

HEALTH

PUBLIC HEALTH SERVICES BRANCH

DIVISION OF CONSUMER, ENVIRONMENTAL AND OCCUPATIONAL HEALTH

Public Recreational Bathing

Proposed Repeals and New Rules: N.J.A.C. 8:26-2.3, 2.5, 3.1, 3.20, 3.23, 4.2, 4.7, and 4.8

Proposed Amendments: N.J.A.C. 8:26-1, 2.1, 2.2, 2.4, 2.6, 3.2, 3.9, 3.12, 3.13, 3.15, 3.17, 3.18, 3.19, 3.21, 3.22, 3.24, 4.1, 4.3, 4.4, 4.5, 4.12, 4.13, 5, 6, 7, and 8

Proposed New Rules: N.J.A.C. 8:26-2.7, 3.25, 4.14, 8.14, 5.15, 6.13, 6.14, 6.15, and 6.16 and 8:26 Appendices A through F

Proposed Repeals: N.J.A.C. 8:26-3.3 through 3.8, 3.10, 3.11, 3.14, 3.16, 4.6, 4.10, and 4.11 and 8:26 Appendix

Authorized By: Cathleen D. Bennett, Commissioner, Department of Health, in consultation with the Public Health Council.

Authority: N.J.S.A. 26:1A-7 and 26:4A-7.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2017-143.

Submit electronic comments to <http://www.nj.gov/health/legal/ecomments.shtml>, or written comments to the address below, by October 6, 2017, to:

Joy L. Lindo, Director

Office of Legal and Regulatory Compliance

Office of the Commissioner

Department of Health

PO Box 360

Trenton, NJ 08625-0360

The agency proposal follows:

Summary

The Department of Health (Department) proposes amendments, repeals, and new rules at N.J.A.C. 8:26 to implement the provisions of the State Sanitary Code affecting Public Recreational Bathing as established by the Public Health Council pursuant to N.J.S.A. 26:1A-7 and 26:4A-7. Reorganization Plan No. 003-2005 (Governor Codey) (37 N.J.R. 2735(a)), recast the role of the Public Health Council as being of a consultative and advisory nature in relation to the powers of the Commissioner of Health. N.J.A.C. 8:26 would continue to establish sanitary and safety standards for public recreational bathing facilities, which are non-private bathing beaches, hot tubs and spas, swimming and wading pools, lake fronts, and aquatic recreation facilities.

In order to maintain these rules in effect while finalizing amendments, repeals, and new rules to this chapter, the Department readopted N.J.A.C. 8:26 without change effective August 5, 2016. See at 49 N.J.R. 200(a). Previously, when N.J.A.C. 8:26 was readopted without change on October 9, 2009, at 41 N.J.R. 3799(a), the Department indicated in its response to comments that it was readopting the existing rules in order to maintain public health and safety standards while it reviewed N.J.A.C. 8:26 for consistency with the Virginia Graeme Baker Pool and Spa Safety Act (Baker Act), Pub.

L. 110-140, codified at 15 U.S.C. §§ 8001 through 8007, and amending the Consumer Product Safety Act, 15 U.S.C. §§ 2051 et seq. The Department also stated in its response to comments that it would assemble a workgroup of interested parties to review N.J.A.C. 8:26 and make recommendations for amendments to update the rules. The Department has completed both of these endeavors. The Department discusses its review of N.J.A.C. 8:26 for consistency with the Baker Act further in the Federal Standards Statement, below.

The Department convened a group of interested parties to review existing N.J.A.C. 8:26 and discuss amendments to the rule to improve its protection of public health. Participating organizations and agencies included local and county health departments, the New Jersey Department of Community Affairs, Clean Ocean Action, the New Jersey Department of Environmental Protection, a private water quality testing laboratory, water park operators, a private lake operator, the Red Cross, the Northeast Spa and Pool Association, the American Camping Association, pool operators, the New Jersey Environmental Health Association, the New Jersey Health Officers Association, the South Jersey Lifeguard Chiefs, and the United States Lifesaving Association. The Department convened eight meetings over the course of two months. The Department has taken into account all of the suggested amendments advanced by the above organizations and has incorporated many of them into the rulemaking being proposed.

The Department proposes changes to every subchapter of N.J.A.C. 8:26. The Department proposes amendments to improve syntax and grammar, to redefine terms, and to make technical and substantive changes resulting in recodifications throughout the chapter. Throughout the chapter contact information is updated and references to

the “Department of Health and Senior Services” are updated to “Department of Health,” pursuant to P.L. 2012, c. 17. A summary of the proposed amendments, repeals, and new rules follows.

Throughout the proposed rulemaking, the phrase “public recreational bathing facility (or facilities)” would replace the phrase “public recreational bathing place” because the word “facility” is more descriptive than the term “place.”

Throughout the proposed rulemaking, the phrase “local health authorities” would replace the phrase “local departments of health.” This change is appropriate because the phrase “local health authorities” reflects the fact that numerous municipalities may not have a local board of health or the municipality may contract with a county or regional health department for local health services.

The proposed rule amendments at N.J.A.C. 8:26-1.3 would change or add several defined terms. The Department proposes to amend the definition of the word “alter” to include “altered” and “alteration” in order to increase the versatility of this defined term as it is used throughout the rules in different contexts. The Department proposes to add a new definition for “American Public Health Association” in order to define the source organization for "standard methods for the examination of water and wastewater," another defined term. The Department proposes to add a new definition for the “American Red Cross” in order to define the organization and to establish where the organization’s lifeguard training standards may be found. The Department proposes to delete the definition of “approved” because the Department does not grant “approvals” and retention of this definition would, therefore, not add meaning or clarity to any of the substantive rules in the chapter. The Department proposes to add a new

definition for “aquatic activity area,” which is an area containing aquatic play equipment that is regulated by the New Jersey Department of Community Affairs. The Department proposes to add a new definition for “aquatic play equipment” which would specify the types of equipment that can be found at an “aquatic activity area.” The Department proposes to add a new definition for “aquatic recreation facility,” which is a recreation facility that contains water-based facilities covered by this chapter. With the exception of spray parks, these facilities are licensed and regulated by the New Jersey Department of Community Affairs.

The Department proposes to add a new definition for “Association of Pool and Spa Professionals” because the “National Spa and Pool Institute” changed its name to the “Association of Pool and Spa Professionals.” The Department proposes to amend the definition of “authorized agent” to replace the term “sanitary inspector” with the term “registered environmental health specialist,” which is a more descriptive professional title. The Department proposes to amend the definition of “campground” to be renamed “public campground” for consistency with N.J.A.C. 8:22, Public Campgrounds. The Department proposes to amend the definition of “common interest community” to more accurately match the definition of this term provided by N.J.S.A. 2A:62A-12, which provides that ownership of a unit does not include holding a leasehold interest of less than 20 years in a unit, including renewal options. The Department proposes to add a new definition for “Cooperative Coastal Monitoring Program,” as this program would be used to establish water quality criteria and testing procedures throughout the chapter, as amended. The Department would add a new definition of “Department-sanctioned analytical methods” or “DSAMs” because the New Jersey Department of Environmental

Protection (NJDEP) uses this term to define the methodologies required for laboratory certification.

