

FINAL AND PROPOSAL

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Title 10

MARYLAND DEPARTMENT OF HEALTH

Subtitle 17 SWIMMING POOLS AND SPAS

10.17.01 Public Swimming Pools and Spas

Authority: Health-General Article, §§2-102, 2-104, 18-102, and 20-303, Annotated Code of Maryland, and 15 U.S.C. §8003

Notice of Final Action

[20-018-F]

On April 28, 2020, the Secretary of Health adopted amendments to Regulations .05, .06, .08—,11, .25, .28, and .43, new Regulations .06-1, .07, and .55, and the repeal of existing Regulation .07 under COMAR 10.17.01 Public Swimming Pools and Spas. This action, which was proposed for adoption in 47:2 Md. R. 99—104 (January 17, 2020), has been adopted as proposed.

Effective Date: November 2, 2020.

ROBERT R. NEALL
Secretary of Health

PROPOSAL

Maryland Register

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Title 10

MARYLAND DEPARTMENT OF HEALTH

Subtitle 17 SWIMMING POOLS AND SPAS

10.17.01 Public Swimming Pools and Spas

Authority: Health-General Article, §§2-102, 2-104, 18-102, and 20-303, Annotated Code of Maryland, and 15 U.S.C. §8003

Notice of Proposed Action

[20-018-P]

The Secretary of Health proposes to amend Regulations .05, .06, .08—,11, .25, .28, and .43, adopt new Regulations .06-1, .07, and .55, and repeal existing Regulation .07 under COMAR 10.17.01 Public Swimming Pools and Spas.

At this time the Secretary of Health is also withdrawing the proposal to amend Regulations .05, .06, and .08—,11, adopt new Regulations .06-1, .07, and .55, and repeal existing Regulation .07 under COMAR 10.17.01 Public Swimming Pools and Spas that was published in 46:2 Md. R. 64—68 (January 18, 2019).

Statement of Purpose

The purpose of this action is to:

- (1) Simplify the permitting requirements for construction, alteration, repair, and replacement of parts for pools and spas;
- (2) Reduce the frequency of inspections for pools and spas with a demonstrated history of compliance;
- (3) Clarify and add specificity to the conditions which may warrant the suspension of an operating permit;
- (4) Add a mechanism by which the Department can ensure regulations are implemented and enforced consistently across the State; and

(5) Make general corrections and revisions to clarify the regulatory requirements of pools and spas.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed changes will greatly benefit the regulated industry by reducing the number of pool or spa closures. This will be accomplished by (1) allowing parts to be replaced before application or inspection, allowing facilities to resume operations more quickly, and (2) providing greater specificity and transparency as to when a pool or spa must be closed. Based on limited data available from local health departments, the Department estimates that as many as 66 percent of pool closures have the potential to be major violations instead of critical violations. By changing the classification of these violations from critical to major, the operator will have 24 hours to correct the issue before the pool or spa would be closed. In addition, approximately half of all permits issued by the Department for pools and spas relate to replacing components. These facilities would be allowed to make an application and obtain a permit after replacing a component, thus allowing the facility to remain open while waiting for final inspection (all applicable permitting fees still apply).

This proposal will not have a fiscal impact on the State. The economic benefits for the regulated industry stem from fewer anticipated pool closures and easier replacement of parts. These operational benefits to the regulated industry will not have a fiscal impact on the State or the fees collected under COMAR 10.17.01.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+)	Magnitude
	Cost (-)	
D. On regulated industries or trade groups:	(+)	Indeterminable
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D. The Department anticipates the proposed changes will result in fewer pool closures and less lost revenue as a result. While we cannot estimate the magnitude of this impact, the stakeholder community has identified pool closures as a top concern, and the Department believes the overall benefit will be significant and meaningful.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

Most of the business sectors within the pools industry—including owners, operators, and installers—may include small businesses. The Department cannot estimate the proportion of small businesses within the pools industry.

