DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in section 4902 of the Department of Health Functions Clarification Act of 2001 ("Act") (effective October 3, 2001), D.C. Law 14-28, D.C. Official Code § 7-731(a)(11) (2008 Suppl.), and the Mayor's Order 2001-111 dated August 6, 2001, hereby gives notice of his intent to amend Chapter 64 of Title 22 of the *District of Columbia Municipal Regulations (DCMR)*. The rules will repeal the current swimming pool and spa regulations in Chapter 64 of Title 22 of the DCMR in its entirety and establishes new Swimming Pool and Spa Regulations that meet new federal swimming pool and spa safety legislation and current industry standards.

The Notice of Proposed Rulemaking was published in the *D.C. Register* on November 7, 2008 at 55 DCR 011491. The Department did not receive any comments on the proposed rulemaking and, therefore, no changes were made to the proposed rules. These rules will take effect immediately upon publication of this notice in the *D.C. Register*.

Title 22 of the DCMR is amended to read as follows:

CHAPTER 64 – SWIMMING POOLS AND SPAS

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6400 INTENT – SAFETY

6400.1 The purpose of these regulations is to prevent disease, sanitary nuisances, and accidents that threaten or impair the public's health and safety, and to prevent any modifications that result in the operation of a pool in a manner unsanitary or dangerous to public health or safety.

6400.2 These regulations prescribe minimum design, construction, and operation requirements that are intended to protect the health and safety of the public in swimming pools and spas.

6400.3 The Department shall regulate certain aspects of the design, equipment, operation, installation, new construction and rehabilitation of swimming pools and spas. Where adequate standards do not exist and these regulations do not provide sufficient guidance for consideration of innovations in design, construction and operation of proposed swimming pools and spas, the

Department will establish requirements necessary to protect the health and safety of pool patrons.

6400.4 These regulations establish definitions, set quality control standards for personnel, health, sanitary operations, equipment and facilities; provide for the issuance of licenses and certifications and inspections, and provide for enforcement through suspension and revocation of licenses and certifications, condemnation of equipment, and fines and penalties.

6400.5 All swimming pools and spas, existing and newly constructed, shall meet safety standards pursuant to The Virginia Graeme Baker Pool and Spa Safety Act of 2007, approved December 19, 2007 (Pub.L.110-140).

6400.6 These regulations shall not apply to:

(a) A swimming pool or spa that is less than twenty-four inches (24") or six hundred and ten millimeters (610 mm) deep or that has a surface area less than two hundred fifty (250) square feet (23.25m²), except when permanently equipped with a water-recirculating system or constructed with structural materials;

(b) A swimming pool or spa which is completely emptied of water, disinfected, and refilled with water between each use and that is intended for use or used by a single individual during each use; or

(c) A spa that is operated for medical treatment or physical therapy under the direction and control of medical personnel licensed pursuant to section 501 of the Health Occupations Revision Act of 1985 Amendment Act of 1994, effective March 23, 1995, (D.C. Law 10-247; D.C. Official Code § 3-1205.01) (2008 Supp.).

6400.7 Certain provisions of these regulations are identified as critical. Critical provisions are those provisions where noncompliance serves as a vector for a waterborne illness, or an environmental health hazard. A critical item is denoted with an asterisk (*).

6400.8 Certain provisions of these regulations are identified as noncritical. Noncritical provisions are those provisions where noncompliance is less likely to serve as a vector for a waterborne illness, or an environmental health hazard. A part that is denoted in these regulations without an asterisk (*) after the headnote is a noncritical item. However, a critical item may have a provision within it that is designated as a noncritical item with a superscripted letter "**N**" following the provision.

6401 COMPLIANCE WITH DISTRICT LAWS, FEDERAL LAWS, AND INDUSTRY STANDARDS/ GUIDELINES

6401.1 The most recent versions of the following federal laws and regulations or any successor standards are hereby incorporated by reference:

(a) The Virginia Graeme Baker Pool and Spa Safety Act of 2007, approved December 19, 2007 (Pub.L.110-140);

(b) 40 CFR Part 141 – National Primary Drinking Water Regulations;

(c) National Sanitation Foundation NSF-ANSI Standard 60, 2005 Drinking Water Treatment Chemicals - Health Effects;

(d) National Sanitation Foundation NSF/ANSI Standard 50-2007 Circulation System Components and Related Materials for Swimming Pool, Spas/Hot Tubs, dated April 2007, approved substitute filters;

(e) American National Standard ASME A112.19.8 - 2007 Suction Fittings For Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs published by the American Society of Mechanical Engineers; performance standard;

(f) ASME/ANSI standard A112.19.17 Safety Standard Vacuum Release System or ASTM standard F2387;

(g) ANSI /APSP-7 American National Standard for Suction Entrapment Avoidance in Swimming Pools, Wading Pools, Spas, Hot Tubs, and Catch Basins;

(h) U.S. Consumer Product Safety Commission (CPSC) Publication No. 362 Guidelines, entitled "Safety Barrier Guidelines for Home Pools; "Guidelines for Entrapment Hazards: Making Pools and Spas Safer"; and any other pool safety guidelines established by the Commission;

(i) National Collegiate Athletic Association, 2003;

(j) Fédération Internationale de Natation Amateur (FINA), 2002-2005 Handbook;

(k) 1998-1999 Official Rules of Diving & Regulation of Regulation of United States Diving Inc.;

(l) 2003 United States Swimming Rules and Regulations; and

(m) National Federation of State High School Associations, 2002-2003.

6402 GENERAL PROVISIONS ─ SWIMMING POOL SUPERVISION, POSTINGS*

6402.1 The licensee may employ the services of a swimming pool or spa management company to fulfill the requirements of these regulations.

6402.2 All licensees, managers, swimming pool and spa operators, lifeguards or swimming instructors in charge of, or working at, public swimming pools shall be responsible for the supervision and safety of the pool.

6402.3 The licensee or manager shall ensure that swimming pool and spa operators, lifeguards or swimming instructors possess current certifications as specified in sections 6405 and 6407 of these regulations, and that swimming pool and spa operators possess valid permits issued by the Mayor as required in section 6445.2 of these regulations.

6402.4 A licensee or manager may permit a person desiring to function as the swimming pool and spa operator and the lifeguard to work in both capacities if bathers' safety and the facility's operational requirements are not adversely affected.

6402.5 A licensee or manager shall ensure that an individual functioning as both a lifeguard and swimming pool and spa operator as specified in section 6402.4 of these regulations is in compliance with the requirements identified in sections 6405 and 6407 of these regulations.

6403 GENERAL PROVISIONS – SWIMMING POOL ADMISSION RULES, SIGNS, & POSTINGS*

6403.1 Rules for the admission of bathers to the swimming pool shall be enforced and shall have a heading or caption that reads "Pool Rules" printed legibly with letters that are three inches (3″) or larger on a backing of durable construction and conspicuously posted in an appropriate location for all bathers to see before entering the swimming pool. The sign shall state the following:

(a) No food, drink, glass or animals in the pool area;

(b) Bathing load: ____ persons;

(c) Pool hours: _____ a.m. to _____ p.m.;

(d) Shower before entering pool area;

(e) Pools of two hundred square feet (200 sq. ft.) in area or greater without an approved diving well configuration shall have "NO DIVING", in four inch (4 in.) letters included with the above listed pool rules;

(f) Do not swallow the pool water; and

(g) The Certified Swimming Pool and Spa Operator at this facility is _____ District Permit number _____.

6403.2 Pool closed signs shall be provided and posted at bather entrances whenever a swimming pool's operating license is summarily suspended for water quality or safety violations.

6403.3 All swimming pools shall post a sign for all bathers to see before entering the swimming pool area directing bathers to shower before entering the pool.

6403.4 In addition to section 6403.1, licensees, managers, swimming pool and spa operators, lifeguards, and swimming instructors shall enforce the following rules including but not limited to:

(a) Restricting the introduction of dirt, excreta, and other extraneous matter into the water by bathers;

(b) Excluding persons from the swimming pool who show apparent signs of infection or other evidence of high contamination risk, such as open cuts, wounds, rashes, or blisters, except when certified by a physician not to have a disease in a communicable stage;

(c) Restricting the importation of dangerous objects and materials into the swimming pool area;

(d) Prohibiting unsafe acts, both in and out of the water;

(e) Prohibiting the use of topical agents including oils, body lotions, and minerals prior to entering, or while in the water;

(f) Prohibiting the consumption of food or beverages in areas other than the specifically designated eating areas that are separated from the swimming pool;

(g) Ensuring that small children and disabled or infirmed individuals in the water are:

(1) Water-safe, as defined in these regulations;

(2) In the proper swimming pool area based on their observed swimming skills; or

(3) Properly supervised by a competent water-safe person in addition to the lifeguard.

(h) Requiring incontinent individuals to wear protective clothing and small children wearing diapers also wear snuggly fitting rubber pants; and

(i) Requiring each bather to shower immediately prior to entering the swimming pool and spa areas.

6403.5 In addition to section 6403.1, when no lifeguard is on duty, a permanently mounted sign shall be printed legibly with letters that are three inches (3″) or larger conspicuously posted warning bathers of the following:

"WARNING – NO LIFEGUARD IS ON DUTY. SWIM AT YOUR OWN RISK."

"NO CHILDREN UNDER THE AGE OF FIFTEEN (15) SHALL USE THE SWIMMING POOL WITHOUT ADULT SUPERVISION."

"ADULTS SHOULD NOT SWIM ALONE."

6403.6 Wading pools that do not have a lifeguard inside the wading pool enclosure shall have a permanently mounted sign printed legibly with letters that are three inches (3″) or larger conspicuously posted which states:

"WARNING – NO LIFEGUARD ON DUTY."

6404 GENERAL PROVISIONS – SPA POOL ADMISSION RULES, SIGNS, & POSTINGS*

6404.1 Rules for the admission to the spa shall be enforced and shall have a heading or caption that reads "Spa Rules" printed legibly with letters that are one inch (1″) or larger conspicuously posted adjacent to the entrance to each spa except where notice is provided to bathers pursuant to sections 6403.1, 6403.5 and 6403.6, and enforced. The sign shall, at a minimum:

(a) Prohibit use while under the influence of alcohol, drugs, medicines, or anything else that may impair the senses or cause drowsiness;

(b) Prohibit the use of electrical appliances or devices within five feet (5 ft.) of the spa;

(c) Prohibit unsupervised use by children under the age of fifteen (15);

(d) Prohibit the use of topical agents including, oils, body lotions, and minerals prior to entering, or while in the water;

(e) Prohibit the consumption of food or beverages in areas other than specifically designated eating areas that are separated from the spa;

(f) Exclude persons from the spa pool who show apparent signs of infection or other evidence of high contamination risk, such as open cuts, wounds, rashes, or blisters, except when certified by a physician not to have a disease in a communicable stage;

(g) Warn that elderly persons and those suffering from heart disease, diabetes, or high blood pressure should not use the spa;

(h) Warn that bathers should observe a reasonable period of exposure in the spa of ten (10) minutes), shower upon exiting the spa, and then cool down before returning to the spa for another brief exposure period;

(i) Warn that pregnant women should not use the spa without consulting their physician;

(j) Warn that long exposure may result in nausea, dizziness or fainting, and that a shorter exposure period is recommended when a bather is pregnant;

(k) Warn bathers to always exit and enter slowly and cautiously;

(l) Require each bather to shower prior to entering the spa;

(m) Inform bathers that the maximum temperature allowed by the Department of Health for any spa is one hundred and four degrees Fahrenheit (104° F) (forty degrees Centigrade (40° C)). The actual temperature of this spa at _____o'clock today is _____° F (_____° C); and

(n) Provide a Certified Swimming Pool and Spa Operator Sign. A sign shall be posted or language shall be added to the "Spa Pool Admission Rules, Sign" which reads, "The Certified Swimming Pool and Spa Operator at this facility is _____ District Permit number _____.