The Department proposes to add a new definition for “design professional” to establish the licensure requirements that would be required for individuals that design certain public recreational bathing facilities. The Department proposes to amend the definition of “health authority” to more simply specify that it means the Department or the local health authority, both of which would also be defined terms. The Department proposes to add a new definition of “health club” pursuant to P.L. 2009, c. 31, which amended N.J.S.A. 26:4A-4. The Department proposes to amend the definition of “hot tub or spa” to exempt hot tubs and spas used solely for aquatic physical therapy. The Department proposes to add a new definition for “International Aquatic Foundation” to facilitate an understanding of this organization as it is used in the chapter. The Department proposes to amend the definition of “lifeguard” to establish that the Department will recognize lifeguarding certificates from the organizations listed in N.J.A.C. 8:26 Appendix A and also from any organization that meets either American Red Cross or United States Lifesaving Association training standards as determined by the Department. The Department proposes to add a new definition for “local code officials” to facilitate an understanding that these are the officials who must approve the physical construction of a public recreational bathing facility as compliant with the New Jersey Uniform Construction Code (UCC). The Department proposes to add a new definition for “local health authority” to establish that it means a local, county, or regional health department created under N.J.S.A. 26:3-1.

The Department proposes to delete the definition of “National Spa and Pool Institute (NSPI)” because the organization changed its name to the “Association of Pool and Spa Professionals (APSP),” which the Department proposes as a new defined term. The Department proposes to add a new definition for “non-bathing beach” that would define the type of beach that is not covered by this chapter. The Department proposes to delete the definition of “person” and replace it with new definitions for “operator” and “owner” that would be more descriptive of the entities being regulated by the chapter, as amended. The Department proposes to add a new definition for “potable water” to add meaning to this term as it is used throughout the chapter.

The Department proposes to add a new definition for “primary contact recreation” to add meaning to this term as it is used throughout the chapter. In addition, the Department proposes to add language that would simplify the definition of “private recreational bathing facility” by restricting the meaning to a facility that is used only by residents of two or more living units and their guests. The Department proposes to amend the definition of “public recreational bathing place” to add aquatic recreation facilities and language establishing that the definition includes beaches promoted as swimming areas by the posting of a sign saying “Swim at your own risk.” The Department proposes to amend the definition of “specially exempt facility” by dividing it into numbered paragraphs for easier readability and would further amend the definition to include health clubs pursuant to P.L. 2009, c. 31, which so amended the statutory definition of “specially exempt facility” found at N.J.S.A. 26:4A-4.

The Department proposes to add a new definition for “spray park” to establish that such a recreational facility is subject to this chapter whether or not it is licensed by

the New Jersey Department of Community Affairs, pursuant to N.J.A.C. 5:14A-12. The Department proposes to make grammatical changes to the definition of “swimming pool,” to break the definition into more succinct paragraphs, and to add a sentence that would exempt from this definition a swimming pool that is used solely for aquatic physical therapy. The Department proposes to add a new definition for “trained pool operator” to establish the meaning of this term as would be used throughout this chapter. The Department proposes to add a new definition for “United States Environmental Protection Agency” to define this Federal agency that is referred to in the chapter. The Department proposes to add a new definition for the “United States Lifesaving Association” in order to define the organization and to establish where the organization’s lifeguard training standards may be found. The Department proposes to delete the word “area” from the definition of “user load” to clarify that this defined term refers to the number of persons actually in the water at any given time. The Department proposes to amend the definition of “water slide” to broaden the term to include flumes that do not exceed 15 feet in height or feature a continuous stream of running water.

The Department proposes to amend N.J.A.C. 8:26-1.4(a) to update the citations to statutory authority for this chapter. The Department proposes to amend N.J.A.C. 8:26-1.4(a)1 to provide that the Department shall not waive microbiological water quality standards for swimming pools, wading pools, and aquatic recreation facilities. The Department proposes to amend N.J.A.C. 8:26-1.4(b) to specify that an “owner or operator” may apply for a waiver under N.J.A.C. 8:26-1.4(a) and to update the address to which such person shall mail his or her request for a waiver. The Department proposes to amend N.J.A.C. 8:26-1.4(c)3 to specify that an application for a waiver

must contain an explanation of the hardship that would ensue if the waiver is not granted.

The Department proposes to amend N.J.A.C. 8:26-2.1 to include aquatic recreation facilities. The Department proposes to delete and replace N.J.A.C. 8:26-2.2(a) to provide that the health authority shall not grant approval to locate and/or construct a public recreational bathing facility until after approval has been granted by local code officials. The Department proposes to amend N.J.A.C. 8:26-2.2(b) to provide that preparation of final plans, specifications, and reports would be in accordance with the New Jersey UCC. The Department proposes to amend N.J.A.C. 8:26-2.2(b)4 to replace the term “water closet” with “bathroom” because it is a more commonly used term. The Department proposes to amend N.J.A.C. 8:26-2.2(b)8 by changing the word “code” to “chapter,” in order to give context to the rule. The Department proposes to amend N.J.A.C. 8:26-2.2(b)9 to expand the survey of the bathing beach and surrounding area to include a hazard survey and to include hazards on the required plot map. The Department proposes to add new N.J.A.C. 8:26-2.2(b)10 to require documents to be sealed and certified by a design professional. The Department proposes to add new N.J.A.C. 8:26-2.2(c) to require plans, specifications, reports, blueprints, and other documents to be submitted to the health authority at the same time they are submitted to the local code officials. The Department proposes to amend recodified N.J.A.C. 8:26-2.2(d) to require the health authority to either approve or disapprove of the application within 30 days of receipt of approval by the local code officials. The Department proposes to codify the last sentence of recodified N.J.A.C. 8:26-2.2(d) as new N.J.A.C. 8:26-2.2(e) to specify that the owner, rather than applicant,

must comply with all applicable laws. The Department proposes to add new N.J.A.C. 8:26-2.2(f) to provide that the health authority may request additional information prior to making its decision on the application and that such a request would extend the 30-day deadline to 90 days. The Department proposes to add new subsection (g) to permit the Department to designate a local health authority to review and either approve or disapprove of an application to construct a public recreational bathing facility at a State college or university. The Department proposes to add new subsection (h) to require the public recreational bathing facility owner to obtain both the approval of the code official and the local health authority in writing prior to commencing construction on any new facility or alteration of any existing facility.

