

**Health Protection and Promotion Act**  
**Loi sur la protection et la promotion de la santé**

**ONTARIO REGULATION 428/05**

*No Amendments*

**PUBLIC SPAS**

**Notice of Currency:**\* This document is up to date.

\*This notice is usually current to within two business days of accessing this document. For more current amendment information, see the [Table of Regulations – Legislative History Overview](#).

***This Regulation is made in English only.***

**Definitions**

1. In this Regulation,

“automatic sensing device” means a device that,

- (a) determines and continuously displays,
  - (i) sanitizer residual in a public spa’s water, and
  - (ii) pH value of a public spa’s water, and

(b) regulates the operation of chemical feeders to maintain sanitizer and pH levels in accordance with this Regulation;

“circulation system” means a system that,

- (a) maintains circulation of water through a public spa by pumps,
- (b) draws water from a public spa for treatment and returns it to the spa as clean water, and
- (c) provides continuous treatment that includes filtration and chlorination or bromination and other processes that may be necessary for the treatment of the water;

“clean water” means water added to a public spa after treatment in the circulation system;

“daily use period” means the period of time during which a public spa is open for use in an operating day;

“deck” means the area immediately surrounding a public spa;

“hotel” means a hotel, inn, motel, resort or other building or premises operated to provide sleeping accommodation for the public;

“make-up water” means water added to a public spa from an external source;

“operating day” means a day on which the public spa is in operation and open for use;

“operator” means a person designated by the owner of a public spa as being responsible for the operation of the spa;

“owner” means a person who is the owner of a public spa;

“public spa” means a hydro-massage pool containing an artificial body of water that is intended primarily for therapeutic or recreational use, that is not drained, cleaned or refilled before use by each individual and that utilizes hydrojet circulation, air induction bubbles, current flow or a combination of them over the majority of the pool area. O. Reg. 428/05, s. 1.

**Application**

2. (1) In this section,

“Class A pool” has the same meaning as in Regulation 565 of the Revised Regulations of Ontario, 1990 (Public Pools) made under the Act;

“Class B pool” has the same meaning as in Regulation 565 of the Revised Regulations of Ontario, 1990. O. Reg. 428/05, s. 2 (1).

(2) This Regulation applies to the following public spas, whether or not they are operated in conjunction with a Class A pool or a Class B pool, and to all buildings, appurtenances and equipment used in their operation:

- 1. A public spa operated on the premises of an apartment building that contains more than five dwelling units or suites, a mobile home park or a nurses’ residence, for the use of the occupants and their visitors.

2. A public spa operated as a facility to serve a community of more than five single-family private residences, for the use of the residents and their visitors.
  3. A public spa operated on the premises of a hotel for the use of the hotel's guests and their visitors, subject to subsection (3).
  4. A public spa operated on the premises of a campground, for the use of the campground's tenants and their visitors.
  5. A public spa operated in conjunction with,
    - i. a club, for the use of its members and their visitors, or
    - ii. a condominium, co-operative or commune property that contains more than five dwelling units or suites, for the use of the owners or members and their visitors.
  6. A public spa operated in conjunction with a day nursery, a day camp or an establishment or institution for the care or treatment of persons who are ill, infirm or aged or for persons in custodial care, for the use of such persons and their visitors. O. Reg. 428/05, s. 2 (2).
- (3) A public spa operated on the premises of a hotel that contains five or fewer units or suites, for the use of its guests and their visitors, is exempt from this Regulation, if the following notice is displayed in a conspicuous place within the public spa enclosure, printed in letters at least 25 millimetres high with a minimum five millimetre stroke:

CAUTION  
 USE SPA AT YOUR OWN RISK  
 THIS SPA IS NOT SUBJECT TO THE REQUIREMENTS OF ONTARIO REGULATION 428/05 (PUBLIC SPAS)

O. Reg. 428/05, s. 2 (3).

**Operator, designation and training**

3. (1) Every owner shall designate an operator. O. Reg. 428/05, s. 3 (1).

(2) Every operator shall be trained in public spa operation and maintenance, filtration systems, water chemistry and all relevant safety and emergency procedures. O. Reg. 428/05, s. 3 (2).