6404.2 In lieu of the signs required in section 6404.1, spa management may provide bathers with written notification of the rules for admission and require bathers to verify, in writing, that they have read and understand the rules.

6404.3 A clock or other time-keeping device shall be provided which is visible to bathers using the spa.

6405 SWIMMING POOL AND SPA OPERATOR – CERTIFICATIONS AND TRAINING*

6405.1 An individual who services a public swimming pool or spa by maintaining the cleanliness, water quality and chemical balance of public pools shall be certified.

6405.2 Individuals desiring to become certified swimming pool and spa operators shall attend a training course of national recognition that is approved by the Department of Health of at least 16 hours in length and pass a test that is offered as part of the training program.

6405.3 Course training shall include the following study topics for the required hours indicated:

(a) Swimming pool calculations – one (1) hour of course training;

(b) Filter type and filtration circulation – four (4) hours of course training;

(c) Water chemistry – balancing & testing – 2 hours of course training;

(d) Spas and warm water pools – one (1) hour of course training;

(e) Pool and spa maintenance – five (5) hours of course training;

(f) Operational and safety requirements – two (2) hours of course training; and

(g) District Swimming Pools and Spas Regulation, Chapter 64, Title 22 of the District of Columbia Municipal Regulations – one (1) hour of course training.

6405.4 A certified swimming pool and spa operator shall demonstrate knowledge of public pools, which includes but is not limited to:

(a) Pool cleaning;

(b) General pool maintenance;

(c) Make-up water supply; and

(d) Bacteriological, chemical, and physical quality of water and water purification, testing, treatment, and disinfection procedures.

6405.5 Certification does not imply any licensure as a contractor regulated by the Department of Consumer & Regulatory Affairs.

6405.6 A certified swimming pool and spa operator may not affect the structural integrity of the pool or equipment, and shall not delegate work to others, including employees, that are not themselves certified under these regulations.

6405.7 The Department of Health shall deem certified any individual who has been proven certified by a course of national recognition.

6406 SWIMMING POOL AND SPA OPERATORS ─ DUTIES, KNOWLEDGE*

6406.1 A certified pool or spa operator shall be on duty during all hours the swimming pool or spa is open to the public.

6406.2 Swimming pool and spa operators shall be knowledgeable in the areas specified in section 6405.

6406.3 All swimming pool and spa operators shall obtain a District-issued permit, issued by the Department, which shall be renewed every three (3) years.

6407 LIFEGUARDS, SWIMMING INSTRUCTORS – CERTIFICATIONS*

6407.1 Lifeguards and swimming instructors shall be certified in lifeguarding or swimming instruction by:

(a) The American Red Cross; or

(b) The YMCA or other equivalent nationally recognized aquatic training organization that meets the established standards, objectives and standards of care provided in the American Red Cross or YMCA programs.

6407.2 Lifeguards and swimming instructors shall possess current certificates in first aid and in adult, child and infant cardiopulmonary resuscitation through the American Red Cross, the American Heart Association, the National Safety Council, or the American Academy of Orthopedic Surgeons.

6407.3 Swimming coaches are exempted from the swimming instructor certification requirement when training advanced level swimmers for competition.

6408 LIFEGUARDS – DUTIES*

6408.1 Lifeguards shall be properly attired and readily identifiable as members of the lifeguard staff.

6408.2 Lifeguards shall be on the deck and shall observe the pool whenever bathers are in the water.

6408.3 Lifeguards shall not leave their post for any reason without ensuring that all bathers are out of the water and that they will not return to the water during the lifeguard's absence.

6409 LIFEGUARD REQUIREMENTS – SWIMMING POOL, RESTRICTED USE

6409.1 Except as provided in sections 6409.2 and 6411, a lifeguard shall not be required for a swimming pool that is:

(a) Open for use only to persons who hold membership or other paid association in the facility where the pool is located;

(b) Open for use only to persons who are permanent or temporary residents or guests of residents at the facility where the pool is located;

(c) Open for use to persons who are lodging for a fee at the facility where the pool is located; or

(d) A spa.

6409.2 The exemptions identified in section 6409.1 shall not apply if a swimming pool has:

(a) A diving board;

(b) A depth of at least six feet (6 ft.) (1,830 mm), or

(c) An expected bather population of fifty percent (50%) or more children under the age of fifteen (15).

6410 LIFEGUARD REQUIREMENTS – BATHER LOAD, POOL SIZE, OR VISUAL OBSTRUCTIONS

6410.1 There shall be a minimum of one (1) lifeguard on duty capable of observing the swimming pool for every fifty (50) bathers permitted in the water.

6410.2 Pool management shall increase the number of lifeguards based on the number of bathers in the swimming pool.

6410.3 The Department of Health may require a lifeguard to be on duty if none exists, or require additional lifeguards to be on the deck, or restrict swimming to one (1) portion of any swimming pool because of the following:

(a) The number of lifeguards is inadequate to safely guard the swimming pool due to the number of bathers using the swimming pool;

(b) The shape, dimension, and layout of the swimming pool and filter room locations;

(c) The existence of an obstruction to vision; or

(d) The capability of the bathers using the swimming pool.

6410.4 Swimming pools over eighteen hundred square feet (1800 sq. ft.) of water surface area shall have at least one (1) elevated lifeguard chair for each three thousand square feet (3000 sq. ft.) of swimming pool surface or fraction thereof. A deck-level lifeguard may be used in a designated area on the deck adjacent to shallow water instead of an elevated lifeguard chair.

6410.5 Swimming pools with a width of forty-five feet (45 ft.) or more shall have more than one (1) lifeguard chair located on each side of the swimming pool.

6411 ADDITIONAL LIFEGUARD REQUIREMENTS – CHILD SAFETY PLAN

6411.1 A swimming pool or spa that does not have a lifeguard on duty shall follow a Child Safety Plan that has been reviewed and approved by the Department during a preoperational inspection.

6411.2 The Child Safety Plan shall contain the following information:

(a) The name, address and telephone number of the facility;

(b) The name, address and telephone number of the owner and manager of the facility;

(c) The facility's swimming season (the months of the year that the pool is open);

(d) The expected number of bathers when the spa is open (daily average for the operating months);

(e) The expected number of bathers who are over the age of fifteen (15) when the spa is open (daily average for the operating months);

(f) The percentage of the expected bathers who are under the age of fifteen (15) when the spa is open (daily average for the operating months);

(g) Specific measures that the facility will undertake (in addition to the posting of signs) to ensure that children under the age of fifteen (15) do not use the spa without adult supervision; and

(h) Specific measures that the facility will undertake to monitor the spa when the spa is open.

6412 WATER QUALITY – APPROVED SOURCE*

6412.1 The only approved system for pool water shall be potable water from the District of Columbia public water system.

6413 WATER QUALITY – STANDARDS*

6413.1 Potable water shall be used to supply water to all pools and shall meet the requirements of the applicable provisions of 40 CFR Part 141 – National Primary Drinking Water Regulations, and the District of Columbia drinking water quality standards.

6414 WATER QUALITY – STANDARDS, CLARITY, AND TEMPERATURE*

6414.1 The pool water shall be 0.5 or less NTU and the main drain grate shall be readily visible from the pool deck.

6414.2 Spa pools and swimming pools with heaters shall have a maximum water temperature of one hundred and four degrees Fahrenheit (104° F) (forty degrees Centigrade (40° C)).

.6415 WATER QUALITY – STANDARDS, BACTERIOLOGICAL*

6415.1 The pool water shall be free of coliform bacteria contamination.

6416 WATER QUALITY – STANDARDS, CHEMICAL QUALITY*

6416.1 The Department may collect water samples and examine them as necessary to determine compliance with these regulations.

6416.2 Chemicals used in controlling the quality of the pool water shall be tested and approved using the National Sanitation Foundation (NSF-ANSI) Standard 60, 2005, which is incorporated by reference into these rules and shall be compatible with other accepted chemicals used in pools. The following parameters shall be adhered to for pool water treatment:

(a) Water pH – 7.2 to 7.8;

(b) Disinfection – Free chlorine residual shall be 1 milligram per liter (mg/L) to 10 mg/L, inclusive, in conventional swimming pools and 2 mg/L to 10 mg/L, inclusive, in all other type pools such as spa-type pools and interactive water fountains; bromine residual shall be 1.5 mg/L to 10 mg/L, inclusive, in conventional swimming pools and 3 mg/L to 10 mg/L, inclusive, in all other type pools. Except that, the following maximum disinfectant levels shall apply to indoor conventional swimming pools: 5 mg/L free chlorine or 6 mg/L bromine;

(c) When oxidation – reduction potential controllers are required, the water potential shall be kept between 700 and 850 millivolts. Use of these units does not negate the manual daily testing requirement of section 6422;

(d) Cyanuric acid – 40 mg/L maximum in pools and in spa pools; and

(e) Quaternary ammonium – 5 mg/L maximum.

6416.3 Irrigation water that wets the deck area of a pool and the water in the pool shall be potable water. Non-potable irrigation water shall not be applied within ten (10) feet of the wet deck area.

6416.4 Manual addition of chemicals will be allowed under special conditions and requires the pool to be closed prior to addition and for at least one (1) hour after addition, or a longer period as necessary, for sufficient and safe distribution of the chemical. After treatment for breakpoint chlorination and algae prevention, use of the pool can be resumed when the free chlorine levels drop to 10 mg/L.

6417 WATER QUALITY – TEST KITS

6417.1 Test kits are required to be on the premises of all swimming pools and spas to determine free active chlorine and total chlorine using N,N-Diethyl-p-Phenylenediamie (DPD), or bromine level, total alkalinity, calcium hardness, and pH.

6417.2 The following test kits shall be provided if the corresponding chemicals are used:

(a) Cyanuric acid;

(b) Sodium chloride;

(c) Quaternary ammonium;

(d) Ozone; and

(e) Copper.

6417.3 A test kit may be used for multiple pools, provided the pools have common ownership and they are located on contiguous property.

6417.4 The test kit shall be capable of measuring the level of disinfectant in the normal operating range.

6418 WATER QUALITY – CONTAMINATION

6418.1 A swimming pool or spa shall be deemed contaminated when one (1) of the following conditions exists:

(a) More than one (1) ten milliliter (10 ml) portion of a sample shows a positive test for coliform organisms when multitube fermentation technique is used; or more than one (1) coliform per fifty milliliters (50 ml) when the membrane filter test is used; or

(b) Two (2) consecutive samples show a positive test for coliform organisms in any ten milliliter (10 ml) portion of a sample when the multitube fermentation technique is used or more than one (1) coliform per fifty milliliters (50 ml) when the membrane filter test is used; or

(c) Two (2) of any ten (10) consecutive samples show a positive test for coliform organisms in any of the ten milliliter (10 ml) portions of a sample when the multitube fermentation technique is used or more than one (1) coliform per fifty milliliters (50 ml) when the membrane filter test is used.

6419 RECIRCULATION AND TREATMENT SYSTEM – CROSS-CONNECTION PREVENTION

6419.1 An atmospheric break or approved back flow prevention device shall be provided in each pool water supply line that is connected to a public water supply.

