but to the entire community at large (from the *PHTA Fact Sheet: Zoonotic Disease*, prepared by the PHTA Recreational Water Quality Committee).

The dangers presented by untreated pool water are specifically recognized in the Michigan Public Health Code, which provides:

R 325.2196 Water treatment.

Rule 96. (1) A swimming pool owner or operator shall continuously recirculate, filter, and disinfect swimming pool water 24 hours per day at a flow rate sufficient to recirculate the swimming pool volume of water within the time period required by R 325.2136, without interruption, except for cleaning the filters or for other maintenance and repairs.

(2) A swimming pool owner or operator shall ensure that a swimming pool is not used when its water treatment equipment is not functioning properly.

(3) A swimming pool owner or operator shall maintain the water level in a swimming pool at an elevation suitable for continuous skimming flow into the overflow system without flooding it.

(4) A swimming pool owner or operator shall use only the chemical that a chemical feeder manufacture specifies for application by the chemical feeder.

Closed pools must also be maintained a stated below:

R 325.2118b Swimming pools not in use.

Rule 8b. The owner of a swimming pool which is not in use or for which an operation permit is not in effect shall maintain the pool in a condition that prevents its creating a hazard to health or safety.

The Michigan Public Health Code Section 325.2197(3) defines a qualified person as

....a person who is familiar with swimming pool operation and who is authorized by the owner to operate the pool mechanical equipment, close the pool when necessary, test the pool water, and adjust the pool water chemical parameters.

Residential pools should also be maintained by industry professionals to ensure proper pH and chemical balance and to prevent serious injury from improper handling and usage of chemicals. Therefore, businesses that treat residential and public pools are necessary for the sanitation and safety of residences and buildings and must be allowed to remain open.

It is the position of PHTA that residential pools closed for the winter should be allowed to open and be treated. Stagnant pool water can develop in pools that have been closed for the winter in seasonal climates. This condition can exist on top of the covers and in the pool water itself. As temperatures increase, the potential for waterborne pathogens and mosquito related diseases, as mentioned above, rise. Further, many of these covers do not qualify as safety covers and are often used to keep out leaves and other debris. In addition, with backyards in greater use in the spring, and due to social distancing, it is critical that standing water be removed from pool covers. Finally, access to backyard pools allows for healthy family recreation while remaining apart from others.

Pool, hot tub and spa servicing requires chemicals, feeders, test strips, replacement parts and other ancillary equipment. Without ready access to these supplies, industry professionals cannot do their job and DIY pool owners will be unable to maintain their pools properly, resulting in the above health issues. While social distancing is necessary, it can be readily accomplished through controlled access or curbside pickup.

Retail locations, in turn, require their supply chains, including distributors and manufacturers. Here again, the CISA guidelines are in accord, allowing for:

o CRITICAL MANUFACTURING: "Workers necessary for the manufacturing of...and for supply chains associated with...chemical manufacturing...Additionally, workers needed to maintain the continuity of these manufacturing functions and associated supply chains, and workers necessary to maintain a manufacturing operation in warm standby."

o CHEMICAL: § “Workers supporting the chemical and industrial gas supply chains, including workers at chemical manufacturing plants...workers at distribution facilities...” § “Workers who support the production and transportation of chlorine...that prevents the contamination...of water.”

o COMMERCIAL FACILITIES: § “Workers supporting ecommerce through distribution, warehouse...and other essential operational support functions.” § “Workers in hardware and building material stores...and related merchant wholesalers and distributors – with reduced staff to ensure continued operations.

o PUBLIC HEALTH: “Manufacturer workers for...logistics and warehouse operators, distributors of...cleaning, sanitizing, disinfecting or sterilization supplies...”

Section 9b of the Michigan Order provides:

- b. Workers at designated suppliers and distribution centers, as described below.
 1. A business or operation that employs critical infrastructure workers may designate suppliers, distribution centers, or service providers whose continued operation is necessary to enable, support, or facilitate the work of its critical infrastructure workers.
 2. Such suppliers, distribution centers, or service providers may designate workers as critical infrastructure workers *only* to the extent those workers are necessary to enable, support, or facilitate the work of the original operation’s or business’s critical infrastructure workers.
 3. Designated suppliers, distribution centers, and service providers may in turn designate additional suppliers, distribution centers, and service providers whose continued operation is necessary to enable, support, or facilitate the work of their critical infrastructure workers.
 4. Such additional suppliers, distribution centers, and service providers may designate workers as critical infrastructure workers *only* to the extent that those workers are necessary to enable, support, or facilitate the work of the critical infrastructure workers at the supplier, distribution center, or service provider that has designated them.

Therefore, it is the PHTA position that companies that manufacture, distribute and sell pool chemicals and supplies are essential businesses, as defined by CISA. Michigan Service Companies and their Michigan based suppliers must be allowed to make these designations.

It is also important to recognize that even while new pool construction is restricted, it is essential to complete construction on existing projects to a point where the excavation, rebar, concrete and durable fencing are at a point where the site is secure. As recognized by over 30 states and all relevant model codes, without durable barriers (as opposed to temporary fencing used during the project) there is an unreasonable risk of unauthorized access to the hole in the ground which can create a greater risk of drowning. In addition, failure to install rebar, or a composite pool shell or liner also creates a chance the excavation will collapse, thereby creating greater risk to life and health. This is also consistent with the CISA language cited by the Michigan Order.

PUBLIC WORKS: “Workers such as plumbers, electricians, exterminators, builders, contractors, HVAC Technicians, landscapers, and other service providers who provide services that are necessary to maintaining ***the safety, sanitation, and essential operation of residences, businesses and*** buildings such as hospitals, senior living facilities, any temporary construction required to support COVID-19 response.”

Therefore, it is the position of PHTA that once excavation has commenced, the completion of that project must be recognized as necessary for the safety of residents and therefore covered by the CISA guidelines and respective state orders.

4. CLOSING

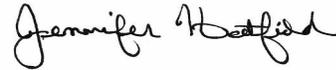
On behalf of the thousands of individuals working in pool and hot tub industry throughout Michigan, and the nearly 10 million residents, we urge the legislature to take action to reduce harm to public health by allowing these businesses to continue providing the services needed, with proper social distancing and best practices. To do otherwise, will only provide additional vectors for the spread of COVID-19 and other complicating diseases that would compound the challenges the State's healthcare system is already facing. Additionally, the current situation is defying and abandoning decades of safe pool and hot tub practices that have been adopted by the State and its Public Health Code.

We appreciate the opportunity to provide these comments. Thank you.

Sincerely,



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cc:

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House Majority Floor Leader Triston Cole
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