**Use after construction, alteration or closure**

4. (1) In this section,

“alteration” does not include routine maintenance or repair or replacement of existing equipment. O. Reg. 428/05, s. 4 (1).

(2) Before a public spa is put into use after construction or alteration, the owner or the owner's agent shall give to the medical officer of health in the health unit where the spa is located written notice of,

- (a) the building permit number issued for the construction or alteration of the spa;
- (b) whether or not all the preparations necessary to operate the spa in accordance with this Regulation have been completed;
- (c) the date that the spa is intended to be opened or reopened for use; and
- (d) the operator's name and address. O. Reg. 428/05, s. 4 (2).

(3) An owner who proposes to open or reopen a spa for use as a public spa after construction or alteration shall not open or reopen the spa without first obtaining permission in writing from the medical officer of health in the health unit where the spa is located. O. Reg. 428/05, s. 4 (3).

(4) Every owner who intends to reopen a public spa after any closure of more than four weeks duration shall first give to the medical officer of health in the health unit where the spa is located written notice of,

- (a) the date that the spa is intended to be reopened; and
- (b) the operator's name and address. O. Reg. 428/05, s. 4 (4).

**Operation, general requirements**

5. (1) Every owner and operator shall,

- (a) maintain the public spa and its equipment in a safe and sanitary condition;
- (b) ensure that all components of the public spa and its equipment are maintained in proper working order;
- (c) ensure that all emergency equipment required by this Regulation is maintained in proper working order;
- (d) ensure that all surfaces of the public spa deck and walls are maintained in a sanitary condition and free from potential hazards;

- (e) ensure that carpeting or other water-retentive material is not installed or used in any area that becomes or may become wet during the daily use period;
  - (f) if they are provided, ensure that dressing rooms, water closets and shower facilities are,
    - (i) available for use of the bathers before entering the deck, and
    - (ii) maintained in a sanitary condition and free from potential hazards;
  - (g) ensure that no person brings a glass container onto the deck or into the public spa; and
  - (h) ensure that no food or beverage except water is supplied or consumed in the public spa or on the deck. O. Reg. 428/05, s. 5 (1).
- (2) Every owner and operator shall ensure that, except during the daily use period, the public spa is inaccessible to persons who are not involved with its operation, inspection or maintenance. O. Reg. 428/05, s. 5 (2).

**Water treatment**

- 6.** (1) Every owner and operator shall ensure that the public spa water is treated with chlorine, a chlorine compound or a bromine compound by means of a chemical feeder, and is maintained so that in every part of the spa, and at all times during the daily use period,
- (a) the total alkalinity is not less than 80 milligrams per litre;
  - (b) the pH value is within the range of 7.2 to 7.8;
  - (c) there is a residual of free available chlorine or total bromine of at least five but not more than 10 milligrams per litre;
  - (d) if the public spa is equipped with an automatic sensing device, the Oxidation Reduction Potential value is not less than 700 mV; and
  - (e) where cyanurate stabilization is maintained, there is a cyanuric acid concentration of not greater than 150 milligrams per litre. O. Reg. 428/05, s. 6 (1).
- (2) Every operator shall ensure that cyanurate stabilizer is not added to a public spa if the spa and its deck are totally or partially covered by a roof. O. Reg. 428/05, s. 6 (2).
- (3) Every owner and operator shall ensure that the public spa water is of a clarity to permit the owner or operator to see the lowest water outlet drain when the spa water is in a non-turbulent state. O. Reg. 428/05, s. 6 (3).
- (4) Every operator shall ensure that the filtration system and the chemical feeders are in continuous operation without regard to the daily use period except during,
- (a) maintenance or repairs that require the filtration system or chemical feeders to be stopped;
  - (b) draining of the public spa;
  - (c) backwashing of filters; and
  - (d) a closure of the public spa, if it is closed for a period of seven or more consecutive days. O. Reg. 428/05, s. 6 (4).