6419.2 Vacuum breakers shall be installed on all hose bibbs.

6420 RECIRCULATION AND TREATMENT SYSTEM

6420.1 The pool recirculation system shall be operated at all times when the pool is open for use. The recirculation system may be shut off three (3) hours after the pool closes and shall be turned back on three (3) hours before opening the pool. Shut down time shall be controlled by a time clock.

6420.2 Recirculation and treatment equipment such as filters, recessed automatic surface skimmers, water ionizers, ozone generators, disinfection feeders and chlorine generators shall be tested and approved using the NSF/ANSI Standard 50-2007, Circulation System Components and Related Materials for Swimming Pool, Spas/Hot Tubs, dated April 2007.

6420.3 The recirculation system shall be designed to provide a minimum of four (4) turnovers of the pool volume per day. Pools that are less than one thousand square feet (1000 sq. ft.) shall be required to provide eight (8) turnovers per day.

6420.4 The design pattern of recirculation flow shall be one hundred percent (100 %) through the main drain piping and one hundred percent (100 %) through the perimeter overflow or sixty percent (60%) through the skimmer system.

6420.5 All swimming pools including wading pools and spas that are open to the public and that are built without a main drain collector tank shall be retrofitted with a properly sized and piped collector tank to eliminate direct suction through the main drain on or before December 19, 2008.

6420.6 All existing public swimming pools with direct suction shall install a main drain cover that meets the ANSI/ASME A112.19.8-2007 standard for drain covers on or before December 19, 2008.

6420.7 Public pools and spas with a single main drain (other than an unblockable drain) shall be equipped with a device or system such as a safety vacuum release system to prevent entrapment.

6420.8 Public pools and spas that are not in operation on December 19, 2008 do not need to meet the requirements specified in section 6420.5 and 6420.6 until they resume operations.

6420.9 A construction permit shall be obtained from the Department of Consumer and Regulatory Affairs prior to installation of a collector tank.

6420.10 Any pool that cannot be retrofitted by the dates specified in sections 6420.5 and 6420.6 shall be closed on or before December 19, 2008.

6420.11 Newly constructed swimming pools and spas built after the effective date of these regulations shall be built with either:

(a) More than one (1) drain;

(b) One (1) or more unblockable drains; or

(c) No main drain.

6421 WATER SUPPLY AND WASTEWATER DISPOSAL

6421.1 No direct mechanical connection shall be made between the potable water supply and the swimming pool or spa, chlorinating equipment, or the system of piping for the swimming pool or spa, unless it is protected against backflow and back-siphonage in a manner approved by the Department of Consumer and Regulatory Affairs, or through an air gap meeting the approval of the Department of Consumer and Regulatory Affairs.

6421.2 Where it is not practicable to provide the minimum air gap, the connection to the fixture, equipment or appliance shall be equipped with a backflow preventer assembly of a type and at a location approved by the Department of Consumer and Regulatory Affairs.

6421.3 Backwash water or drainage waters of a swimming pool or spa shall be discharged into a sanitary sewer through an approved air gap, or by other means approved by the Department of Consumer and Regulatory Affairs.

6421.4 Deck drainage shall be discharged through an indirect drain.

6422 REPORTING REQUIREMENTS – DAILY WATER QUALITY & SAFETY LOGS

6422.1 Each swimming pool or spa shall record the following information on a daily basis, unless otherwise required:

(a) Name of each swimming pool or spa operator on duty;

(b) Name of each lifeguard on duty;

(c) Rate of flow readings;

(d) Weather;

(e) Temperature;

(f) Attendance;

(g) The time of filter backwash or cleaning;

(h) Injuries or accidents at the swimming pool or spa;

(i) Chemicals added to the waters;

(j) Malfunctioning or broken equipment;

(k) pH readings, taken at a minimum of three (3) hour intervals;

(l) Free chlorine residual readings, taken at a minimum of three (3) hour intervals;

(m) Total bromine residual readings, taken at a minimum of three (3) hour intervals; and

(n) Cyanuric acid, if used, residual readings, taken prior to opening the swimming pool or spa for bathers.

6422.2 The information required in section 6422.1 shall be recorded a minimum of three (3) times per day, unless otherwise required, and in conformance with the following schedule:

(a) The first recording of the day shall be made one-half (½) hour before the swimming pool or spa opens to bathers;

(b) The second recording shall be completed between 12 p.m. and 2 p.m.; and

(c) The final recording shall be completed two (2) hours before closing.

6422.3 The Department may require more frequent recordings than those specified in this section if conditions, including high bather load, high temperatures, bright sunlight, or inadequate water quality exist.

6422.4 The daily operational log must be easily readable, dated and signed, and available on the premises for inspection by the Director for a minimum of three (3) years.

6422.5 Pool owners, managers, swimming pool and spa operators, and lifeguards shall be the responsible for maintaining the daily report logs required in section 6422.1.

6422.6 Complete reports shall reflect manually conducted pool water tests for pH and disinfectant levels at least as specified in section 6422.1.

6422.7 If a human fecal accident should occur, the pool owner, manager, swimming pool and spa operator, or lifeguard shall comply with all recommendations found in the Centers for Disease Control's (CDC) "Fecal accident response recommendations for Aquatics staff" found on the internet web site: http://www.cdc.gov/healthyswimming/fecalacc.htm.

6423 REPORTING REQUIREMENTS – EMERGENCY NOTIFICATIONS

6423.1 A pool owner, manager, swimming pool and spa operator, lifeguard, or swimming instructor shall report any death, serious injury, or injury that requires resuscitation or admission to a hospital occurring at a swimming pool or spa, to the Department within twenty-four hours (24 hrs.) of the incident.

6423.2 A pool owner, manager, swimming pool and spa operator, lifeguard, or swimming instructor shall report a complaint of illness attributed by a bather to use of a swimming pool or spa to the Department within twenty-four (24) hours of the incident.

6423.3 The report to the Department shall include the following:

(a) Name and telephone number or address of the person injured or making a complaint;

(b) Date of the incident or onset of illness;

(c) Description of the type of injury or complaint;

(d) Name and telephone number of the person rendering assistance or first aid;

(e) The name of any known hospital, rescue squad or physician providing medical assistance; and

(f) Names and telephone numbers of available witnesses to the incident.

6424 EQUIPMENT – ENCLOSURES, AREA OR ROOMS, SECURITY ACCESS*

6424.1 Equipment designated by the manufacturer for outdoor use may be located in an equipment area. All other equipment shall be located in an equipment room or enclosure.

6424.2 Plastic pipe subject to a period of prolonged sunlight exposure area shall be surrounded with a fence at least four feet (4 ft.) high on all sides and not confined by a building or equivalent structure.

6424.3 A self-closing and self-latching gate with a locking device shall be provided, if necessary for access.

6424.4 An equipment room shall be protected on at least three (3) sides and overhead. The fourth side may be a gate, fence, or open if otherwise protected from unauthorized access.

6424.5 An equipment enclosure shall be lockable or otherwise protected from unauthorized access.

6424.6 Security access shall be installed on all pool equipment areas by June 1, 2009 for those that do not presently have a similar level of security.

6425 EQUIPMENT – ENCLOSURES, AREA OR ROOMS, FLOOR COVERING*

6425.1 The equipment enclosure, area or room floor shall be of concrete or other nonabsorbent material having a smooth slip resistant finish and shall have positive drainage, including a sump pump if necessary.

6425.2 Ancillary equipment, such as a heater, not contained in an equipment enclosure or room shall necessitate an equipment area as specified in section - 6424.1.

6426 EQUIPMENT – ENCLOSURES, AREA OR ROOMS, VENTILATION AND ACCESS*

6426.1 Equipment enclosures or rooms shall have either forced draft or cross ventilation.

6426.2 All below grade equipment rooms shall have a stairway access with forced draft ventilation or a fully louvered door and louvered vent on at least one other side.

6426.3 Where stairway access is not necessary to carry heavy items into the below grade room or vault, a “ship’s ladder” may be used if approved by the Department.

6426.4 The opening to the equipment room or area shall be a minimum of three feet by six feet (3 ft. x 6 ft.) and shall provide easy access to the equipment.

6426.5 A hose bibb with vacuum breaker shall be located in the equipment room or area.

6427 EQUIPMENT – ENCLOSURES, AREA OR ROOMS, SIZE, LIGHTING, AND PROHIBITED ITEMS*

6427.1 The size of the equipment enclosure, room or area shall provide working space to perform routine operations.

6427.2 Clearance shall be provided for all equipment as prescribed by the manufacturer to allow normal maintenance operation and removal without disturbing other piping or equipment.

6427.3 Equipment enclosures, rooms or areas shall not be used for storage of chemical emitting corrosive fumes or for storage of other items to the extent that entrance to the room for inspection or operation of the equipment is impaired.

6427.4 In rooms with fixed ceilings, the minimum ceiling height shall be eight feet (8 ft.).

6427.5 Equipment enclosures, rooms or areas shall be lighted to provide thirty foot (30 ft.) candles of illumination at floor level.

6428 EQUIPMENT – MAINTENANCE, AND GOOD REPAIR

6428.1 All equipment and appurtenances shall be kept in good repair.

6428.2 Skimmers and returns shall be adjustable and functioning.

6428.3 Filter and pump rooms shall be kept clean and reasonably dry at all times.

6428.4 Decks, coping, and fencing shall be in good condition.

6428.5 Guard chairs, rails, ladders, steps, handicap and diving equipment shall be secure.

6428.6 The pool and pool deck shall be kept free from sediment, floating debris, visible dirt and algae. Pools shall be refinished when the pool surfaces cannot be maintained in a safe and sanitary condition.

6428.7 The pool water level shall be maintained at an elevation suitable for continuous skimming without flooding during periods of non-use.

6428.8 Face plates and main grates shall be intact, in place, and secured so that they cannot be removed without the use of tools.

6428.9 Hose bibs shall be in functioning order and vacuum breakers shall be on all hose bibs.

6428.10 Weirs shall be present and functioning.

6428.11 Scum gutters shall be free flowing.

6428.12 The room housing the swimming pool or spa shall contain adequate ceiling intake vents and shall be exhausted at floor level.

6428.13 All other facilities and equipment shall be operable and in good condition.

6429 EQUIPMENT – FIRST AID AND SAFETY EQUIPMENT

6429.1 Safety equipment shall be mounted in a conspicuous place and be readily available for use.

6429.2 All swimming pools shall be provided with:

(a) A shepherd's hook securely attached to a one (1) piece pole not less than sixteen feet (16 ft.) in length;

(b) A minimum of ¼ inch diameter throwing rope as long as one and one-half (1½) times the maximum width of the pool or fifty feet (50 ft.), whichever is less, attached to a U.S. Coast Guard approved ring buoy. A rescue-tube shall be accepted as a substitute for the ring buoy where it is accompanied by a lifeguard who has been trained to use it properly;

(c) First aid supplies consisting of one (1) roll of adhesive tape, five (5) four inch (4 in.) gauze pads, two (2) eye dressing packets, one (1) box of assorted size bandages, one (1) pair of scissors, one (1) pair of tweezers, one (1) face mask for cardiopulmonary resuscitation with one-way valve, and one (1) pair of disposable latex plastic gloves;

(d) Two (2) blankets for emergency use only; and

(e) A backboard with straps not made of ropes or wires.

6429.3 Pools greater than fifty feet (50 ft.) in length shall have multiple units with at least one (1) shepherd's hook and one (1) lifesaving ring located along each of the longer sides of the pools.

6429.4 All pools with a slope transition shall have a safety line. The safety line shall be in place at all times unless a lifeguard or swimming instructor is present.