The Department met extensively with stakeholders in the pools industry, including small businesses, to develop the proposed changes. The Department sent drafts of the proposed changes for comments to over 275 interested individuals representing all sectors and sizes of pools businesses.

Compliance Costs: The Department estimates that small businesses will also benefit from the overall reduction in administrative costs due to (1) a simplified system for replacing parts, and (2) allowing pools 24 hours to correct major violations, resulting in fewer pool closures and less revenue loss.

Economic Impact: The proposed regulations will not affect material costs, prices for services, consumer behaviors, market demands, or employee costs.

Overall, the proposed changes are likely to greatly benefit small businesses in the pools industry by reducing the number of pool closures. This will be accomplished by allowing pools to remain open after a part is replaced and by allowing major violations to be corrected within 24 hours while remaining open.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Jake Whitaker, Acting Director, Office of Regulation and Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or

email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through February 18, 2020. A public hearing has not been scheduled.

.05 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(4-1) (text unchanged)

(4-2) “Critical violation” means a violation that results from a product, practice, circumstance, or event that creates a situation that requires immediate correction or cessation of operation to prevent injury, illness, or death based on the number of potential injuries and the nature, severity, and duration of the anticipated injury or illness, or specifically:

(a) Failure to comply with:

(i) Regulation .06-1E of this chapter;

(ii) For a public pool with a lifeguard on duty, Regulation .21 of this chapter, except for §§A(10)(a), (b), and (d)—(f) and B(2);

(iii) For a public pool without a lifeguard on duty, Regulation .21 of this chapter, except for §§A(10)(a) and (d)—(f) and B(2);

(iv) Regulation .25G of this chapter;

(v) Regulation .28 of this chapter, except for §§H(3)(b), (7), and (8) and I;

(vi) Regulation .40B, D, and E of this chapter;

(vii) Regulation .43A and B of this chapter;

(viii) Regulation .45A(7) of this chapter;

(ix) Regulation .48B of this chapter; or

(x) Manufacturer’s instructions or directions when adding chemicals to a public pool or spa;

(b) Meeting both of the following conditions at the same time:

(i) The flow through a circulation system of a public pool or spa meets the criteria for a major violation as specified in §B(7-1) of this regulation; and

(ii) One or more of the water quality parameters meets the criteria for a major violation as specified in §B(7-1) of this regulation;

(c) A pH level in a public pool or spa that is at or:

(i) Below 6.8; or

(ii) Above 8.2;

(d) A free chlorine level in a:

(i) Pool for swimming or diving or a water recreational attraction that is less than 1 ppm;

(ii) Wading or therapy pool that is less than 3 ppm; or

(iii) Spa that is less than 4 ppm;

(e) A free chlorine level in a public pool or spa that is 11 ppm or greater;

(f) A bromine level in a:

(i) Pool for swimming or diving or a water recreational attraction that is less than 3 ppm; or

(ii) Spa, wading pool, or therapy pool that is less than 4 ppm;

(g) A bromine level in a public pool or spa that is 11 ppm or greater;

(h) A temperature in a mechanically heated:

(i) Pool above 96°F; or

(ii) Spa above 104°F;

(i) Hand feeding of any chemicals while patrons are in the water of a public pool or spa; or

(j) Insufficient illumination such that the bottom of the pool or spa is not clearly visible.

(4-3) “Full compliance inspection” means an inspection that verifies compliance with this chapter.

(5) (text unchanged)

(5-1) “Hand feeding” means adding chemicals to a pool or spa by any means other than an automatic chemical feeder.