**Note: On July 1, 2006, section 7 comes into force. See: O. Reg. 428/05, s. 23 (2).**

**Water replacement**

- 7.** (1) Every operator of a public spa with a volume that exceeds 4,000 litres shall add make-up water to the spa during each operating day in an amount that is not less than 30 litres per bather use, to a maximum of 20 per cent of the total spa volume. O. Reg. 428/05, s. 7 (1).
- (2) Every owner of a public spa to which subsection (1) applies shall ensure that the public spa has a meter capable of measuring the volume of make-up water added to the public spa. O. Reg. 428/05, s. 7 (2).
- (3) Every operator of a public spa with a volume that is 4,000 litres or less shall drain to waste and refill the total volume of water in the public spa in accordance with the following formula:

$$WRI = \frac{V}{10 \times U}$$

where,

- WRI = the maximum number of operating days that may elapse between drainings, rounded up to a whole number,
- V = the total volume of the spa in litres, and
- U = the total estimated number of bather uses per operating day.

O. Reg. 428/05, s. 7 (3).

(4) An operator who drains a public spa in accordance with subsection (3) shall, before refilling the spa, inspect all parts of the spa including, but not limited to, drain covers, suction fittings and all emergency equipment within the spa, and ensure that they are properly secured and operational. O. Reg. 428/05, s. 7 (4).

**Note:** On July 1, 2006, section 8 comes into force. See: O. Reg. 428/05, s. 23 (2).

#### **Water temperature**

**8.** Every owner shall ensure that the public spa water heater is equipped with a tamper-proof upper limit cut-off switch that,

- (a) limits the maximum temperature of the spa water to 40°C; and
- (b) is independent of the spa's water temperature thermostat. O. Reg. 428/05, s. 8.

**Note:** On July 1, 2006, section 9 comes into force. See: O. Reg. 428/05, s. 23 (2).

#### **Timing device**

**9.** (1) Every owner and operator of a public spa containing hydro-massage jet fittings shall ensure that the spa is equipped with a timing device that,

- (a) controls the period of operation of the jet pump;
- (b) can be set to a maximum of 15 minutes; and
- (c) is placed in a location that requires a bather to exit the spa to reset it. O. Reg. 428/05, s. 9 (1).

(2) Every owner and operator shall ensure that a notice, in letters at least 25 millimetres high with a minimum five millimetre stroke, is posted at the timing device that identifies it as a timing device. O. Reg. 428/05, s. 9 (2).

**Note:** On July 1, 2006, section 10 comes into force. See: O. Reg. 428/05, s. 23 (2).

#### **Suction system**

**10.** Every owner shall ensure that the suction system that serves the public spa is equipped with a vacuum relief mechanism that includes,

- (a) a vacuum release system;
- (b) a vacuum limit system; or
- (c) another engineered system designed, constructed and installed to conform to good engineering practice appropriate to the circumstances. O. Reg. 428/05, s. 10.

**Note:** On July 1, 2006, section 11 comes into force. See: O. Reg. 428/05, s. 23 (2).

#### **Clock**

**11.** Every owner shall ensure that a clock is installed in a conspicuous location that can be viewed from anywhere in the public spa. O. Reg. 428/05, s. 11.

**Note:** On July 1, 2006, section 12 comes into force. See: O. Reg. 428/05, s. 23 (2).

#### **Steps**

- 12.** Every owner shall ensure that, if a set of steps is provided for entry into and exit from the spa water, the set of steps,
- (a) are equipped with a handrail;
  - (b) have a non-slip surface on their treads; and
  - (c) have a band of contrasting colour applied along the entire juncture of the side and top of the edges of each step. O. Reg. 428/05, s. 12.

#### **Emergency telephone**

**13.** (1) Every owner shall ensure that there is a land line emergency telephone located within 30 metres of the public spa that connects directly to an emergency service or the local telephone utility. O. Reg. 428/05, s. 13 (1).

(2) Every owner shall ensure that a notice indicating the location of the emergency telephone, in letters not less than 25 millimetres high with a minimum five millimetre stroke, is posted in a conspicuous location near the entrance to the public spa. O. Reg. 428/05, s. 13 (2).

- (3) Every owner shall ensure that a notice is posted at the emergency telephone that,
- (a) identifies the telephone as an emergency telephone in letters not less than 25 millimetres high with a minimum five millimetre stroke;
  - (b) lists the names, telephone numbers and addresses of persons who are available for resuscitation, medical aid and fire services; and

- (c) lists the full name and address of the public spa facility location and all of the facility's emergency telephone numbers. O. Reg. 428/05, s. 13 (3).