The Department proposes to repeal and replace N.J.A.C. 8:26-2.3 to change subsection (a) to specify that the health authority shall not grant approval to alter a public recreational bathing facility until after such approval has been granted by the local code officials. New N.J.A.C. 8:26-2.3(b) to require that all plans, specifications, etc., must be prepared in accordance with the New Jersey UCC, and be sealed and certified by a design professional. New subsection (c) requires plans, specifications, reports, etc., to be submitted to the health authority at the same time they are submitted to local code officials. New subsection (d) requires the health authority to review and approve or disapprove of the application within 30 days from the date of approval by the local code officials. New subsection (e) provides that the owner is responsible for compliance with all other applicable Federal, State, and local requirements. New subsection (f) provides that the health authority may request additional information prior to making its decision on the application and that such a request would extend the 30-

day deadline to 90 days. New subsection (g) permits the Department to designate a local health authority to review and either approve or disapprove of an application to construct a public recreational bathing facility at a State college or university.

The Department proposes to amend N.J.A.C. 8:26-2.4(a) to provide that the health authority shall notify the owner, rather than the applicant, of a denial of approval for location, construction, or alteration of a public recreational bathing facility. The Department proposes to amend N.J.A.C. 8:26-2.4(b) to provide that the owner, not the applicant, shall have the right to appeal a denial to the health authority. Similarly, the Department proposes to amend N.J.A.C. 8:26 2.4(c) and (d) to specify that the owner, not the applicant, shall either appeal the denial decision or fail to appeal the denial decision, respectively.

The Department proposes to repeal and replace N.J.A.C. 8:26-2.5. New subsection (a) requires seasonal facilities to complete an operational checklist, found at proposed new N.J.A.C. 8:26 Appendix E, and submit the same to the health authority 21 days before the scheduled day of opening. New N.J.A.C. 8:26-2.5(a)1 provides that in the case of ponds, lakes, streams, rivers, and bays, the operational checklist shall include a sanitary survey and a survey of hazardous conditions, such as obstructions. New N.J.A.C. 8:26-2.5(b) requires year-round facilities to complete an operational checklist, found at N.J.A.C. 8:26 Appendix E, and submit it to the health authority 30 days prior to the expiration of its written approval to operate.

The Department proposes new N.J.A.C. 8:26-2.5(c), which requires the checklist to be certified by the owner, operator, or trained pool operator as being true, accurate, and complete. The Department proposes new N.J.A.C. 8:26-2.5(d) to require the health

authority to inspect a year-round facility at least twice during the year and to issue a written approval or disapproval within 10 business days of the inspection. In addition, the rule would require the health authority to inspect each new public recreational bathing facility before it opens to the public for the first time. The Department proposes new N.J.A.C. 8:26-2.5(e), which requires the health authority to inspect a seasonal facility at least once during the season and to issue a written approval or disapproval within 10 business days of the inspection.

The Department proposes to amend N.J.A.C. 8:26-2.6(a) to clarify and explain that the health authority must determine that a public recreational bathing facility is in compliance with this chapter prior to it being opened for public use and that this approval must be renewed each year. The Department proposes new subsection (b) to permit the health authority to approve a public recreational bathing facility after reviewing the operational checklist, except for new facilities which would be required to have an on-site inspection prior to approval. The Department proposes new N.J.A.C. 8:26-2.6(c) to allow the written approval to take a number of forms, such as a license, a permit, a letter, or another form as determined by the health authority. The Department proposes new N.J.A.C. 8:26-2.6(d) to provide that the written approval is effective for either a 12-month period or the length of the swimming season. The Department proposes to amend N.J.A.C. 8:26-2.6(e) to replace the phrase “This license or permit” with “The written approval,” which is more consistent with the rest of the rule. The Department proposes to amend N.J.A.C. 8:26-2.6(f) to refer to the “owner or operator” of a facility, rather than a “person,” which is a less specific term.

The Department proposes new N.J.A.C. 8:26-2.7, which would require that the owner or operator would be responsible to ensure that the trained pool operator shall visit the public recreational bathing facility at least once per week, and that such visits would be documented in writing and that such documentation would be available for inspection by the health authority. Proposed N.J.A.C. 8:26-2.7(b)1 would require that the owner or operator shall ensure that the required documentation be kept at the office of the public recreational bathing facility.

The Department proposes to amend N.J.A.C. 8:26-3 to include wading pools in addition to swimming pools. The Department proposes to repeal and replace N.J.A.C. 8:26-3.1. New N.J.A.C. 8:26-3.1 provides that the owner and operator shall ensure that the construction, design, signage, and safety features of a new or altered swimming pool or wading pool conforms to the New Jersey UCC, found at N.J.A.C. 5:23. Similarly, the Department proposes to amend N.J.A.C. 8:26-3.2, by deleting specifications for construction materials (at subsections (a) through (d)) and incorporating the UCC by reference, which would set standards for construction materials.

Since the Department incorporates UCC standards at N.J.A.C. 8:26-3.1 and 3.2 that govern many aspects of swimming pool and wading pool design and construction there would be no need for a number of existing sections within Subchapter 3. Accordingly, the Department proposes to repeal N.J.A.C. 8:26-3.3, Dimensional design; 3.4, Diving area design; 3.5, Bottom slope; 3.6, Walls; 3.7, Offset ledges; 3.8, Underwater seat benches; 3.10, Decks and walkways; 3.11, Ladders and stairs; 3.14, Diving stands, boards, slides and floats; and 3.16, Inlets and outlets.

The Department proposes to amend N.J.A.C. 8:26-3.9 by deleting specific directive language from subsection (a) and all of subsection (c) and replacing such language with language incorporating the UCC by reference in subsection (b), which would provide health and safety requirements for surface skimming systems.

The Department proposes to amend N.J.A.C. 8:26-3.12 by incorporating the UCC by reference at subsection (a) and by requiring a minimum four-foot-high barrier with a self-closing and latching gate around a wading pool at new subsection (b).

The Department proposes to amend N.J.A.C. 8:26-3.13 by adding bonding and grounding certification to the items that must conform to the UCC and incorporating the UCC by reference at subsection (a) and by deleting and replacing subsection (b) to no longer address the subject of illumination, instead requiring the owner or operator of a seasonal swimming or wading pool to provide bonding and grounding certification to the health authority annually.