(6)—(7) (text unchanged)

(7-1) “Major violation” means a violation that if not corrected within 24 hours could lead to injury, illness, or death, or specifically:

(a) Failure to comply with:

(i) Regulation .21B(2) of this chapter;

(ii) Regulation .25 of this chapter, except for §§B(2) and G;

(iii) Regulation .28H(3)(b) or I of this chapter;

(iv) Regulation .29 of this chapter;

(v) Regulation .32A of this chapter;

(vi) Regulation .40 of this chapter, except for §§B, D, and E;

(vii) Regulation .46 of this chapter; or

(viii) Regulation .48A of this chapter;

(b) The flow through a circulation system of a public pool or spa is:

(i) At least 10 percent greater than the design capacity of the filter system or associated piping; or

- (ii) *At least 10 percent less than the minimum turnover rate as specified in Regulation .25B;*
 - (c) *A pH level in a public pool or spa that is at or:*
 - (i) *Below 7; or*
 - (ii) *Above 8;*
 - (d) *A free chlorine level in a pool for swimming or diving or a water recreational attraction that is less than 1.5 ppm;*
 - (e) *A free chlorine level in a public pool or spa that is between 10 ppm and 11 ppm;*
 - (f) *A bromine level in a public pool or spa that is greater than 8 ppm;*
 - (g) *Except for a therapy pool, a mechanically heated public pool temperature between 89°F and 96°F;*
 - (h) *A cyanuric acid level greater than 100 ppm; or*
 - (i) *A public pool or spa that has a nonfunctioning disinfection system.*
- (8)—(19) (text unchanged)
- (20) Repair.
- (a) (text unchanged)
 - (b) “Repair” does not include:
 - (i)—(iii) (text unchanged)
 - (iv) Substitutions involving a component which [do] *does* not meet the requirements of this chapter.
- (20-1) Replacement.
- (a) (text unchanged)
 - (b) “Replacement” does not include:
 - (i) (text unchanged)
 - [(ii) Substitutions involving a pump;
 - (iii) Substitutions involving a suction outlet sump or cover;]
 - [(iv)] (ii)—[(v)] (iii) (text unchanged)
 - [(vi)] (iv) Substitutions involving a component which [do] *does* not meet the requirements of this chapter.
- (21)—(38) (text unchanged)

.06 Construction[, Alteration, and Replacement Permits for Recreational Pools, Semipublic Pools, and Public Spas] *and* Alteration Permits.

A. An owner who intends to construct or alter [a recreational pool, semipublic pool, or public spa or replace a public pool or spa component shall obtain a construction, alteration, or replacement permit from the Secretary before beginning construction, alteration, or replacement work] *a public pool or spa shall obtain a construction or alteration permit from the Secretary before beginning the construction or alteration.*

B. An owner may not construct or alter a recreational pool, semipublic pool, or public spa [or replace a public pool or spa component] without a construction[, or alteration[, or replacement] permit.

C. To obtain a construction[, or alteration[, or replacement] permit, an owner shall submit to the Secretary:

(1) An application for a construction[, or alteration[, or replacement] permit on an application form provided by the Secretary that includes:

(a) The full names and addresses of the owner and authorized agents of the owner who may act on the owner’s behalf during the construction or alteration of the pool or spa[, or the replacement of the public pool or spa component];

(b) A statement saying “I hereby acknowledge that all items either listed or shown in these plans and specifications as not in contract, by others, or equivalent, are my responsibility. I also realize that this entire project must be completed in accordance with the approved plans and specifications and all conditions listed in the construction[, or alteration[, or replacement] permit and meet the requirements of this chapter prior to the issuance of an operating permit by the Secretary”; and

(c) The owner’s signature, which:

(i) (text unchanged)

(ii) Is in agreement with the statement set forth in §C(1)(b) of this regulation; [and]

(2) Plans and specifications for the construction[, or alteration[, or replacement] which:

(a) (text unchanged)

(b) Are drawn:

(i) [to] *To* scale[.];

(ii) [in] *In* a professional and accurate manner[.]; *and*

(iii) [with] *With* sufficient clarity and detailed dimensions to show the nature and character of the work to be performed; [and]

(c) Include specific information on the quality or performance of the material or equipment when necessary to establish conformance with this chapter[.]; *and*

(d) *Are supplied:*

(i) *In triplicate as physical documents; or*

(ii) *As electronic documents; and*

(3) *The application review fee required by COMAR 10.01.17.02.*

D. Except [for an alteration or replacement] *as provided in §E of this regulation*, an owner shall ensure that the plans and specifications required [in] *by §C of this regulation* include the following:

(1)—(18) (text unchanged)

E. An owner shall ensure that, for an alteration [or replacement], the plans and specifications required [in] by §C of this regulation include the information that pertains to the alteration [or replacement].