6429.5 Pool covers and solar blankets shall only be used during times when the pool is closed. Unless the pool cover or solar blanket is secured around the entire perimeter and is designed to support a live load of an adult person, the pool area shall be inaccessible to unauthorized individuals during times of cover or blanket use.

6429.6 A telephone capable of directly dialing 911 or other emergency notification system shall be provided and accessible to all pool users.

6429.7 A telephone shall be permanently affixed to a location inside the pool enclosure or outside the enclosure within seventy-five feet (75 ft.) of a bather entrance. The telephone shall be visible from within the pool enclosure or a sign shall be posted indicating the location of the emergency telephone.

6429.8 A sign with legible letters shall be posted at the telephone with the following information:

(a) Dialing instructions;

(b) Address of the pool location; and

(c) Telephone number.

6429.9 If the emergency telephone does not directly access 911, the emergency notification system shall:

(a) Provide twenty-four hour (24 hr.) monitoring of all incoming calls by a telecommunicator who answers only emergency calls;

(b) Be capable of routing calls to the local 911 telecommunicator via the 911 dedicated emergency trunk line; and

(c) Electronically transfer Automatic Number Identification and Automatic Locator Identification for the emergency telephone at the pool to the Enhanced 911 system for all calls routed to 911.

6430 PLUMBING SYSTEM – EQUIPMENT, DESIGN, CONSTRUCTION, AND INSTALLATION AND CLEANABLE FIXTURES*

6430.1 A plumbing system and hoses conveying water shall be designed, constructed, installed and repaired with approved materials according to the ICC International Plumbing Code/2000 as amended by the D.C. Plumbing Code Supplement/ 2003 (Title 12F of the District of Columbia Municipal Regulations), and subsequent amendments, hereinafter referred to as the "Plumbing Code".

6430.2 A plumbing fixture such as a handwashing facility, toilet, or urinal shall be easily cleanable.[N]

6431 PLUMBING SYSTEM – HANDWASHING SINKS, WATER TEMPERATURE, AND FLOW

6431.1 All handwashing sinks, including those in toilet rooms, shall be equipped to provide water at a temperature of at least one hundred and ten degrees Fahrenheit (110° F) (forty-three degrees Centigrade (43°C)) through a mixing valve, a combination faucet, or tempered water and a single faucet.

6431.2 A steam mixing valve shall not be used at a handwashing sink.

6431.3 A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least fifteen (15) seconds without the need to reactivate the faucet.

6431.4 An automatic handwashing facility shall be installed in accordance with the manufacturer's instructions.

6432 PLUMBING SYSTEM – CLEANING OF PLUMBING FIXTURES

6432.1 Plumbing fixtures such as handwashing sinks, toilets, and urinals shall be cleaned as often as necessary to keep them clean and well-maintained.

6433 DRESSING AND SANITARY FACILITIES – WALL, FLOOR COVERINGS, CLEANABILITY*

6433.1 Sanitary facility floors shall be constructed of concrete or other nonabsorbent materials with a smooth, slip-resistant surface to insure thorough cleaning.

6433.2 Carpets, duckboards and footbaths are prohibited.

6433.3 The intersection between the floor and walls shall be covered where either is not made of waterproof materials or the intersection is not sealed waterproof.

6433.4 Partitions between portions of the dressing room area, screened partitions, shower, toilet, and dressing room booths shall be of durable material, not subject to damage by water and shall be designed so that a waterway is provided between partitions and floor to permit thorough cleaning of the walls and floor areas with hoses and brooms.

6433.5 Dressing facility floors shall be continuous throughout the areas.

6433.6 Floor drains shall be provided, and floors shall be sloped not less than ¼ inch per foot toward the drains to insure positive drainage.

6434 DRESSING AND SANITARY FACILITIES – NUMBERS, AND ACCESSIBILITY*

6434.1 Dressing and sanitary facilities shall be provided at all swimming pools.

6434.2 Section 6434.1 does not apply to swimming pools at hotels, motels, condominiums, and apartments where the:

(a) Pool's use is restricted to residents and guests; and

(b) Farthest unit in the hotel, motel, condominium, or apartment is less than three hundred feet (300 ft.) from the pool area, as measured along walkways provided for access by residents and guests to the pool area.

6434.3 Toilet, urinals and shower facilities shall be provided in accordance with this chapter and the Plumbing Code.

6434.4 Toilet and shower facilities shall be provided at swimming pools or spas unless these facilities are provided in the building housing the swimming pool or spa and the facilities are in close proximity to the swimming pool or spa.

6434.5 Every swimming pool or spa facility shall maintain toilet facilities for bathers which shall consist of toilet rooms with proper and sufficient water closets and lavatories. Toilet and shower facilities shall be conveniently located and readily accessible to the swimming pool area.

6434.6 The number of toilets and urinals shall be based upon the anticipated maximum attendance of bathers and their gender as follows:

(a) A minimum of one (1) toilet, one (1) lavatory, and one (1) urinal for the first one hundred (100) male bathers. A minimum of one (1) additional toilet, lavatory, and urinal for each additional two hundred (200) male bathers or major fraction thereof; and

(b) A minimum of two (2) toilets and two (2) lavatories for the first one hundred (100) female bathers. A minimum of one (1) additional toilet and one (1) lavatory for each additional one hundred (100) female bathers or major fraction thereof.

6434.7 Outside access to sanitary facilities shall be provided for bathers at outdoor pools.

6434.8 Where the restrooms are located within an adjacent building and the restroom doors do not open to the outside, the restroom doors shall be within fifty feet (50 ft.) of the building exterior door.

6434.9 If the restrooms are not visible from any portion of the pool deck, signs shall be posted showing directions to the facilities. These directions shall be legible from any portion of the pool deck and the letters shall be a minimum of one inch (1 in.) high.

6434.10 A hose bibb with vacuum breaker shall be provided in or within fifty feet (50 ft.) of each restroom to allow for ease of cleaning.

6434.11 One (1) diaper changing table shall be provided at each gender specific restroom. Diaper changing tables are not required at restrooms where all pools served are restricted to adult use only.

6435 DRESSING AND SANITARY FACILITIES – SUPPLIES, RECEPTACLE, AND AVAILABILITY

6435.1 Toilet paper holders with a supply of toilet paper shall be provided at each toilet.

6435.2 Sanitary facilities shall be maintained in a clean and sanitary condition and sanitary supplies such as toilet paper, paper towels or blow dryer, soap and trash receptacle shall be provided.

6435.3 Dispensing units supplied with feminine hygiene products shall be installed in toilet or shower areas designated for female bathers.

6435.4 Each handwashing sink and shower shall be conveniently equipped with soap dispensers with either liquid or powdered soap. The dispensing unit shall be made of metal or plastic with no glass.

6435.5 An unbreakable mirror shall be provided over each handwashing sink.

6435.6 A covered receptacle for feminine hygiene products shall be provided at each toilet designated for female bathers.

6435.7 At least one (1) trash receptacle shall be provided in toilet areas.

6436 DRESSING AND SANITARY FACILITIES – SHOWER FACILITIES, NUMBERS, AND WATER TEMPERATURE*

6436.1 A swimming pool or spa shall have at a minimum the following number of shower facilities:

(a) One (1) shower for female bathers;

(b) One (1) shower for male bathers; and

(c) A minimum of two (2) shower heads for each sex. A minimum of one (1) additional shower head shall be required for each sex, and for each additional fifty (50) male or female bathers.

6436.2 Water temperature at the shower heads shall not exceed one hundred and ten degrees (110° F) (forty-three degrees Centigrade (43°C)).

6436.3 The water heater and thermostatically-controlled mixing valves shall be inaccessible to non-staff persons and shall be capable of providing two gallons per minute (2 gpm).

6437 PHYSICAL FACILITIES – EQUIPMENT, CHEMICAL SUPPLIES, USE, LABELING, AND ACCESS*

6437.1 Filter and pump rooms shall be kept clean and reasonably dry at all times.

6437.2 Controls, valves, and gauges shall be accessible and shall not be blocked by extraneous materials. Valves and gauges shall function properly and be labeled in accordance with a posted backwash procedures chart.

6437.3 Disinfectant and chemical feeders, capable of precisely introducing a sufficient quantity of an approved disinfecting agent to maintain the appropriate disinfectant residuals, shall be used at swimming pools and spas.

6437.4 No person shall use chemical products or pesticides in a manner that is inconsistent with the product's labeling, or that is in violation of any restrictions imposed on the product's use by the United States Environmental Protection Agency or the Department.

6437.5 All chemical products used in swimming pool or spa waters shall be used according to:

(a) The Pesticide Operations Act of 1977 (D.C. Law 2-70; 20 DCMR Chapters 22-25;

(b) Manufacturer's use directions included in labeling; and

(c) The conditions of certification, if certification is required for use of pest control materials.

6437.6 Disinfecting products other than chlorine or bromine may be used after approval by the Department when they have been adequately demonstrated to:

(a) Be clearly labeled with directions for use;

(b) Provide a satisfactory residual effect which is easily measured;

(c) Work as effectively as chlorine or bromine; and

(d) Impart no toxic properties to the water that create a danger to public health or create objectionable physiological and environmental effects.

6437.7 Non-staff persons shall not have access to machinery, electric panels, or pool or spa chemicals.

6438 PHYSICAL FACILITIES – CHEMICALS, STORAGE*

6438.1 Chemicals shall be labeled and stored in a cool, dry, and well ventilated area under a roof and the area shall be inaccessible to the public.

6438.2 Chemicals which emit corrosive fumes shall not be stored in the equipment room as specified in section 6427.3.

6438.3 Gas chlorine equipment and containers shall be:

(a) Located out of direct sunlight,

(b) Chained or fastened in place to prevent tipping;

(c) Equipped with a shut-off wrench when in use; and

(d) The installed power exhaust system of such equipment shall operate properly and a bottle of ammonia shall be available to test for leaks.

6438.4 Empty chemical containers shall be stored and disposed of in such a manner that they are not accessible to the public.

6438.5 Solutions and dry chemical spills, waste material, excess water, and debris shall be cleaned and removed promptly.

6439 PHYSICAL FACILITIES – EFFECTIVE BARRIERS, FENCES*

6439.1 All outdoor swimming pools and spa pools shall be surrounded by a minimum seventy-two inch (72 in.) high fence or other substantial barrier approved by the Department.

6439.2 The fence shall be continuous around the perimeter of the pool area that is not otherwise blocked or obstructed by adjacent buildings or structures and shall adjoin with itself or abut to the adjacent members.

6439.3 Access through the barrier or fence from dwelling units such as homes, apartments, motel rooms, and hotel rooms, shall be through self-closing, self-latching lockable gates of forty-eight inch (48 in.) minimal height from the floor with the latch located a minimum of fifty-four inches (54 in.) from the bottom of the gate or at least three inches (3 in.) below the top of the gate on the pool side.

6439.4 Doored access points from public rooms such as lobbies or club houses need not be through gates.

6439.5 Gates shall open outward away from the pool area.

6439.6 A latched, lockable gate shall be placed in the fence within ten feet (10 ft.) of the equipment area for service access.

6439.7 Screened pool enclosures shall be hardened on the bottom three feet (3 ft.)

6439.8 Fencing consideration shall be given to the U.S. Consumer Product Safety Commission (CPSC) Publication No. 362 Guidelines.

6439.9 Safety Covers that comply with ASTM Standard F1346 shall be retrofitted to comply with the swimming pool and spa drain cover entrapment protection standards of the ASME/ ANSI A112.19.8 performance standard as specified in section 6420.6.