The Department proposes to delete all of N.J.A.C. 8:26-3.15, except paragraph (d)5, recodified as subsection (a), paragraph (f)2, recodified as subsection (b), and paragraph (f)6, recodified as subsection (c). Recodified subsection (a) is proposed for amendment to provide that pump rotation direction shall be clearly indicated on the pump and “all visible piping.” Recodified subsection (c) is proposed for amendment to relax the sight glass requirement to also include sight glass equivalents. New subsection (d) requires a circulation system that contains a pump suction gauge, filter inlet pressure gauge, filter outlet pressure gauge, and flow meter.

The Department proposes to amend N.J.A.C. 8:26-3.17 by deleting subsections (a) through (c) and amending recodified subsection (a) by adding language to

incorporate the UCC by reference. The Department proposes new subsection (b) to provide that an alternate method of adding potable makeup water may be employed with the approval of the health authority.

The Department proposes to amend N.J.A.C. 8:26-3.18(a) by specifying that the rule would apply to new constructions only and by deleting the requirement that such wading pools shall be surrounded by a barrier with a self-latching gate, as this requirement is relocated elsewhere within the subchapter. The Department proposes to delete and replace subsection (b) to prohibit single main drains in newly constructed wading pools, except for gravity flow drains. The Department proposes to delete and replace subsection (c) to require existing wading pools with a single main drain other than a gravity flow type to have an automatic shut off valve that operates whenever the drain becomes covered. The Department proposes to amend N.J.A.C. 8:26-3.18(d) to delete the requirement that the water depth at the perimeter shall not exceed 18 inches. The Department proposes to amend N.J.A.C. 8:26-3.18(e) to provide that wading pools would be required to have a circulation system of sufficient size to filter all of the water in the pool at least once every hour, rather than every two hours. The Department proposes to delete subsections (f), (g), (h), (i), and (j) as these subsections are no longer necessary due to the adoption of the UCC requirements at N.J.A.C. 8:26-3.1 and 3.2, discussed more fully above.

The Department proposes to amend N.J.A.C. 8:26-3.19(a) to replace the Federal Register reference with 16 CFR Part 1207. The Department proposes to amend N.J.A.C. 8:26-3.19(b) to specify that the rule would apply to water slides that exceed 15 feet in height and to amend the cross-reference in the subsection to N.J.A.C. 5:14A.

The Department proposes to repeal and replace N.J.A.C. 8:26-3.20 to include cliff jumping and aquatic play equipment. N.J.A.C. 8:26-3.20(a) states that the owner or operator of a public recreational bathing facility would be required to ensure that rope drops, cliff jumping, and aquatic play equipment conform to the requirements of N.J.A.C. 5:14A-12.5, regardless of location and N.J.A.C. 5:14A-12 when in an aquatic activity area. New N.J.A.C. 8:26-3.20(b) provides that cliff jumps and other jumping activities are prohibited at heights greater than 15 feet.

The Department proposes to amend N.J.A.C. 8:26-3.21 to provide that floats and fixed platforms shall be permitted in a swimming or wading pool upon approval of the health authority, rather than their outright prohibition.

The Department proposes to amend N.J.A.C. 8:26-3.22 by deleting subsection (a). Recodified N.J.A.C. 8:26-3.22(b) is proposed for amendment to prohibit gas chlorination. Existing paragraphs (c)1 through 10 are proposed for deletion based on the outright prohibition in amended recodified subsection (b). Recodified N.J.A.C. 8:26-3.22(c) is proposed for amendment to clarify that “chemical feeders” may also be called “chemical controller systems” and to reference N.J.A.C. 8:26-6.13(m). The Department proposes to delete language at N.J.A.C. 8:26-3.22(e)2 that Brominator equipment rooms shall be constructed as required at N.J.A.C. 8:26-3.22(c).

The Department proposes to repeal and replace N.J.A.C. 8:26-3.23 to incorporate UCC standards for depth markings.

The Department proposes to amend N.J.A.C. 8:26-3.24(a) to provide that location and construction requirements for existing swimming and wading pools would not apply to such facilities constructed prior to September 7, 2010, until alterations are

made in accordance with the UCC. The Department proposes to delete existing N.J.A.C. 8:26-3.24(b) through (f) because the amendments to subsection (a) and proposed new subsection (b) would make them unnecessary. The Department proposes new N.J.A.C. 8:26-3.24(b) to require that all existing swimming pools and wading pools shall comply with the Virginia Graeme Baker Pool and Spa Safety Act, which became effective on December 17, 2008, and is incorporated into the chapter, as amended and supplemented. The Baker Act requires the installation of anti-entrapment drains and suction devices on pools and hot tubs.

The Department proposes new N.J.A.C. 8:26-3.25(a) to explain that all provisions of Subchapter 3 apply to aquatic recreation facilities, except for N.J.A.C. 8:26-3.12(b), pertaining to barriers, and 3.18(d), pertaining to the depth of wading pools. Proposed new N.J.A.C. 8:26-3.25(b) alerts the regulated community that N.J.A.C. 5:14A-12, Water Amusement Rides, applies to aquatic recreation facilities and is available from the New Jersey Department of Community Affairs, PO Box 808, Trenton, NJ 08625.

The Department proposes to amend N.J.A.C. 8:26-4.1 to provide rules for the construction and design of hot tubs and spas. The Department proposes new subsection (a) to establish that the owner and operator shall ensure that the hot tub or spa is constructed and designed to conform to the UCC. Recodified N.J.A.C. 8:26-4.1(b) would continue to provide that the maximum depth of a hot tub or spa shall be four feet. The Department proposes to delete existing N.J.A.C. 8:26-4.1(b) through (k) as new subsection (a) makes these subsections unnecessary.

The Department proposes to repeal and replace N.J.A.C. 8:26-4.2 to require that all construction materials conform to the requirements of the UCC.

The Department proposes to amend N.J.A.C. 8:26-4.3(a) and recodified subsection (c) to express temperature requirements in Fahrenheit and Celsius. The Department proposes to amend N.J.A.C. 8:26-4.3(b) to change the term “thermostatic control” to “Water temperature regulating controls” because it is a more descriptive term. The Department proposes to delete N.J.A.C. 8:26-4.3(c), which requires an approved audible alarm or an equivalent device to warn hot tub and spa users and management if the temperature of the water exceeds 104 degrees Fahrenheit, because it is not necessary in light of the requirement for an automatic shutoff in that case required by N.J.A.C. 8:26-4.3(d). The Department proposes to amend recodified N.J.A.C. 8:26-4.3(d) to require that a thermometer, accurate to plus or minus one degree Fahrenheit (.56 degrees Celsius), rather than two degrees Fahrenheit, shall be visible to the public.

The Department proposes to amend N.J.A.C. 8:26-4.4(a) to provide that bonding and grounding certification shall conform to the UCC. The Department proposes new N.J.A.C. 8:26-4.4(b) to require the owner or operator of a seasonal swimming pool or wading pool to provide a bonding and grounding certification to the health authority annually.