F. [An owner shall obtain necessary local zoning approval and building, electrical, plumbing, and other applicable local permits before] *Before* beginning construction [or alteration of a recreational pool, semipublic pool, or public spa or replacement of a public pool or spa component.] *or alteration work, an owner shall obtain:*

- (1) *Necessary local zoning approval;*
- (2) *Building permits;*
- (3) *Electrical permits;*
- (4) *Plumbing permits; and*
- (5) *Other applicable local permits.*

[G. Before issuing a construction, alteration, or replacement permit, the Secretary may require changes in the design of the facilities if the design does not meet the criteria set forth in this chapter.

H. Upon an owner's compliance with the provisions of this chapter, the Secretary shall approve the plans and specifications and issue a construction, alteration, or replacement permit, which is valid for the start of the construction, alteration, or replacement for 1 year from the date of issue and for 1 additional year from the date construction, alteration, or replacement begins.]

[I.] *G.* The local county health officer may not approve a local building permit for [recreational pool, semipublic pool, or public spa], *or that includes, construction[,] or alteration[, or replacement] of a recreational pool, semipublic pool, or public spa* until the plans and specifications for [pool or spa] construction or alteration[, or the replacement] of a public pool or spa [component] have been approved by the Secretary.

[J.] *H.* The Secretary shall review the plans and application [and shall approve or deny issuance of] *for a construction[,] or alteration[, or replacement] permit* within 30 *business* days of receipt of the application.

[K.] *I.* If plans are submitted that are [not]:

(1) *Not in compliance with the requirements of this chapter, the Secretary shall [disapprove the plans and deny the issuance of a construction, alteration or replacement permit.]:*

(a) *Notify the owner of the deficiencies in the application;*
(b) *Deny the application if additional information to correct the deficiencies in the application is not received during the resubmittal window; or*

(c) *Allow the owner 30 business days to resubmit information to correct the deficiencies before denying the application according to §I(1)(b) of this regulation; or*

(2) *In compliance with the requirements of this chapter, the Secretary shall approve the plans and issue a construction or alteration permit, which is valid for:*

- (a) *The start of the construction or alteration for 1 year from the date of issue; and*
- (b) *1 additional year from the date construction or alteration begins.*

J. *If the Secretary denies the issuance of a construction or alteration permit, an owner shall reapply for a new construction or alteration permit according to §C of this regulation and pay the applicable fees.*

[L.] *K.* An owner may not deviate from the approved plans and specifications for construction[,], *or alteration[, or replacement]* at a recreational pool, semipublic pool, or public spa unless:

(1) [revised] *Revised plans are submitted [to and approved in writing by the Secretary.] through the application review process in §C of this regulation;*

(2) *The owner pays the applicable fees; and*

(3) *The Secretary issues a construction or alteration permit for the revised work.*

[M.] *L.* If a recreational pool, semipublic pool, or public spa is not being constructed or altered [or components are not being replaced] in accordance with the approved plans, the Secretary may revoke the construction[,], *or alteration[, or replacement] permit* for the construction, alteration, or replacement *permit* and the owner *shall* immediately [shall] cease construction[,], *or alteration[, or replacement]*.

[N.] *M.* If the Secretary denies the issuance of a construction[,], *or alteration[, or replacement] permit* as set forth in [§K] *§I* of this regulation, or revokes a construction[,], *or alteration[, or replacement] permit* as set forth in [§M] *§L* of this regulation, the Secretary shall notify the owner in writing:

(1)—(2) (text unchanged)

(3) That to preserve the right to a hearing, the owner shall contact the Department within [30] *10 business* days of the receipt of the notice of denial or revocation.

[O.] *N.* An owner shall ensure that a construction[,], *or alteration[, or replacement] permit* is posted in a conspicuous location at the site of construction[,], *or alteration[, or replacement]*.