6440 PHYSICAL FACILITIES – CONTROLLING PESTS*

6440.1 The presence of insects, rodents, and other pests shall be controlled to minimize their presence on the premises by:

(a) Routinely inspecting the premises for evidence of pests;[N]

(b) Using methods, if pests are found, such as trapping devices or other means of pest control, such as covered, tamper-resistant bait stations; and

(c) Eliminating harborage conditions.[N]

6440.2 The licensee shall maintain a copy of the establishment's professional service contract and service schedule, which documents the following information:

(a) Name and address of its licensed pest exterminator/contractor;

(b) Frequency of pest extermination services provided under the contract; and

(c) Date pest extermination services were last provided to the establishment.

6441 PHYSICAL FACILITIES – REMOVING DEAD OR TRAPPED BIRDS, INSECTS, RODENTS, AND OTHER PESTS

6441.1 Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition or the attraction of pests.

6442 FACILITY AND OPERATING PLANS – WHEN REQUIRED

6442.1 An applicant or licensee shall submit to the Department of Health for review and approval properly prepared plans and specifications before:

(a) Opening a new swimming pool or spa;

(b) Beginning construction of a swimming pool or spa facility;

(c) Beginning modifications to an existing swimming pool or spa; or

(e) Changing the type of swimming pool or spa facility's operation.

6442.2 The applicant or licensee shall submit plans and specifications, a Department application form, and applicable fees to the Department at least thirty (30) calendar days before beginning construction, or renovation, or retrofits of any swimming pool or spa facility.

6442.3 The Department shall accept completed plans and specifications approved by the Department of Consumer and Regulatory Affairs that meet the requirements of these regulations, and shall report its findings to the applicant or licensee within thirty (30) days of the date the completed plans are received.

6442.4 Plans and specifications that are not approved as submitted shall be changed to comply with these regulations or shall be returned as disapproved.

6443 FACILITY AND OPERATING PLANS – CONTENTS AND SPECIFICATIONS

6443.1 The following plans and specifications for a swimming pool or spa shall be submitted to the Department of Consumer & Regulatory Affairs for review and approval as specified in section 6442.5:

(a) Proposed layout, mechanical schematics, construction materials, and finish schedules;

(b) Proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications;

(c) A complete set of elevations and drawings for all custom fabricated equipment;

(d) Other information that may be required before the Department of Consumer & Regulatory Affairs may approve proposed plans for the construction, or renovation, or retrofits, including approvals by other District agencies, when necessary.

6444 CONSTRUCTION, INSPECTION, AND APPROVAL – PREOPERATIONAL INSPECTIONS

6444.1 The Department shall conduct one (1) or more preoperational inspections to verify that the swimming pool or spa is constructed and equipped in accordance with approved plans or approved modifications to those plans.

6444.2 The Department shall accept dimensional standards for competition type pools as published by the National Collegiate Athletic Association, 2003 or most recent addition; Fédération Internationale de Natation Amateur (FINA), 2002-2005 Handbook or most recent addition; 1998-1999 Official Rules of Diving & Regulation of Regulation of United States Diving Inc. or most recent addition; 2003 United States Swimming Rules and Regulations or most recent

addition, and National Federation of State High School Associations, 2002-2003 or most recent addition.

6445 LICENSE / PERMIT REQUIREMENTS – PREREQUISITE FOR OPERATING*

6445.1 No person shall own, operate, or manage a swimming pool or spa pool without a valid license issued by the Department.

6445.2 No person shall serve as a swimming pool and spa operator without a valid swimming pool and spa operator's permit issued by the Department.

6445.3 No person shall construct, install, renovate or retrofit any swimming pool or spa without first having received written approved from the Department of Health and the District of Columbia Department of Consumer and Regulatory Affairs.

6446 APPLICATION PROCEDURE – PERIOD FOR SUBMISSION

6446.1 To qualify for a swimming pool and spa operator's permit an applicant shall:

(a) Complete an application form, provided by the Department of Health;

(b) Submit proof of certifications specified in section 6405; and

(c) Pay the required fee.

6446.2 A swimming pool and spa operator's permit shall be valid for a three (3) year period.

6447 APPLICATION PROCEDURE – FORM OF SUBMISSION

6447.1 An applicant shall submit an application for a license to operate a public swimming pool or spa at least thirty (30) calendar days before the opening date of the swimming pool or spa, or before the expiration date of the current license for an existing swimming pool or spa.

6447.2 Licenses shall be valid for a two (2) year period and the fees shall be prorated for licenses issued after beginning of the license period.

6447.3 An applicant shall submit a written application for a public swimming pool or spa license on forms provided by the Department.

6448 APPLICATION PROCEDURE – CONTENTS OF THE APPLICATION

6448.1 The application for a public swimming pool or spa license shall include the name, address, and signature of the applicant, and the following information:

(a) Name, mailing address and telephone number of the owner of the

swimming pool or spa facility;

(b) Trade name, if applicable;

(c) Name and address of corporate officers, if applicable;

(d) Name and country of registered agent, if applicable;

(e) Address of the swimming pool or spa facility; and

(f) Type of swimming pool or spa.

6449 ISSUANCE OF LICENSE, CERTIFICATION – NOTICE OF OPENING, DISCONTINUANCE OF OPERATION, AND POSTING

6449.1 A public swimming pool or spa facility shall provide notice to the Department of its intent to operate at least thirty (30) calendar days before beginning operations.

6449.2 A public swimming pool or spa shall provide notice to the Department of its intent to shut down permanently or temporarily at least thirty (30) calendar days before discontinuing operations.

6449.3 All licenses, certifications and current inspection results shall be conspicuously posted within the swimming pool or spa facility.

6450 ISSUANCE OF LICENSE, CERTIFICATION – NEW, RENOVATED, OR RETROFIT SWIMMING POOL OR SPA FACILITY

6450.1 The Department shall issue a license for a swimming pool and spa to an applicant after:

(a) A properly completed application is submitted;

(b) The required fees are submitted;

(c) The required plans, specifications, and information are reviewed and approved; and

(d) Preoperational inspections as specified in section 6444 show the facility is constructed, renovated, or retrofitted in accordance with the approved plans and specifications and that the facility is in compliance with this Regulation.

6451 ISSUANCE OF LICENSE, CERTIFICATION – EXISTING FACILITIES, AND CHANGE OF OWNERSHIP OR LOCATION

6451.1 The Department shall renew a license to a swimming pool or spa facility after a properly completed application is submitted, reviewed and approved,

applicable fees are paid, and an inspection shows that the facility is in compliance with this Regulation.

6451.2 The Department shall issue a new license to a swimming pool or spa facility that has changed ownership or changed location after a properly completed application is submitted, reviewed and approved, applicable fees are paid, and an inspection shows that the facility is in compliance with this Regulation.

6452 ISSUANCE – DENIAL OF APPLICATION FOR LICENSE, NOTICE

6452.1 If an application for a license or a renewal of a license is denied, the Department shall provide the applicant with written notice that includes:

(a) The specific reasons and legal authority for denial of the license;

(b) The actions, if any, that the applicant must take to qualify for a new license or to renew a license; and

(c) Notice of the applicant's right to a hearing and the process and timeframes for appeal as prescribed in section 6488.

6453 CONDITIONS OF RETENTION– RESPONSIBILITIES OF THE LICENSEE

6453.1 Upon receipt of a license issued by the Department, the licensee, in order to retain the license, shall comply with this section.

6453.2 The licensee shall post the license and current inspection results in a conspicuous location within the swimming pool or spa facility as specified in section 6449.3.

6453.3 The licensee shall comply with the provisions of these regulations and approved plans as specified in section 6442.

6453.4 The licensee shall immediately discontinue operations and notify the Department if an imminent health hazard exists as specified in section 6463.

6453.5 The licensee shall allow representatives of the Department access to its swimming pool or spa facility as specified in section 6455.

6453.6 The licensee shall replace existing facilities and equipment approved for use before the effective date of these regulations with facilities and equipment as specified in sections 6420.5 and 6420.6.

6454 CONDITIONS OF RETENTION – LICENSE, PERMIT NOT TRANSFERABLE

6454.1 A license or permit to operate a swimming pool or spa facility shall not be transferred from one person to another person, from one facility to another

facility, or from one location to another location that is owned, leased or operated by the same person.

6455 INSPECTION – DEPARTMENT RIGHT OF ENTRY, DENIAL*

6455.1 After representatives of the Department present official credentials and provide notice of the purpose and intent to conduct an inspection in accordance with these regulations, the applicant, or licensee, swimming pool and spa operator, or lifeguard shall allow the Department access to any part, portion, or area of a swimming pool or spa facility.

6455.2 The Department may enter and inspect all aspects of a swimming pool or spa facility, including, but not limited to its physical facilities, operations, equipment, records, chemicals and other operational supplies, at any time for one or more of the following purposes:

(a) To determine if the swimming pool or spa facility is in compliance with these regulations;

(b) To investigate an emergency affecting the public health if the swimming pool or spa is or may be involved in the matter causing the emergency;

(c) To investigate, examine and sample water quality; or

(d) To obtain information, and examine and copy all records on the premises relating to reporting requirements as specified in section 6422.

6455.3 If a person denies the Department access to any part, portion, or area of a swimming pool or spa facility, the Department shall inform the individual that:

(a) The applicant or licensee is required to allow access to the District agencies as specified in section 6455.1;

(b) Access is a condition of the receipt and retention of a license as specified in section 6453.3;

(c) If access is denied, an inspection order allowing access may be obtained in accordance with District law; and

(d) The Department is making a final request for access.

6455.4 If the Department presents credentials and provides notice as specified in section 6455.1, explains the authority upon which access is requested, and makes a final request for access as specified in section 6455.3, and the applicant or licensee continues to refuse access, the Department shall provide details of the denial of access on the inspection report.

6455.5 If the Department is denied access to a swimming pool or spa facility for an authorized purpose, after complying with section 6455.4, the Department may:

(a) Summarily suspend a license issued to the swimming pool or spa facility in accordance with sections 6473 and 6480;

(b) Revoke or suspend a license issued to the swimming pool or spa facility in accordance with section 6485; or

(c) Request that the Office of the Attorney General for the District of Columbia commence an appropriate civil action in the Superior Court of the District of Columbia to secure a temporary restraining order, a preliminary injunction, a permanent injunction, or other appropriate relief from the court, to enforce these regulations.

6456 INSPECTION – FREQUENCY

6456.1 The Department shall inspect a public swimming pool and spa based on a written risk-based inspection schedule that is uniformly applied throughout the District.

6457 INSPECTION – FREQUENCY, PERFORMANCE FACTORS

6457.1 Within the parameters specified in section 6456, the Department of Health shall prioritize and conduct more frequent inspections based upon its assessment of a swimming pool or spa facility's history of compliance with these regulations and its potential as a vector for waterborne illness by evaluating:

(a) Past performance for numerous or repeat critical violations of these regulations;

(b) Past performance for numerous or repeat violations of these regulations that are noncritical violations;

(c) Past performance, for complaints investigated and found to be valid; and

(d) The type of swimming pool or spa facility.

6458 REPORT OF FINDINGS – DOCUMENTING INFORMATION AND OBSERVATIONS

6458.1 The Department shall document on its inspection report form:

(a) Administrative information about the swimming pool or spa facility's legal identity, street and mailing addresses, type of facility, inspection date, and other information such as type of water supply and wastewater

disposal, status of the license and personnel certificates that may be required; and

(b) Specific factual observations of regulatory violations that require correction by the licensee including:

(1) Failure of the licensee to ensure that its lifeguards possess a current American Red Cross, YMCA, or equivalent nationally recognized Certifications in Lifeguarding, Adult/ Child/ Infant CPR, and First Aid.