**Emergency stop button**

**14.** (1) Every owner shall ensure that all pumps used in the operation of the public spa are capable of being deactivated by an emergency stop button that,

- (a) is separate from the spa's timing device;
- (b) is located within the immediate vicinity of the spa; and
- (c) activates an audible and visual signal when used. O. Reg. 428/05, s. 14 (1).

(2) Every owner shall ensure that the following notice, in letters at least 25 millimetres high with a minimum five millimetre stroke, is posted above the emergency stop button:

IN THE EVENT OF AN EMERGENCY PUSH EMERGENCY STOP BUTTON AND USE EMERGENCY PHONE. AN  
AUDIBLE AND VISUAL SIGNAL WILL ACTIVATE.

O. Reg. 428/05, s. 14 (2).

**Other emergency equipment**

**15.** (1) This section applies to an owner of a public spa that has an inner horizontal dimension greater than three metres. O. Reg. 428/05, s. 15 (1).

(2) Subject to subsection (3), every owner shall ensure that there are provided, in places conveniently located for emergency use,

- (a) an electrically insulated or non-conducting reaching pole that is at least 3.65 metres in length;
- (b) a buoyant throwing aid to which is securely attached a six millimetre diameter rope of a length not less than one-half the width of the pool plus three metres; and
- (c) a spine board or other device designed for transporting a person who has incurred a spinal injury. O. Reg. 428/05, s. 15 (2).

(3) Where an item described in clause (2) (a), (b) or (c) is provided under subsection 20 (1) of Regulation 565 of the Revised Regulations of Ontario, 1990 (Public Pools) made under the Act to a public pool that operates in the immediate vicinity of the public spa, an owner is not required to provide a duplicate item as long as the item is conveniently located for emergency use to the spa. O. Reg. 428/05, s. 15 (3).

(4) Every owner shall ensure that markings in figures not less than 100 millimetres high that set out the water depths indicating the deep points, the breaks between gentle and steep bottom slopes and the shallow points, and the words DEEP AREA and SHALLOW AREA are displayed at the appropriate locations on the deck. O. Reg. 428/05, s. 15 (4).

**First-aid box**

**16.** Every owner and operator shall ensure that there is provided in a place conveniently located for emergency use a first-aid box containing, at a minimum,

- (a) a current copy of a standard First Aid Manual;
- (b) 12 safety pins;
- (c) 24 adhesive dressings, individually wrapped;
- (d) 12 sterile gauze pads, each 75 millimetres square;
- (e) four rolls of 50 millimetre gauze bandage;
- (f) four rolls of 100 millimetre gauze bandage;
- (g) four sterile surgical pads suitable for pressure dressings, individually wrapped;
- (h) six triangular bandages;
- (i) two rolls of splint padding;
- (j) one roll-up splint;
- (k) one pair of scissors;
- (l) two pairs of non-permeable gloves; and
- (m) one resuscitation pocket mask. O. Reg. 428/05, s. 16.

**Maximum capacity**

17. Every operator shall ensure that the maximum number of persons permitted to use a public spa at any one time is the lesser of,

- (a) one person per square metre of surface water area; and
- (b) the maximum bather load identified by the manufacturer of the spa. O. Reg. 428/05, s. 17.

**Caution notice**

18. (1) Every owner and operator shall ensure that the following notice is posted in a conspicuous place at each entrance to the public spa with the word CAUTION in letters not less than 50 millimetres high, all other lettering not less than 10 millimetres high, and with a minimum five millimetre stroke in either case:

CAUTION

Children under the age of 12 are not allowed in the spa unless supervised by a person who is 16 years of age or older.

Pregnant women and persons with known health or medical conditions should consult with a physician before using a spa.

Do not use the spa if you have an open sore or rash, or are experiencing nausea, vomiting or diarrhea.

Overexposure may cause fainting. 10 to 15 minutes may be excessive for some individuals. Cool down periodically and leave the spa if nausea or dizziness occurs.

Enter and exit the spa slowly, to prevent slipping.