[P. An owner may make a repair to a previously approved structure, component, or piece of equipment in accordance with this chapter without:

- (1) Obtaining a construction, alteration or replacement permit from the Secretary; or
- (2) Notifying the Secretary.]

.06-1 Replacements.

A. An owner may replace a component at a recreational pool, semipublic pool, or public spa before obtaining approval from the Secretary.

B. Before replacing a component at a recreational pool, semipublic pool, or public spa, an owner shall obtain necessary:

- (1) Local zoning approval;*
- (2) Building permits;*
- (3) Electrical permits;*
- (4) Plumbing permits; and*
- (5) Other applicable local permits.*

C. The local health department may approve a local building permit for, or that includes, replacement of a component at a recreational pool, semipublic pool, or public spa before the replacement application is approved by the Secretary.

D. An owner shall submit, on a form provided by the Secretary, an application for the replacement of a component at a recreational pool, semipublic pool, or public spa within 10 business days of completing the replacement.

E. If, during an inspection by the local health department, it is determined that a component has been replaced and the owner failed to submit the form required in §D of this regulation, the owner shall submit the required form to the Department within 10 business days of the local health department's inspection.

F. The Secretary shall inspect the replacement of a component at a recreational pool, semipublic pool, or public spa within 30 business days of receipt of the application.

G. If, during the inspection, the replacement of a component at a recreational pool, semipublic pool, or public spa is in compliance with the requirements of this chapter, the Secretary shall:

- (1) Provide the owner a copy of the inspection report; and*
- (2) Issue an approval letter.*

H. If, during the inspection, the replacement of a component at a recreational pool, semipublic pool, or public spa is not in compliance with the requirements of this chapter, the Secretary shall:

- (1) Deny the replacement application; and*
- (2) Notify the owner:*

(a) Of the reason or reasons for the denial;
(b) That the owner may request from the Secretary an opportunity for a hearing on the denial pursuant to State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, if the owner wishes to contest the denial;

(c) That to preserve the right to a hearing, the owner shall contact the Department within 10 business days of the receipt of the notice of denial; and

(d) That the owner shall cease operation of a recreational pool, semipublic pool, or public spa if the component is essential to operation or cease operation of the replaced component, where the replacement of a component was found to violate this chapter until:

- (i) The violation is corrected;*
- (ii) A new replacement application and applicable fee is submitted to the Secretary; and*
- (iii) The Secretary inspects and approves the replacement of the component.*

.07 Repairs.

An owner may make a repair to a recreational pool, semipublic pool, or public spa in accordance with this chapter without:

- A. Obtaining a construction, alteration, or replacement permit from the Secretary; or*
- B. Notifying the Secretary.*

.08 Approval After Construction[,] or Alteration[, or Replacement].

[A. After construction, alteration, or replacement of a component at a recreational pool, semipublic pool, or public spa is completed, the owner shall contact the Secretary for approval of the pool or spa within 30 days.]

*[B.] A. A person may not operate or permit the use of a recreational pool, semipublic pool, or public spa that has not received written approval from the Secretary after its [alteration or construction] *construction or alteration*.*

[C. A person may operate or permit the use of a recreational pool, semipublic pool, or public spa for 30 days after completing the replacement of a public pool or spa component without receiving a final inspection and written approval from the Secretary.]

[D.] B. The Secretary shall conduct an inspection [or inspections] to ensure that a recreational pool, semipublic pool, or public spa is constructed or altered[, or that a public pool or spa component is replaced] according to the approved plans and meets the requirements of this chapter, and shall:

- (1) Grant written approval for the pool or spa if:*

(a) [it] It was constructed or altered[, or a public pool or spa component was replaced] according to the approved plans[.];

(b) It meets the requirements of this chapter[.]; and

(c) [the] The owner has received local approval for any [building, electrical, plumbing, or other]:

(i) Building;

(ii) Electrical;