(2) Failure of the licensee to ensure that its swimming pool and spa operators possess valid swimming pool and spa operator's permits issued by the Department;

(3) Failure of the licensee to ensure that its lifeguards possess valid lifeguard permits issued by the Mayor; and

(4) Nonconformance with critical items of these regulations.

6459 REPORT OF FINDINGS SPECIFYING TIME FRAME FOR CORRECTIONS

6459.1 The Department shall specify on its inspection report form the time frame for correction of violations as specified in sections 6465 and 6467.

6460 REPORT OF FINDINGS – ISSUING REPORT AND OBTAINING ACKNOWLEDGMENT OF RECEIPT

6460.1 At the conclusion of an inspection, the Department shall provide a copy of its completed inspection report and the notice to correct violations to the licensee, and request a signed acknowledgment of receipt. The inspection report shall contain a listing of violations by area in the facility's operation and inspection item with corresponding citations to applicable regulatory provisions.

6461 REPORT OF FINDINGS – REFUSAL TO SIGN ACKNOWLEDGMENT

6461.1 The Department shall inform a person who declines to sign an acknowledgment of receipt of inspection findings that:

(a) An acknowledgment of receipt is not an agreement with the finding;

(b) Refusal to sign an acknowledgment of receipt will not affect the licensee's or dealer's obligation to correct the violations noted in the inspection report within the time frames specified; and

(c) A refusal to sign an acknowledgment of receipt will be noted in the inspection report for the swimming pool or spa facility.

6462 DEPARTMENT RECORDS REQUIREMENTS – RECORDS, RETENTION

6462.1 The Department shall keep and maintain a record of each inspection made of any public swimming pool or spa facility within the District for a period of three (3) years.

6462.2 The Department shall maintain annual records of the following information:

(a) Total number of licensed public swimming pools and spas by category;

(b) Number of inspections by category;

(c) Number of reinspections by category;

(d) Number of hearings;

(e) Number of license suspensions by category;

(f) Number of license revocations by category; and

(g) Number of general complaints investigated and the outcomes.

6463 IMMINENT HEALTH HAZARD – CEASING OPERATIONS AND EMERGENCY REPORTING*

6463.1 A licensee shall immediately discontinue operations and notify the Department whenever any of the following conditions occur:

(a) The disinfectant level is below the minimum or above the maximum in violation of section 6416.2(b);

(b) Improper residuals; or human or environmental contamination not properly treated or disinfected in violation of section 6418;

(c) The pH of the pool water is below 7.2 or above 7.8 in violation of section 6416.2(a);

(d) The clarity of the pool water is such that the main drain grate is not readily visible from the pool deck in violation of section 6414.1;

(e) The recirculation system or disinfection feeding equipment is missing, malfunctioning, or not functioning;

(f) A main drain grate is missing, unsecured, improperly secured or damaged;

(g) Direct suction exists on the main drain in violation of 6420.6 or the corrective actions are not completed by the required dates in violation of section 6420.5;

(h) A fire;

(i) A flood;

(j) An extended interruption of electrical or water service;

(k) A sewage backup;

(l) A misuse of chemicals;

(m) The onset of a confirmed waterborne illness;

(n) A gross unsanitary occurrence or condition;

(o) Failure to comply with any of the requirements in these regulations constituting a public nuisance dangerous to health;

(p) Any modification resulting in the operation of a swimming pool or spa in a manner unsanitary or dangerous to public health or safety;

(q) Failure to allow the Department access to a swimming pool or spa in violation of section 6455;

(r) Failure to provide copies of the facility's Child Safety Plan to the Department for review and approval in violation of section 6411.1;

(s) Existence of a condition that may endanger the health and safety of an individual using a swimming pool or spa, including but not limited to, a missing or not properly secured drain cover or other suction outlet entrapment hazard;

(t) Operation of a public swimming pool or spa without a valid license issued by the Department in violation of section 6445.1;

(u) Operation of a public swimming pool or spa without a valid swimming pool and spa operator's permit issued by the Department in violation of section 6445.2;

(v) Operation of a public swimming pool or spa without a lifeguard in violation of section 6410;

(w) Operation of a public swimming pool or spa with a lifeguard who does not possess a current American Red Cross, YMCA, or equivalent nationally recognized Certifications in Lifeguarding, Adult/ Child/ Infant CPR, and First Aid; or

(x) The Department determines through an inspection, or examination of records or other means as specified in section 6455 the existence of any other condition which endangers the health, safety, or welfare of persons using the pool, including but not limited to:

(1) A drowning hazard;

(2) Broken glass, sharp edged or broken tile or metal, or other abrasion hazards;

(3) Fecal accidents;

(4) Electrical violations; or

(5) Severe algae growth.

6463.2 When any of the conditions listed in section 6463.1 of these regulations exist, the Department shall attach a sign that states:

> POOL CLOSED. This facility is closed until further notice by the Department of Health for imminent health hazard(s) in violation of Section 6463 of the Swimming Pool and Spa Regulations. (Title 22, Chapter 64 of the District of Columbia Municipal Regulations)

6464 IMMINENT HEALTH HAZARD – RESUMPTION OF OPERATIONS

6464.1 If the facility is closed as specified in section 6463, the licensee shall obtain approval from the Department as specified in section 6484 before resuming operations.

6465 CRITICAL VIOLATION – TIME FRAME FOR CORRECTION

6465.1 A licensee shall, at the time of inspection, correct a critical violation of these regulations immediately, except as specified in section 6465.2.

6465.2 The Department may consider the nature of the potential hazard involved and the complexity of the corrective action needed and agree to specify a longer timeframe, not to exceed five (5) business days after the inspection, for the licensee to correct a critical violation of this Regulation.

6465.3 Failure to correct violations in accordance with this section may subject a licensee to summary suspension of license pursuant to section 6480, revocation or suspension of a license pursuant to section 6485, and civil penalties pursuant to section 6486.

6466 CRITICAL VIOLATION – VERIFICATION AND DOCUMENTATION OF CORRECTION

6466.1 After observing at the time of inspection a correction of a critical violation, the Department shall enter the violation and information about the corrective action on its inspection report.

6466.2 After receiving notification that the licensee has corrected a critical violation, the Department shall verify correction of the violation, document the information on an inspection report, and enter the report in its records.

6467 NONCRITICAL VIOLATION – TIME FRAME FOR CORRECTION

6467.1 The licensee shall correct noncritical violations by a date and time agreed to or specified by the Department but no later than thirty (30) business days after the inspection, except as specified in section 6467.2.

6467.2 The Department may approve a compliance schedule that extends beyond the time limits specified in section 6467.1 if the licensee submits a written schedule of compliance and no health hazard exists or will result from allowing an extended schedule for compliance.

6467.3 Failure to correct violations in accordance with this section may result in the revocation or suspension of a license pursuant to section 6485, and the issuance of civil penalties pursuant to section 6486.

6468 REQUEST FOR REINSPECTION

6468.1 If a license is summarily suspended pursuant to section 6480 or suspended or revoked pursuant to 6485 because of violations of this Regulation, the licensee shall submit to the Department a written request for reinspection.

6468.2 Upon receipt of a request for reinspection, the Department shall perform the reinspection of the public swimming or spa facility within three (3) business days of receipt of the request.

6468.3 A public swimming pool or spa facility shall not resume operations or remove from public view any warning or current inspection results as specified in section 6449.3 until the Department has reinspected the public swimming pool or spa facility and certified that it is in compliance with this Regulation.

6469 SERVICE OF NOTICE – PROPER METHODS

6469.1 A notice issued in accordance with these regulations shall be deemed properly served if it is served by one of the following methods:

(a) The notice is personally served by the Department, a law enforcement officer, or person authorized to serve civil process and service is made

to the licensee or person operating a public swimming pool or spa facility without a license;

(b) The notice is sent by the Department to the last known address of the licensee or person operating a public swimming pool or spa without a license by other public means so that a written acknowledgment of receipt may be acquired; or

(c) For civil infraction penalties, the notice is provided by the Department in accordance with the procedures stated in section 3102 of Title 16 of the District of Columbia Municipal Regulations.

6470 SERVICE OF NOTICE CONDEMNATION, OR SUMMARY SUSPENSION ORDERS

6470.1 A condemnation order or summary suspension order shall be:

(a) Served as specified in section 6469.1(a); or

(b) Clearly posted by the Department at a public entrance to the swimming pool or spa facility and a copy of the notice sent by first class mail to the licensee or the owner or custodian of the public swimming pool or spa, as appropriate.

6471 SERVICE OF NOTICE – WHEN NOTICE IS EFFECTIVE

6471.1 Service is effective at the time of the notice's receipt or if service is made as specified in section 6470.1(b), at the time of the notice's posting.

6472 SERVICE OF NOTICE – PROOF OF PROPER SERVICE

6472.1 Proof of proper service may be made by certificate of service signed by the person making service or by admission of a return receipt, certificate of mailing, or a written acknowledgment signed by the licensee or the person operating public swimming pool or spa facility without a license, or an authorized agent.

6473 ENFORCEMENT ACTION – CONDITIONS WARRANTING REMEDY

6473.1 The Department may seek an administrative or judicial remedy to achieve compliance with the provisions of these regulations if a licensee or person operating a public swimming pool or spa, or employee:

(a) Fails to have a valid license as specified in section 6445;

(b) Violates any term or condition of a license as specified in section 6453;

(c) Fails to allow the Department access to a swimming pool or spa as specified in section 6455;

(d) Fails to comply with directives of the Department including time frames for corrective actions specified in the inspection reports, orders, or warnings of the Department as specified in sections 6465 and 6467;

(e) Fails to comply with a summary suspension order by the Department as specified in this section; or

(f) Fails to comply with an order issued as a result of an administrative hearing.

6473.2 The Department may simultaneously use one or more of the remedies listed in this chapter to address a violation of this Regulation.

6474 ADMINISTRATIVE REMEDIES – CONDEMNATION ORDER, JUSTIFYING CONDITIONS AND REMOVAL OF EQUIPMENT, CHEMICALS, OR OTHER OPERATIONAL SUPPLIES

6474.1 The Department may condemn and cause to be removed any equipment, chemicals, or other operational supplies found in a swimming pool or spa facility the use of which does not comply with these regulations.

6475 ADMINISTRATIVE REMEDIES – CONDEMNATION ORDER, CONTENTS

6475.1 The condemnation order shall:

(a) State that the equipment, chemicals, or other operational supplies subject to the order may not be used, sold, moved from the swimming pool or spa facility or destroyed without a written release of the order from the Department;

(b) State the specific reasons for placing the equipment, or other operational supplies under the condemnation order with reference to the applicable provisions of these regulations and the hazard or adverse effect.

(c) Completely identify the equipment, chemicals, or other operational supplies subject to the condemnation order by the common name, the manufacturer's information, description of the item, the quantity, the Department's tag or identifying information, and location;

(d) State that the licensee has the right to a hearing and may request a hearing by submitting a timely request in accordance with section 6488, which request does not stay the Department's imposition of the condemnation order;

(e) State that the Department of Health may order the destruction, replacement or removal of the equipment, chemicals, or other operational supplies if a timely request for a hearing is not received; and

(f) Provide the name and address of the Department's representative to whom a request for a hearing may be made.