The Department proposes to delete existing N.J.A.C. 8:26-4.5(a), (b), and (c) and amend subsection (a) to provide that protection of the potable water supply shall conform to the requirements of the New Jersey UCC, N.J.A.C. 5:23, incorporated herein by reference. In addition, the Department proposes to add new subsection (b) to

provide that an alternate method of adding potable makeup water may be employed with the approval of the health authority.

As the Department would incorporate UCC standards at N.J.A.C. 8:26-3.1 and 3.2 that govern many aspects of hot tub and spa design and construction, the Department proposes to repeal the inlet and outlet requirements at existing N.J.A.C. 8:26-4.6.

The Department proposes to repeal and replace N.J.A.C. 8:26-4.7 to provide that pump rotation shall be clearly indicated on the pump and all visible piping. The Department proposes new subsection (b) to establish filtration system requirements. The Department proposes new subsection (c) to require sight glasses or their equivalent on the wastewater discharge line. The Department proposes new subsection (d) to require that the circulation system shall contain a pump vacuum gauge, filter inlet and outlet pressure gauges, and a flow meter.

The Department proposes to repeal and replace N.J.A.C. 8:26-4.8, which establishes new hot tub and spa water disinfection standards to consistently maintain the disinfectant residual and to provide that gas chlorination would be prohibited.

The Department proposes to readopt N.J.A.C. 8:26-4.9, which would continue to establish standards for air induction systems, without change.

Since the Department proposes to incorporate UCC standards at N.J.A.C. 8:26-3.1 and 3.2 that govern many aspects of hot tub and spa design and construction, the Department proposes to repeal the skimming system and fencing enclosure requirements at existing N.J.A.C. 8:26-4.10 and 4.11, respectively.

The Department proposes to amend N.J.A.C. 8:26-4.12 by deleting subsections (a), (b), (c), (d), and (f) and recodifying existing subsection (e) as new subsection (a), which would continue to establish that there shall be a minimum of two depth markings per hot tub or spa. The Department proposes to add new subsection (b), which would require owners or operators to ensure that depth markings are measured and marked in compliance with the UCC.

The Department proposes to amend N.J.A.C. 8:26-4.13(a) to establish the definition of existing hot tubs and spas, and would require all existing hot tubs and spas to conform to the requirements of the New Jersey UCC, found at N.J.A.C. 5:23. The Department proposes to add new N.J.A.C. 8:26-4.13(a)2 and 3 that would require alterations to be approved by the health authority in addition to local code officials, and that the hot tub or spa owner or operator shall submit to the health authority all plans, specifications, reports, blueprints, and other documents detailing the alterations, sealed, and certified by a design professional, at the same time they are submitted to the local code officials. N.J.A.C. 8:26-4.13(b) would continue to provide that heater and temperature requirements at N.J.A.C. 8:26-4.3 and the disinfection requirements at N.J.A.C. 8:26-4.8 shall apply to existing hot tubs and spas, without change. The Department proposes to delete existing N.J.A.C. 8:26-4.13(c) through (g). N.J.A.C. 8:26-4.13(c) through (g) are no longer necessary because the Department proposes to add new subsection (c) to require all existing hot tubs and spas to comply with the Virginia Graeme Baker Pool and Spa Safety Act, 15 U.S.C. §§ 8001 through 8007 (2007).

The Department proposes new N.J.A.C. 8:26-4.14, which would establish that N.J.A.C. 8:26-4 and 5:14A-12 apply to aquatic recreation facilities.

The Department proposes to amend N.J.A.C. 8:26-5.1 to establish that specially exempt facilities are exempt from first aid personnel and lifeguard requirements only, rather than provisions. The Department proposes to amend N.J.A.C. 8:26-5.1(a) to establish that the exemption would no longer exempt such facilities from N.J.A.C. 8:26-5.7(a). In addition, the Department proposes to codify the second sentence of N.J.A.C. 8:26-5.1 as paragraph (a)1 and delete paragraph (a)2, which combined, would provide that the exemptions would not apply to a specially exempt facility that uses ocean waters for bathing, and would not apply to a specially exempt facility that has a functional diving board, water slide, or other recreational appurtenance, respectively. The Department proposes new N.J.A.C. 8:26-5.1(b) to provide that a facility that does not comply with the exempted requirements of N.J.A.C. 8:26-5.1(a) would be required to maintain an owner or operator on the premises at all times when its swimming area is open for use. The Department proposes new N.J.A.C. 8:26-5.1(c) to provide that health clubs would be part of the specially exempt facility definition and, therefore, subject to N.J.A.C. 8:26-5.1(a). The Department proposes to amend recodified N.J.A.C. 8:26-5.1(d) to refer to new subsection (f) and to delete language referring to “provisions” and replace it with language referring to “exempted requirements” to improve the readability of the rule. Furthermore, the Department proposes to codify the final sentence of recodified N.J.A.C. 8:26-5.1(d) as paragraph(d)1, with a grammatical correction. The Department proposes new paragraph (d)2, which would require signage regarding hours a facility is open, and new paragraph (d)3, which would require that signage be

readable and use contrasting colors. At recodified N.J.A.C. 8:26-5.1(e), the Department proposes to create paragraph (e)1 to provide that signage shall state that the swimming area or pool is closed when the owner or operator is not on the premises. The Department proposes to add new N.J.A.C. 8:26-5.1(f) to prescribe signage requirements for health clubs. The Department proposes new N.J.A.C. 8:26-5.1(g), which would require a specially exempt facility to inform the local health authority whether it intends to comply with the exempted provisions of N.J.A.C. 8:26-5.1.

The Department proposes to amend N.J.A.C. 8:26-5.2 to establish swimming pool supervision standards. The Department proposes to amend N.J.A.C. 8:26-5.2(a), to subcodify the subsection to include paragraph (a)1, and to add new paragraph (a)2 to establish requirements for a designated adult supervisor or for two lifeguards in the case of a swimming pool with greater than 2,000 square feet of surface area. The Department proposes to amend N.J.A.C. 8:26-5.2(b) to specify that a person trained in cardiopulmonary resuscitation (CPR) by an organization listed at N.J.A.C. 8:26 Appendix A shall be on the facility premises. In addition, the Department proposes to delete language from N.J.A.C. 8:26-5.2(b) concerning where this person shall be stationed, signage concerning the location of this person, and a requirement for the facility to demonstrate the availability of this person to the health authority. The Department proposes to add language at N.J.A.C. 8:26-5.2(b) that would require this person to have training in spinal injury management. The Department proposes to amend N.J.A.C. 8:26-5.2(b)1 to require that first aid and CPR retraining must occur before an individual's certifications expire. The Department proposes new N.J.A.C. 8:26-5.2(b)2, which would require the facility to post a sign indicating the location of first

aid supplies. The Department proposes to amend N.J.A.C. 8:26-5.2(c) to specify trained pool operator requirements and to introduce the acronym “TPO.” In addition, the Department proposes to recodify the last two sentences of existing subsection (c) as new paragraphs (c)1 and 2, respectively. The Department proposes new paragraph (c)3, which would require the TPO to visit and inspect the swimming pool at least once a week and to document the visit.