(iii) Plumbing; or

(iv) Other work that requires a local permit; or

- (2) Deny approval for the pool or spa if:*

(a) [it] It was not constructed or altered[, or a public pool or spa component was not replaced] according to the approved plans[.];

(b) It does not meet the requirements of this chapter[.]; or

(c) [the] *The owner has not received local approval for any [building, electrical, plumbing, or other]:*

(i) *Building;*

(ii) *Electrical;*

(iii) *Plumbing; or*

(iv) *Other work that requires a local permit.*

[E.] C. The Secretary shall grant written approval or deny approval of the completed construction[,] or alteration[, or replacement] of a public pool or spa [component] within [30] *15 business* days of [receipt of notice of completion from the owner] *inspecting*.

[F.] D. If minor items that do not affect the health or safety of the public need to be corrected, the Secretary may issue a [partial] *temporary* approval for the pool or spa after construction[, alteration, or replacement of a public pool or spa component] pending full compliance according to the following conditions:

(1) The owner shall fully comply with this chapter by the end of the [30-day] *30-business-day* period in order to obtain written approval of the recreational pool, semipublic pool, or public spa; and

(2) If at the end of the [30-day] *30-business-day* period, the Secretary is unable to approve the recreational pool, semipublic pool, or public spa pursuant to [§C] *§B* of this regulation, the Secretary shall disapprove the construction [or alteration].

[G.] E. If the Secretary does not grant approval for the pool or spa after it is constructed or altered, [or a public pool or spa component is replaced,] the Secretary shall notify the owner in writing:

(1) (text unchanged)

(2) That the [person] *owner* may request from the Secretary an opportunity for a hearing on the disapproval pursuant to State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland[, if the person wishes to contest the disapproval]; [and]

(3) That to preserve the right to a hearing, the [person] *owner* shall [contact] *submit a written request for a hearing to the Secretary* within [30] *10 business* days of the receipt of the notice of disapproval[.]; *and*

(4) *That the owner shall submit a new plan review application and pay any applicable fees according to Regulation .06 of this chapter.*

.09 Permits for Operation.

A. A person may not operate a public pool or spa without an annual operating permit issued by the Secretary, except that in the case of a pool or spa that has received a [partial] *temporary* approval of construction [or alteration] pursuant to Regulation [.08E] *.08D* of this chapter, the Secretary may issue a [nontransferable 30-day] *nontransferable 30-calendar-day* permit for the temporary operation of the pool or spa.

B. On an application form provided by the Secretary, [a person] *an owner* shall apply to the Secretary for [a] *an annual* permit to operate a public pool or spa [at least 30 days before the pool or spa is scheduled to open for use for the first time and 30 days before a previous permit expires.] *for:*

(1) *A newly constructed pool or spa, at least 30 business days before the pool or spa is scheduled to open; or*

(2) *An existing pool or spa, 30 business days before the previous permit expires.*

C. The Secretary shall:

(1) Issue, *for each pool or spa*, a nontransferable permit to an owner whose public pool or spa is in compliance with this chapter *as verified by a full compliance inspection completed within the 12 months prior to the expiration of the current operating permit*; and

(2) When a public pool or spa does not meet the requirements of this chapter, deny the permit within *30 business days of the receipt of the application* by notifying the owner in writing:

(a)—(c) (text unchanged)

(d) That to preserve the right to a hearing, the person shall contact the Secretary within [30] *10 business* days of the receipt of the notice of denial.

D. A person who operates a public pool or spa shall post the operating permit in a conspicuous place [at the pool or spa site] *near the entrance to the pool or spa*.

.10 Suspension or Revocation of an Operating Permit.