6476 ADMINISTRATIVE REMEDIES – CONDEMNATION ORDER, OFFICIAL TAGGING OR MARKING OF EQUIPMENT, CHEMICALS, OR OTHER OPERATIONAL SUPPLIES

6476.1 The Department of Health shall place a tag, label, or other appropriate marking to indicate the condemnation of equipment, chemicals, or other operational supplies that do not meet the requirements of this Code.

6476.2 The tag or other method used to identify the equipment, chemicals, or other operational supplies that are the subject of a condemnation order shall include a summary of the provisions specified in section 6475 and shall be signed and dated by the Department.

6477 ADMINISTRATIVE REMEDIES – CONDEMNATION ORDER, EQUIPMENT, CHEMICALS, OR OTHER OPERATIONAL SUPPLIES MAY NOT BE USED OR MOVED

6477.1 Equipment, chemicals, or other operational supplies that are subject to a condemnation order may not be used, sold, moved, or otherwise destroyed by any person, except as specified in section 6477.2.

6477.2 The Department may allow the licensee to store the equipment, chemicals, or other operational supplies in an area of the swimming pool or spa that does not restrict the facility's operations.

6478 ADMINISTRATIVE REMEDIES – CONDEMNATION ORDER, REMOVING THE OFFICIAL TAG OR MARKING

6478.1 No person shall remove the tag, label, or other appropriate marking except under the direction of the Department as specified in section 6478.2.

6478.2 The Department of Health shall issue a notice of release from a condemnation order and shall remove condemnation tags, labels, or other appropriate markings from equipment, chemicals, or other operational supplies if:

(a) The condemnation order is vacated; or

(b) The licensee notifies the Department that the equipment, chemicals, or other operational supplies have been modified to meet NSF/ANSI or ASME/ANSI standards and the requirements of this Regulation, and the Department has conducted a re-inspection.

6479 ADMINISTRATIVE REMEDIES — CONDEMNATION ORDER, WARNING OR HEARING NOT REQUIRED

6479.1 The Department may issue a condemnation order to a licensee or to a person who owns or controls the equipment, chemicals, or other operational supplies as specified in section 6470, without prior warning, notice of a hearing, or a prior hearing on the condemnation order.

6479.2 The licensee shall have the right to request a hearing within fifteen (15) business days of receiving the Department condemnation order. The Department shall hold a hearing within seventy-two (72) business hours of receipt of a timely request, and shall issue a decision within seventy-two (72) business hours after the hearing. The request for a hearing shall not act as a stay of the condemnation action.

6480 ADMINISTRATIVE REMEDIES — SUMMARY SUSPENSION OF LICENSE, CONDITIONS WARRANTING ACTION

6480.1 The Department may summarily suspend a license to operate a public swimming pool or spa facility, if it determines through an inspection, or examination of records or other means as specified in the Regulations that an imminent health hazard exists.

6481 ADMINISTRATIVE REMEDIES — CONTENTS OF SUMMARY SUSPENSION NOTICE

6481.1 A summary suspension notice shall state:

(a) That the license of a public swimming pool or spa facility is immediately suspended and that all operations shall immediately cease;

(b) The reasons for summary suspension with reference to the provisions of this Regulation that are in violation;

(c) The name and address of the Department's representative to whom a written request for reinspection may be made and who may certify that reasons for the suspension are eliminated; and

(d) That the licensee may request a hearing by submitting a timely request in accordance with section 6482, which request does not stay the Department's imposition of the summary suspension.

6482 ADMINISTRATIVE REMEDIES — SUMMARY SUSPENSION, WARNING OR HEARING NOT REQUIRED

6482.1 The Department may summarily suspend a license as specified in section 6480 by providing written notice as specified in section 6470 of the summary suspension to the licensee, without prior warning, notice of a hearing, or prior hearing.

6482.2 The licensee shall have the right to request a hearing within fifteen (15) business days after receiving the Department's summary suspension notice. The Department shall hold a hearing within seventy-two (72) business hours of receipt of a timely request, and shall issue a decision within seventy-two (72) business hours after the hearing. The request for a hearing shall not act as a stay of the summary suspension.

6483 ADMINISTRATIVE REMEDIES – SUMMARY SUSPENSION, TIME FRAME FOR REINSPECTION

6483.1 After receiving a written request from the licensee stating that the conditions cited in the summary suspension order no longer exist, the Department shall conduct a reinspection of the swimming pool or spa facility for which the license was summarily suspended within three (3) business days of receiving the request.

6484 ADMINISTRATIVE REMEDIES – SUMMARY SUSPENSION, TERM OF SUSPENSION, REINSTATEMENT

6484.1 A summary suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and the Department has confirmed, through re-inspection or other appropriate means that the conditions cited in the notice of suspension have been eliminated.

6484.2 The suspended license shall be reinstated if the Department determines that the public health hazard or nuisance no longer exists. A notice of reinstatement shall be provided to the licensee.

6485 ADMINISTRATIVE REMEDIES – REVOCATION OR SUSPENSION OF LICENSE

6485.1 Failure to comply with any of the provisions of these regulations shall be grounds for the revocation or suspension of any license issued for a public swimming pool or spa pursuant to the Health Functions Clarification Act of 2002, effective October 3, 2001, (D.C. Law 14-28; D.C. Official Code § 7-731(b)) (2006 Suppl.), as amended. When there is a history of repeated violations or where a license has been previously suspended, the Department may revoke a license, upon a showing of a subsequent violation.

6485.2 Before the Department revokes or suspends a license, the licensee shall be given an opportunity to answer and to be heard on the violations.

6486 ADMINISTRATIVE REMEDIES – CIVIL PENALTIES

6486.1 Civil fines, penalties, or related costs may be imposed against any swimming pool or spa facility owner, or licensee for violation of any provision of this Regulation.

6487 ADMINISTRATIVE REMEDIES – CIVIL PENALTIES, NOTICES OF VIOLATION OR INFRACTIONS

6487.1 The notice of violation shall state the nature of the violation and allow a reasonable time for performance of the necessary corrective action.

6487.2 If a person fails to comply with the time stated in the notice of violation issued pursuant to this section, the Department shall issue a proposed compliance order, or a proposed cease and desist order, which shall include a statement of the nature of the violation, afford the right to a hearing, allow a reasonable time for compliance with the order, and state any penalties to be assessed for failure to comply with the order.

6488 ADMINISTRATIVE HEARINGS – NOTICE, REQUEST FOR HEARING, BASIS AND TIME FRAME

6488.1 A person who receives a notice of hearing for an administrative remedy as specified in this chapter and elects to respond to the notice shall file a response to the notice within seven (7) calendar days after service.

6488.2 In response to an adverse administrative action, a licensee may submit a written request for a hearing to the Department within fifteen (15) calendar days of the receipt of notice of adverse action.

6488.3 A hearing request shall not stay the Department's condemnation order as specified in section 6475, or the imposition of a summary suspension as specified in section 6481.

6489 ADMINISTRATIVE HEARINGS – CONTENTS OF RESPONSE TO HEARING NOTICE, OR HEARING REQUEST

6489.1 A response to a hearing notice shall be in writing and contain the following:

(a) An admission or denial of each allegation of fact;

(b) A statement as to whether the respondent waives the right to a hearing;

(c) A statement of defense, mitigation, or explanation concerning any allegation of fact if any; and

(e) The name and address of the respondent's legal counsel, if any.

6489.2 A request for hearing shall be in writing and contain the following:

(a) An admission or denial of each allegation of fact;

(b) A statement of defense, mitigation, denial, or explanation concerning each allegation of fact; and

(c) The name and address of the requester's legal counsel, if any.

6490 ADMINISTRATIVE HEARINGS ─ TIMELINESS

6490.1 The Department shall afford a hearing within seventy-two (72) business hours after receiving a written request for a hearing from:

(a) A licensee or person who is subject to an a condemnation order as specified in sections 6473 to 6479;

(c) A person whose license is summarily suspended as specified in sections 6480 to 6484; or

(d) A person whose license is suspended or revoked as specified in section 6485.

6490.2 A licensee or person who submits a request for a hearing as specified in section 6489.2 may waive the expedited hearing in a written request to the Department.

6491 JUDICIAL REVIEW ─ APPEALS

6491.1 Any person who contests a final order of the Mayor issued pursuant to these regulations, after exhaustion of all administrative remedies, is entitled to judicial review of the final order upon filing a written petition for review in the District of Columbia Court of Appeals.

6492– 6497 RESERVED

6498 RESERVED ─ FEE AND SERVICE SCHEDULE

6499 DEFINITIONS ─ GENERAL PROVISION, AND DEFINTIONS

6499.1 The terms and phrases used in this title shall have the meanings set forth in this Chapter, unless the text or context of the particular chapter, section, subsection, or paragraph provides otherwise.

6499.2 DEFINITIONS

Abrasion hazard – a sharp or rough surface that would scrape the skin by chance during normal use.

Accessible – easy exposed for inspection and the replacement of materials and/or parts with the use of tools.

Algae – a marine plant classified along with Fungi and Bacteria in the group *Thallophyta*; thrives in sunny places on land or water utilizing photosynthesis for energy production; and can be destroyed easily with chlorine sanitizers.

Alteration – any change in equipment or materials used in the construction of a public swimming pool, after completion which does not conform to the original, DOH-approved plans, specifications, and change orders, including but not limited to, such items as pool or deck resurfacing, painting, equipment changes, and structural additions or deletions.

Approved safety pool cover – a manually or power-operated safety pool cover that conform to the entrapment protection standards of the ASME/ANSI A112.19.8 performance standard, or any successor standard regulating swimming pool or drain cover.

ASME/ANSI – a safety standard accredited by the American National Standards Institute and published by the American Society of Mechanical Engineers.

ASSE – the American Society of Sanitary Engineering.

Attendant – person who supervises or controls the entrance, exit or other activities of pool patrons. An attendant may not act as a lifeguard.

Barrier – a fence, safety cover, wall, building wall or a combination thereof, which completely surrounds or covers the swimming pool or spa and obstructs access to the swimming pool, or spa pool, including a natural or constructed topographical feature that prevents unpermitted access by children to a swimming pool, and with respect to a hot tub, a lockable cover.

Bather – any person using a swimming pool or spa pool and adjoining deck area for the purpose of water sports, recreation therapy or related activities.

Bather load – the maximum number of persons allowed in the pool / spa area at one time.

Beginner's areas – those water areas in pools, which are three feet (3 ft.), or less in water depth.

Breakpoint Chlorination – the addition of a sufficient amount of chlorine to water to destroy the combined chlorine present.

Brominator – a device used to apply or to deliver a bromine disinfectant to water at a controlled rate.

Bromine – a chemical sanitizing agent that is not as effective as chlorine in normal conditions; and is not affected by heat and continues to disinfect after combining making it great for spas.

Certified swimming pool and spa operator – a person who has the qualifications and training to operate a public swimming pool.

Chemical feeder – a mechanical device used for applying chemicals to pool or spa water.

Change Order – written notification submitted to the Department on a DOH Swimming Pool Change Order Request Form detailing any proposed equipment changes or material

alterations which do not conform to the original approved plans, specifications, or previously approved change order.

Child safety plan – a plan prepared annually by the owner or manager of a facility housing a spa.

Chloramine – a compound formed when chlorine combines with nitrogen or ammonia that causes eye and skin irritation and has a strong, objectionable odor.

Chlorination – the process of introducing chlorine to remove undesired contaminates and acts as a sanitizer, algaecide and strong oxidizer.

Chlorinator – a device used to apply or to deliver a chlorine disinfectant to water at a controlled rate.