Do not play or swim near drains or suction devices. Your body, body parts, hair, jewelry and other objects may become trapped and cause injury or drowning. People with long hair should be especially careful.

Do not enter or remain in a spa if a drain cover or suction fitting is loose, broken or missing. Immediately notify the spa operator.

No food or beverage except water is permitted within the deck or spa. No glass containers of any kind are permitted within the deck or spa.

O. Reg. 428/05, s. 18 (1).

(2) The notice described in subsection (1) shall include the maximum bather capacity of the public spa determined under section 17. O. Reg. 428/05, s. 18 (2).

**Bathers shall shower**

19. (1) Every bather shall take a cleansing shower using soap and warm water before entering the deck. O. Reg. 428/05, s. 19 (1).

(2) Every operator shall post a sign in a conspicuous location near every entrance to the deck that indicates, in letters not less than 25 millimetres high with a minimum five millimetre stroke, the bather's duty to shower under subsection (1). O. Reg. 428/05, s. 19 (2).

**Daily inspection**

20. (1) Every operator shall, by means of manual test methods, determine at the times set out in subsection (2) the following regarding the public spa water:

- 1. Total alkalinity.
- 2. pH value.
- 3. Free available chlorine or total bromine residual.
- 4. Water clarity.
- 5. Water temperature. O. Reg. 428/05, s. 20 (1).

(2) Measurements made under subsection (1) shall be made one-half hour before the public spa is opened for use on an operating day, and thereafter,

- (a) at time intervals not exceeding one hour until the daily use period has ended; or
- (b) at least once more during the daily use period, if the public spa is equipped with an automatic sensing device. O. Reg. 428/05, s. 20 (2).

(3) If the public spa is equipped with an automatic sensing device, every operator shall determine the spa water's Oxidation Reduction Potential one-half hour before the spa is opened for use on an operating day, and thereafter, at least once more during the daily use period. O. Reg. 428/05, s. 20 (3).

(4) Every operator shall ensure that the emergency telephone is tested before the public spa is opened for use on an operating day. O. Reg. 428/05, s. 20 (4).

(5) Every operator of a public spa with a ground fault circuit interrupter shall ensure that the test-button associated with it is activated before the spa is opened for use on an operating day. O. Reg. 428/05, s. 20 (5).

(6) Every operator of a public spa with a make-up water meter shall ensure that the meter is read at the end of an operating day. O. Reg. 428/05, s. 20 (6).

#### **Daily records**

**21.** (1) Every operator shall keep and sign a daily record that sets out, in relation to an operating day,

- (a) the results of the tests required under subsections 20 (1) and (3), and the times they were performed;
- (b) the time of day that the emergency phone test and ground fault circuit interpreter test were performed;
- (c) the reading of the make-up water meter, if applicable;
- (d) the type and amount of any chemicals added manually to the public spa;
- (e) the estimated number of bather uses during the daily use period;
- (f) whether the public spa was drained, inspected and refilled in accordance with subsections 7 (3) and (4), if those subsections apply; and
- (g) any emergencies, rescues or breakdowns of equipment that have occurred. O. Reg. 428/05, s. 21 (1).

(2) The daily record shall be retained for a period of one year from the date of making the record and shall be available for viewing by a medical officer of health or a public health inspector at any time. O. Reg. 428/05, s. 21 (2).

#### **Other inspections**

**22.** (1) Every operator shall ensure that,

- (a) where a public spa has gravity and suction outlet covers, the outlet covers are inspected at least once within each period of 30 operating days;
- (b) the emergency stop button and vacuum release mechanisms, if any, are tested and inspected at least once within each period of 30 operating days; and
- (c) where cyanurate stabilization is maintained, the concentration of cyanuric acid is determined not less than once per week. O. Reg. 428/05, s. 22 (1).

(2) Every operator shall ensure that,

- (a) a written record of the inspections required by subsection (1) is made and signed by the person who performed the inspections; and
- (b) the written record of the inspections is retained by the operator for at least one year from the date the record is made and is available for viewing by a medical officer of health or a public health inspector at any time. O. Reg. 428/05, s. 22 (2).

**23.** OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION). O. Reg. 428/05, s. 23.