The Department proposes to add the introduction “Lifeguard requirements are as follows” as new N.J.A.C. 8:26-5.2(d). The Department proposes to recodify much of existing N.J.A.C. 8:26-5.2(d) into separate paragraphs and to add new paragraphs in a logical order to specify lifeguard training requirements. Proposed N.J.A.C. 8:26-5.2(d)1 would specify lifeguard requirements at pools with less than 2,000 square feet of surface area, and to specifically require lifeguards to operate according to a zone of protection plan. Proposed new N.J.A.C. 8:26-5.2(d)2 would specify lifeguard requirements at pools with greater than 2,000 square feet of surface area. Proposed N.J.A.C. 8:26-5.2(d)3 would continue to specify when additional lifeguards are required. Proposed N.J.A.C. 8:26-5.2(d)4 would continue to specify that on duty lifeguards shall wear identifying apparel. Proposed N.J.A.C. 8:26-5.2(d)5 would continue to specify that lifeguards assigned to pool supervision shall not have duties that distract or intrude upon their attention to those duties. Proposed new N.J.A.C. 8:26-5.2(d)6 and (d)6i would specify that lifeguards on duty shall not perform in activities that distract or intrude upon their attention to those duties, such as texting, reading, or listening to music. Proposed N.J.A.C. 8:26-5.2(d)7 would continue to provide that each lifeguard shall be equipped with a whistle or other signaling device. The Department proposes to amend

and recodify N.J.A.C. 8:26-5.2(e) to provide additional lifeguard stand requirements. Proposed new N.J.A.C. 8:26-5.2(e)2 would provide that aquatic recreation facilities may use an alternative method of providing an unobstructed view of the swimming pool surface and bottom. The Department proposes to amend N.J.A.C. 8:26-5.2(f), which would contain requirements for a standard operating procedure aquatics facility plan. The Department proposes new N.J.A.C. 8:26-5.2(f)8, 9, 10, and 11 that would require the plan to take into account the location of the emergency shutoff switch for suction outlets, hours of operation, a schedule of operational activities, and a zone of protection plan for the lifeguards, respectively.

The Department proposes to amend N.J.A.C. 8:26-5.3(a) to require the owner or operator of a swimming pool to provide accessible emergency equipment. The Department proposes to amend N.J.A.C. 8:26-5.3(a)1 to require at least one assist pole or life hook. The Department proposes to amend N.J.A.C. 8:26-5.3(a)2i to require, for specially exempt facilities, at least one ring or rescue buoy and to eliminate the requirement that it be U.S. Coast Guard or Underwater Laboratories approved because there are other high quality options available at lower cost. The Department proposes to amend N.J.A.C. 8:26-5.3(a)3 to indicate that the requirements for a first aid kit would be found at N.J.A.C. 8:26 Appendix B. The Department proposes to amend N.J.A.C. 8:26-5.3(a)4 to delete overly formal language and to require that the spine board be kept poolside. The Department proposes to amend N.J.A.C. 8:26-5.3(a)6 to eliminate the use of commercial pay telephones for emergencies as they are now virtually non-existent and to add language referring to telephone numbers to improve rule comprehension and to require that the address of the pool be posted adjacent to the

lifeguard station. The Department proposes to add new N.J.A.C. 8:26-5.3(a)7, which would require one or more throw lines that can reach the other side of the pool. In addition, the Department proposes to add new N.J.A.C. 8:26-5.3(a)8, which would require an automated external defibrillator to be present at swimming pools that have a lifeguard.

The Department proposes to amend N.J.A.C. 8:26-5.4 to establish that the owner or operator shall be responsible to post bather rules for swimming pools, wading pools, hot tubs, and spas. The proposed amendments would eliminate the requirement for children in diapers to wear plastic pants with snug fitting elastic waist and leg bands and would replace the requirement with a requirement to wear diapers specially designed for immersion in water (such as swimmie diapers). The Department proposes to amend N.J.A.C. 8:26-5.4(b) to provide that policies regarding water toys shall be part of the Aquatics Facility Plan.

The Department proposes to amend N.J.A.C. 8:26-5.5(a) to establish that the owner or operator shall be responsible to post diving rules. The Department proposes to subcodify existing N.J.A.C. 8:26-5.5(a) into subsection (a) and paragraphs (a)1 and 2 and to correct the grammar of paragraph (a)1 in order to improve the readability of the paragraph. The Department proposes to amend N.J.A.C. 8:26-5.5(b) to improve the grammar of the rule.

The Department proposes to amend N.J.A.C. 8:26-5.6(a) and (b) to establish rules for wading pool and spray park supervision and to specify that these provisions apply to spray parks. The Department proposes new N.J.A.C. 8:26-5.6(c) to provide that the owner or operator would be required to post signage advising that parents are

required to supervise their children at all times. The Department proposes new N.J.A.C. 8:26-5.6(d), which would provide that the rules at N.J.A.C. 8:26-5.2 apply to operators of aquatic recreation facilities that operate wading pools.

The Department proposes to delete and replace N.J.A.C. 8:26-5.7(a) to establish water slide safety and supervision standards and provide a minimum set of factors that a local health authority shall consider in determining whether additional supervision is required. The Department proposes an exception for aquatic recreation facilities from compliance with the rule that a water slide must not enter into less than three feet of water and the rule that the end of the slide shall be no more than six inches above the water if the slide enters into less than five feet of water, at N.J.A.C. 8:26-5.7(b) and (c), respectively. The Department proposes to amend N.J.A.C. 8:26-5.7(e) by adding new paragraph (e)1 to require the owner or operator of the PRB facility to clearly delineate the water slide area and the landing area in front of the water slide.

The Department proposes to amend N.J.A.C. 8:26-5.8(b) to provide that a hot tub or spa shall be supervised by at least one person trained in cardiopulmonary resuscitation (CPR) by an approved organization listed at Appendix A. The Department proposes to amend N.J.A.C. 8:26-5.8(b)1 and to add new paragraph (b)2 that together would require first aid training, that the CPR certification must be renewed prior to its expiration, and that a sign must be posted indicating the location of first aid supplies. The Department proposes to amend N.J.A.C. 8:26-5.8(d) to remove extraneous terms and simply require signage warning people not to use the hot tub or spa if under the influence of drugs. The Department proposes to amend N.J.A.C. 8:26-5.8(e) to provide that a clock shall be visible from the hot tub or spa.