A. Suspension.

(1) (text unchanged)

(2) The Secretary may summarily suspend an operating permit pursuant to §A(1)(b) of this regulation for a [of the following]:

(a) Residual disinfection levels in violation of Regulation .44 of this chapter;

(b) Sanitary water quality in violation of Regulation .48 of this chapter;

(c) Water pH in violation of Regulation .45A(1) of this chapter;

(d) Water clarity in violation of Regulation .45A(7) of this chapter;

(e) A malfunctioning or nonworking recirculation or disinfection system;

(f) A condition that may endanger the health and safety of an individual using a pool or spa, for example, a missing drain cover or other suction outlet entrapment hazard; and

(g) A lifeguard has not been provided as required in Regulation .40 of this chapter.]:

(a) *Critical violation not corrected immediately; or*

(b) *Major violation not corrected within 24 hours.*

B. Revocation and Permitting After Revocation.

- (1) The Secretary may revoke a permit [upon a repeated violation] for:
- (a) *Consecutive repeat violations* of a requirement of this chapter[.]; or
 - (b) *An owner whose operating permit was revoked within the past 2 years, upon determination that the owner is in violation of the same requirement of this chapter that resulted in the previous revocation.*
- (2) *The Secretary may issue an operating permit to an owner whose operating permit was revoked:*
- (a) *After the 6-month waiting period from the date of revocation has expired; and*
 - (b) *When the owner:*
 - (i) *Corrects the violations;*
 - (ii) *Applies for an operating permit;*
 - (iii) *Pays the applicable fees; and*
 - (iv) *Complies with all applicable provisions of this chapter.*

C. Hearing.

- (1)—(2) (text unchanged)
- (3) To preserve a right to a hearing, a person shall contact the Secretary within [30] *10 business days* of the receipt of the notice.

.11 Inspections and Right of Entry.

A.—B. (text unchanged)

C. *The Secretary shall conduct:*

- (1) *A full compliance inspection of the public pool or spa relative to the enforcement of this chapter at least once every 12 months; and*
- (2) *An inspection of the public pool or spa relative to the enforcement of this chapter at least once every 90 business days except:*
 - (a) *If a critical violation exists, an inspection is required at least every 30 business days; or*
 - (b) *If no critical violations were found on the three previous consecutive inspections, only the full compliance inspection prescribed in §C(1) of this regulation is required.*

.25 Circulation Systems.

A.—F. (text unchanged)

G. *For a public pool or spa with a flow rate that is at least 10 percent greater than the design capacity of the filter system or associated piping or at least 10 percent less than the minimum turnover rate as specified in §B of this regulation, an owner or operator shall:*

- (1) *Record the information required in Regulation .46C of this chapter in 1-hour intervals; and*
- (2) *Prior to restoring normal circulation, vacate the pool or spa of all bathers until:*
 - (a) *15 minutes after restarting the pump; and*
 - (b) *The water quality is verified as not exceeding the limits set for a major violation under Regulation .05(7-1) of this chapter.*

.28 Suction Entrapment Prevention.

A.—G. (text unchanged)

H. A pool or spa is in compliance with the following:

- (1)—(2) (text unchanged)
- (3) Suction outlet covers [are in good condition, with no breaks, cracks, or other defects that could affect the structural integrity of the cover;] *are:*
 - (a) *Installed, not broken, not cracked, and securely in place; and*
 - (b) *Installed according to the manufacturer's instructions;*
- (4)—(8) text unchanged

I. (text unchanged)

.43 Pool and Spa Operation.

An owner shall ensure that a certified pool and spa operator:

A. (text unchanged)

B. Is available at a semipublic pool, public spa, and at a limited public-use pool for performance of all requirements of this chapter and is able to respond to operational problems within:

- (1) [15] *30 minutes when not available on-site; or*
- (2) *If a contractual certified pool and spa operator, 2 hours when not available on-site;*

C.—H. (text unchanged)

.55 Standardization and Audits of Local Health Departments.

A. *The Department shall:*

- (1) *Standardize one employee related to the enforcement of this chapter for each local health department to serve as the local standardization officer;*

(2) Audit local health department pool and spa programs related to the enforcement of this chapter once every 4 years according to the current audit protocols; and

(3) Provide to the local health department a pool and spa program review final report.

B. Local health departments shall submit to the Department responses to any deficiencies within the pool and spa program as identified within the pool and spa program review final report within 30 business days of receipt of the report.

ROBERT R. NEALL
Secretary of Health