Circulation equipment – the mechanical components that are part of a circulation system in a pool or spa. Circulation equipment includes but is not limited to categories of pumps, hair and lint strainers, filters, valves, gauges, meters, heaters, surface skimmers, inlet/outlet fittings and chemical feeding devices. The components have separate functions, but when connected to each other by piping, perform as a coordinated system for purposes of maintaining pool or spa water in a clear, sanitary and desirable condition.

Circulation system – an arrangement of mechanical equipment or components, connected by piping to a pool or spa in a closed circuit. The function of a circulation system is to direct water from the pool or spa, causing it to flow through the various system components for purposes of clarifying, heating, purifying and returning the water back to the original body of water.

Clarifier – a chemical that coagulates and neutralizes suspended particles in water. There are two (2) types: inorganic salts of aluminum or iron and water-soluble organic polyelectrolyte polymers, also called coagulant or flocculent.

Closed pool – a pool which is not to be used by bathers and is posted with a pool closed sign visible from the pool deck or is inaccessible.

Coliform – a group of naturally-occurring bacteria that are present in all surface water and are in the intestinal tract of human and other warm-blooded animals. The presence of coliforms in a pool or spa indicates possible deficiencies in chlorine residuals, water clarity, filter backwashing or cleaning, pool cleanliness, swimmer adherence to showering rules and/or proper sample collection technique.

Commission – U.S. Consumer Product Safety Commission.

Competition pool – a pool designed to be routinely used to host organized swim competitions such as those sponsored by colleges, universities, swim leagues, and swim clubs.

Critical item – a provision of these regulations that, if in noncompliance, is more likely than other violations to serve as a vector for a waterborne illness, or an environmental health hazard. A critical item is denoted with an asterisk (*).

Critical limit – the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to prevent, eliminate or reduce to an acceptable level the occurrence of a waterborne illness, or an environmental health hazard.

Critical violation – a condition or practice that violates these regulations and results in a waterborne illness, or endangers the public health, safety, or welfare.

Cyanuric – a chemical that helps reduce the excess loss of chlorine in water due to the ultraviolet rays of the sun. It is also called stabilizer, isocyanuric acid conditioner or triazinetrione.

Dark – a Munsell Color Value from zero (0) to four (4).

Decks – those areas immediately adjacent to or attached to a pool or spa that are specifically constructed or installed for use by users sitting, standing or walking.

Deep areas – water depths in excess of five feet (5 ft.)(1.42 m).

Department – Department of Health.

D.E. – the Diatomaceous Earth that is used as a filter aid in DE type filters, including alternative filter aids that have been approved under NSF / ANSI Standard 50-2007, and accepted by the filter manufacturer.

Disinfectant – energy or chemicals used to kill undesirable or pathogenic (disease-causing) organisms that have a measurable residual at a level adequate to make the desired kill.

Diving board – a recreational mechanism for entering a swimming pool, consisting of a semi-rigid board that derives its elasticity through the use of a fulcrum mounted below the board.

Duckboard – a boardwalk laid across a muddy ground or flooring; made of non-porous easily cleanable material when used in pool and showers areas, and locker rooms.

Effective barrier – a barrier which consists of a building, or equivalent structure, plus a 48 inch minimum height fence on the remaining sides or a continuous 48 inch minimum height fence. All access through the barrier shall have (1) one or more of the following safety features: alarm, key lock or self-locking doors and gates. Safety covers that comply with the American Society for Testing Materials standard F2387 may also be considered as an effective barrier.

Emergency equipment – a backboard with straps, two (2) blankets, cervical collars in adult and infant sizes or a commercial head immobilizer.

First aid kit – a water resistant, clearly labeled, latched container providing sufficient first-aid equipment to treat up to fifteen (15) people. The kit shall contain as a minimum: alcohol wipes, antibiotic ointment, assorted adhesive bandages, a breathing barrier, a cold pack, gauze, and disposable gloves.

Hose bibb – any connection to a potable water supply.

Imminent health hazard – a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operations to prevent injury based on the number of potential injuries, and the nature, severity and duration of the anticipated injury.

Inaccessible – enclosed by an effective barrier.

Jump board – a recreational mechanism that has a coil spring, leaf spring or comparable device located beneath the board which is activated by the force exerted in jumping on the board.

Lifeguard – a person having the qualifications of and possessing a current American Red Cross, YMCA, or equivalent Lifeguard Certification, current First Aid Certificate and current CPR (which includes adult, child, and infant) Certificate and is responsible for the safety of the users of a public swimming pool.

Main drain – a submerged suction outlet typically located at the bottom of a pool or spa to conduct water to a re-circulating pump.

Marking or Markings – the placement and installation of visual marking cues to help patrons identify step, bench and swimout outlines, slope break location, depth designations, and NO ENTRY and NO DIVING warnings. When markings are specified to be dark the term "dark" shall have the meaning defined in this Regulation.

Membrane filter test – a swap sample taken from any hard surface.

Modification – any act which changes or alters the original characteristics of the pool as approved. For example, changes in the recirculation systems, decking, treatment systems, disinfection system, and pool shape are modifications.

N,N-Diethyl-p-Phenylenediamie (DPD) - pH indicator in liquid or tablet form is the most common chlorine/bromine testing reagent; the indicator turns pink in the presence of disinfectant residual and the pinker the sample, the higher the chlorine/bromine reading.

NTU (Nephelometric Turbidity Unit) – a means of measuring water clarity.

Owner – the owner of the facility or his/her designated agent such as a property manager or on-site representative.

Oxidation – reduction potential controller (ORP) – device used to measure sanitizer effectiveness and to control ozone generators, chlorine generators, and ionizers (in

combination with chlorine). ORP is the only practical method to electronically monitor sanitizer effectiveness.

Pool turnover – the circulation of the entire pool volume through the filter system.

Precoat pot – a container with a valved connection to the suction side of the recirculation pump of a pressure diatomaceous earth (D.E.) type filter system used for coating the filter with D.E. powder or NSF / ANSI Standard 50-2007 and manufacturer approved substitute filter aid.

Private swimming pool or spa pool – any swimming pool or spa pool built in conjunction with a single family residence used or intended to be used solely by the owner or lessee, and the owner's or lessee's immediate family and guests invited to use it without payment of a fee.

Public swimming pool or spa pool – any swimming pool or spa pool, other than a private residential swimming pool or spa pool which is intended to be used collectively by numbers of persons and operated by any person, whether as owner, lessee, operator or concessionaire, regardless of whether a fee is charged for such use, including but not limited to, tourist establishment swimming pools or spa pools, tub baths, saunas and steam baths, swimming pools or spa pools owned or operated by an apartment, condominium, cooperative, or other tenant or ownership group, private club or association of persons, or any association of persons; or pools operated by or serving camps, churches, adult or child day care centers, assisted living facilities, group home facilities, health spas, institutions, parks, District government agencies, or schools.

Quaternary ammonium (quats) – a compound derived from ammonium with hydrogen atoms replaced by organic groups; used as surface-active agent and disinfectant.

Recirculation system – a system consisting of pumps, motors, piping, filters, inlets, outlets, disinfecting and other water conditioning equipment and necessary accessories.

Return – pool water that is going back into the filtration system and chemical feeding cycle, usually from the gutters, skimmer or return lines.

Safety vacuum release system – a vacuum release system capable of providing vacuum release at a suction outlet caused by a high vacuum occurrence due to a suction outlet flow blockage.

Sauna – the application of water vapor.

Scum gutter - overflow line along the sides of the pool that takes water to the return lines in the filtration system.

Shallow end of pool – the portion of the pool with water depths of four feet (4 ft.) or less.

Shepherd's hook – a twelve foot (12 ft.) pole with a loop on the end to grasp a person in the water who is in distress without entering the water.

Ship's ladder – the entry and exit ladders found on the pool sides and ends.

Showers – baths where the bather's body is sprayed with a fine stream of water from small jets.

Skimmer or surface skimmer – overflow water line that traps debris in the weir basket and returns the water to the filtration system for treatment.

Slip resistant – having a textured surface which is not conducive to slipping under contact of bare feet unlike glazed tile or masonry terrazzo and non-textured plastic materials. Manufactured surface products shall be designed by the manufacturer as suitable for walking surfaces in wet areas. Minimum acceptable static coefficient of friction to determine slip resistance is 0.7 on horizontal wet walking surfaces in the pool and for the wet deck area.

Spa operator – any person in possession of a valid District of Columbia spa operator's permit who is directly responsible for the operation of a public spa.

Spa pool – a pool used in conjunction with high velocity air or water directed onto a bather's body with the intent of producing relaxed or therapeutic effects.

Special purpose pool – a public pool used exclusively for a specific supervised purpose, including springboard or platform diving training, SCUBA diving instruction, and aquatic programs for handicapped individuals, pre-school or kindergarten children.

Spray pool (spray deck or wet deck) – an artificial structure used to impound water either above or below the ground surface into which treated water is sprayed and recirculated.

Stationary diving platform – stationary diving platforms are used for diving and are constructed or located on site, and may be natural or artificial rocks, pedestals or other items.

Steam bath – the application of water vapor.

Swimming instructor – person who offers progressive swimming instruction.

Swimming pool – any artificial structure, basin, chamber, or tank, either above or below ground, including hot tubs, spas, portable spas, and non-portable wading pools, which is used or intended to be used for the primary purpose of swimming, diving, wading, or recreational bathing and including all appurtenant equipment, structures, and facilities located within a common enclosure.

Swimming pool and spa operator – any person in possession of a valid District of Columbia swimming pool operator's permit issued by the Mayor and who is directly responsible for the operations of a public swimming pool.

Swim spa – a pool used in conjunction with a directional flow of water against which one swims.

Turnover time – the period of time (usually hours) required to circulate the complete volume of water in a pool through the recirculation system.

Unblockable drain – a drain of any size and shape that a human body cannot sufficiently block to create a suction entrapment hazard.

Vacuum breakers – a plumbing device that prevents the pool's recirculation pumps from being damaged by shutting the system down when there is a drop in air pressure.

Wading pool – a shallow pool designed to be used by children.

Water active pool – a water recreation attraction which has water related activities such as rope ladders, rope swings, cargo nets and other similar activities.

Water Ionizer – an appliance that filters and converts water into ions; separates water into an alkaline fraction and an acid fraction by exploiting the electric charge of the calcium and magnesium ions present in nearly all sources of drinking water. In the case of water chemistry sodium hypochlorite (liquid bleach) is converted into hypochlorous acid, the active sanitizing agent in pool water.

Water recreation attraction – a facility with design and operational features that provide patron recreational activity and purposefully involves immersion of the body partially or totally in the water. Water recreation attractions include water slides, water activity pools, interactive water features, wave pools and any additional pool within the boundaries of the attraction.

Water-safe – a bather who is able to swim and capable of exercising proper judgment in taking action for self-preservation under emergency conditions.

Water therapy facilities – pools used exclusively for water therapy to treat a diagnosed injury, illness, or medical condition, wherein the medical treatment or physical therapy is provided under the direct supervision of medical personnel licensed pursuant to the Health Occupations Revision Act of 1985 Amendment Act of 1994, effective March 23, 1995, (DC Law 10-247; D.C. Official Regulation § 3-1205.01) (2006 Suppl.); and the prescribing physician authorizes a plan of treatment justifying use of a pool for health care purposes.

Weir – baskets found at the skimmer line that traps and prevents debris from entering the filtration system in the return lines which could damage the pumps or obstruct the filters.

Wet deck area – the four foot wide unobstructed pool deck area around the outside of the pool water perimeter, curb, ladders, handrails, diving boards, diving towers, pool slides, waterfalls, water features, starting blocks, planters, or lifeguard chairs.