The Department proposes to amend N.J.A.C. 8:26-5.9 to establish that a first aid kit meeting the requirements at N.J.A.C. 8:26 Appendix B shall be available at all times during bathing periods.

The Department proposes to amend N.J.A.C. 8:26-5.10 to establish bathing beach supervision standards. The Department proposes to add N.J.A.C. 8:26-5.10(a)3 to establish the duties of the designated adult supervisor. The Department proposes to amend N.J.A.C. 8:26-5.10(b) to establish first aid, CPR, and related signage requirements. The Department proposes to amend N.J.A.C. 8:26-5.10(c) to require that for designated bathing areas of less than 100 feet, one lifeguard would be required and for every 300 feet of designated bathing area two lifeguards would be required. In addition, lifeguards would be prohibited from engaging in distractions such as texting, looking at a cell phone screen, or listening to music. The proposed amendments would require lifeguards to meet the training requirements that would be listed at N.J.A.C. 8:26 Appendix A.

The Department proposes to amend N.J.A.C. 8:26-5.10(d), which would contain requirements for a standard operating procedure aquatics facility plan that shall take into account the number of bathers using the beach. The Department proposes to amend N.J.A.C. 8:26-5.10(d)1 to require that the map of the bathing beach show all known hazards. The Department proposes to add new N.J.A.C. 8:26-5.10(d)8, which would include hours of operation and the Department proposes to add new N.J.A.C. 8:26-5.10(d)9, which would require a schedule of operational activities, such as recordkeeping to be included in the standard operating procedures. The Department proposes to amend N.J.A.C. 8:26-5.10(e), which provides lifeguard stand requirements,

by recodifying it as N.J.A.C. 8:26-5.10(e)1, 2, and 3, in order to improve the readability of the rule. The Department proposes to amend recodified N.J.A.C. 8:26-5.10(e)3 to delete the reference to slats and to simply state that the lifeguard stand shall be high enough, so as to give the lifeguard an unobstructed view of the complete bathing area. The Department proposes to add new N.J.A.C. 8:26-5.10(e)4, which would require at least one lifeguard to be on each lifeguard stand. The Department proposes to amend N.J.A.C. 8:26-5.10(f) to specify hazard safety requirements.

The Department proposes to amend N.J.A.C. 8:26-5.11 to establish that rules for bathing at bathing beaches shall be posted as specified in the rules governing rule posting for swimming pools, found at N.J.A.C. 8:26-5.4(a)3 through 7, 9, 10, and 11 and N.J.A.C. 8:26-5.4(b).

The Department proposes to amend N.J.A.C. 8:26-5.12 to establish the bathing beach lifesaving equipment standards. The Department proposes to amend N.J.A.C. 8:26-5.12(a) to require that such equipment shall be “immediately accessible” and to provide that, in addition to previously approved devices, rescue cans may also be used as flotation devices, which would be required at each lifeguard station. In addition, the rule would be amended to require an automated external defibrillator (AED) to be provided if the bathing beach is capable of accommodating 500 swimmers and bathers, or if a lifeguard is present. The Department proposes to delete the requirement for a 600 foot 1/4-inch poly rope and proposes to require a surfboard, rowboat, or other conveyance capable of supporting two adults, as well as a first aid kit that would meet the requirements at N.J.A.C. 8:26 Appendix B. The Department proposes to amend N.J.A.C. 8:26-5.12(a)8 to delete the requirements that lifesaving equipment shall

include the telephone numbers of the nearest physician, ambulance, hospital, clinic, and a telephone or communication device because these requirements are outdated and to replace them with requirements to post emergency telephone numbers for the nearest emergency squad and the address of the bathing beach, which must be posted adjacent to the lifeguard station.

The Department proposes to amend N.J.A.C. 8:26-5.13(a) to prohibit diving at bathing beaches in water depths of less than eight feet. The Department proposes to amend N.J.A.C. 8:26-5.13(b) to specify that platforms in bathing beach waters would be permissible if designed to prevent entanglement or trapping of bathers. The Department proposes to delete language concerning the underwater construction consistent with the strength requirements of the platform. The Department further proposes to amend the rule to provide that dock platforms where diving is prohibited would not have to be located in a minimum of eight feet of water for a distance of 12 feet from the platform. Recodified paragraph (b)4 is proposed for amendment to delete “fixed” and “or float” from the paragraph, as not necessary because the Department intends the rule to apply to all platforms.

The Department proposes to amend N.J.A.C. 8:26-5.14 to require signage at bathing beaches that would prohibit the use of personal watercraft and to remove the requirement for signage stating that rope drops are prohibited.

The Department proposes new N.J.A.C. 8:26-5.15, which would establish standards for aquatic recreation facility supervision.

The Department proposes to amend N.J.A.C. 8:26-6 to also include operations. Subchapter 6 would establish sanitation and maintenance standards to prevent injuries and the spread of disease at public recreational bathing facilities.

The Department proposes to amend N.J.A.C. 8:26-6.1(a) to establish the general sanitation and maintenance standards for all public recreational bathing facilities, including wading pools and aquatic recreation facilities. In addition, the Department proposes to delete language that speaks to the discretion of individual local health authorities to require public recreational bathing facilities to correct or eliminate any specific condition not described in this chapter because the Department intends local health departments to enforce the chapter uniformly Statewide. N.J.A.C. 8:26-6.1(b) would be amended to require dressing rooms and bathrooms at all public recreational bathing facilities and would no longer include an exemption for not providing dressing rooms and bathrooms for bathing beaches constructed prior to November 4, 1986. The Department proposes new N.J.A.C. 8:26-6.1(b)1, which would exempt public recreational bathing facilities constructed prior to November 4, 1986, from the requirement to provide dressing rooms, and new subparagraph (b)1i would provide that bathrooms at these facilities may be portable. The Department proposes new paragraph (b)2, which would require dressing rooms and bathrooms to comply with the New Jersey UCC – Plumbing, N.J.A.C. 5:23, at the time of construction or alteration.

Proposed new N.J.A.C. 8:26-6.1(c)1 would establish that facilities constructed prior to September 7, 2010, would be required, with the exception of aquatic recreation facilities, to provide dressing rooms and at least one bathroom within 50 feet of the swimming pool, wading pool, hot tub, or spa, and at the entrance to the bathing beach

in an area that is serviceable. The Department proposes at N.J.A.C. 8:26-6.1(c)2 that one bathroom shall be provided and that it may be portable. In addition, the Department proposes, at new paragraph N.J.A.C. 8:26-6.1(c)3, that existing condominium associations where all residences are within 100 feet of the swimming pool would not be required to provide a dressing room and bathroom near the pool. The Department proposes new N.J.A.C. 8:26-6.1(d), which would require dressing rooms and bathrooms at aquatic recreation facilities to comply with the New Jersey UCC, N.J.A.C. 5:23, at the time of construction or alteration. The Department proposes new N.J.A.C. 8:26-6.1(e), which would allow that the health authority may increase, modify, or waive the dressing room and bathroom requirements for reasons such as the number of bathers using the pool, nearness of bathrooms to the required distance, or other good cause.

The Department proposes to amend N.J.A.C. 8:26-6.2(a) to provide that dressing rooms and bathrooms shall conform to the requirements of the UCC. The Department proposes to amend N.J.A.C. 8:26-6.2(b) to provide that line of sight shall be broken at the entrances and exits to the bathrooms and dressing rooms and to delete language referring to separate bathrooms and lighting, ventilation, and related construction matters because proposed N.J.A.C. 8:26-6.2(a) would provide that dressing rooms and bathrooms shall conform to the requirements of the UCC. The Department proposes to delete N.J.A.C. 8:26-6.2(c) and (d) because these requirements may be found in the UCC and, therefore, do not have to be repeated in this chapter.

The Department proposes to amend N.J.A.C. 8:26-6.3(a) to require that showers conform to the UCC – Plumbing. The Department proposes to delete N.J.A.C. 8:26-

6.3(b), (c), and (d) because these requirements may be found in the UCC and therefore do not have to be repeated in this chapter.

The Department proposes to amend N.J.A.C. 8:26-6.4 and subsection (a) to delete the terms “water closets and lavatories” and replace them with the more common term, “bathrooms.” The Department proposes to amend N.J.A.C. 8:26-6.4(a) to provide that bathrooms shall conform to the requirements of the UCC in effect at the time of construction or alteration. The Department proposes to delete the language at existing N.J.A.C. 8:26-6.4(b). The Department proposes to edit language at recodified N.J.A.C. 8:26-6.4(b)1 and 2 to improve the readability of these paragraphs. The Department proposes to add new N.J.A.C. 8:26-6.4(b)3 that would establish standards for the provision of paper towels and hand driers. The Department establishes standards for soap dispensers at N.J.A.C. 8:26-6.4(b)4 and for shatter resistant mirrors at N.J.A.C. 8:26-6.4(b)5. The Department proposes new N.J.A.C. 8:26-6.4(b)6, which would provide appropriate standards for portable bathrooms.

The Department proposes to amend N.J.A.C. 8:26-6.5(a) to delete the term, “bathhouse” and replace it with the more common term, “bathroom.” The Department proposes to amend N.J.A.C. 8:26-6.5(e) to provide that the owner shall obtain approval from the local health authority and/or State Department of Environmental Protection, as applicable, for the disposal of wastewater. The Department proposes to amend N.J.A.C. 8:26-6.5(e)1 to improve grammar and provide that the discharge of any wastewater into a sanitary sewer shall be approved by appropriate sewer authority or municipality. The Department proposes to amend N.J.A.C. 8:26-6.5(e)2 to improve grammar, to identify the New Jersey Pollutant Discharge Elimination System (NJPDDES)

permit, and to update the name of the office at the New Jersey Department of Environmental Protection that issues these permits. The Department proposes new N.J.A.C. 8:26-6.5(e)2i and ii to cite to wastewater discharge rules, as appropriate. The Department proposes to amend N.J.A.C. 8:26-6.5(e)3 to improve grammar and to provide that in addition to location and construction, the design of a subsurface sewage disposal system shall also conform to the requirements of N.J.A.C. 7:9A and 7:14 and local laws, ordinances, and regulations. The Department proposes new N.J.A.C. 8:26-6.5(e)3i, which would provide that septage shall be disposed of pursuant to the Statewide Sludge Management Plan and the NJPDES rules, found at N.J.A.C. 7:14A.

The Department proposes to amend N.J.A.C. 8:26-6.6(a) to provide that solid waste must be disposed of in accordance with N.J.A.C. 7:26. In addition, the Department proposes to delete N.J.A.C. 8:26-6.6(b) to simplify the rule. The Department proposes to amend recodified N.J.A.C. 8:26-6.6(e) to require that all garbage be disposed of “frequently enough,” rather than “at least twice a week” as to prevent a public health nuisance.

The Department proposes to make grammatical corrections to N.J.A.C. 8:26-6.7 and to delete the last sentence of the rule because the New Jersey Department of Environmental Protection, Bureau of Potable Water, no longer provides copies of documents as referenced in the rule.

The Department proposes to amend N.J.A.C. 8:26-6.8 to refer to drinking water facilities instead of drinking water fountains and to incorporate the UCC by reference, as in effect at the time of construction or alteration.

The Department proposes to amend N.J.A.C. 8:26-6.9 to require all food service suppliers to comply with N.J.A.C. 8:24.

The Department proposes to amend N.J.A.C. 8:26-6.10 to incorporate the UCC by reference for plumbing standards.

The Department proposes to amend N.J.A.C. 8:26-6.11(a) and (b) to improve the grammar and readability of these subsections, which would continue to establish public recreational bathing facility insect, rodent, and weed control standards.

The Department proposes to amend N.J.A.C. 8:26-6.12(a) to establish that the “owner or operator” shall inspect recreational equipment at least once per week during the use season. The Department proposes to amend N.J.A.C. 8:26-6.12(b) to establish that the “owner or operator” shall maintain a written record of these inspections for at least one year. The Department proposes to amend N.J.A.C. 8:26-6.12(c) to establish that the “owner or operator” shall maintain recreational equipment in safe operating condition at all times.

The Department proposes new N.J.A.C. 8:26-6.13 that would establish the proposed operational requirements for swimming pools and wading pools. This section would provide the owner or operator with the requirements for everyday pool operation, safety, and maintenance. The Department proposes new N.J.A.C. 8:26-6.13(a), which would establish that all pool surfaces shall be smooth, easily cleaned, and free of cracks. The Department proposes new N.J.A.C. 8:26-6.13(b), which would require that the color, pattern, or finish of the pool interior shall not obscure the presence of objects or surfaces within the pool. The Department proposes new N.J.A.C. 8:26-6.13(c), which would prohibit obstructions and other hazards that can cause entrapment or injury from

swimming pools. The Department proposes new N.J.A.C. 8:26-6.13(d), which would specify that maximum pool capacity shall conform to the requirements found in the New Jersey UCC, N.J.A.C. 5:23, which were reviewed when the Department convened interested parties to discuss this rulemaking. The Department proposes new N.J.A.C. 8:26-6.13(e), which would require the surface skimming system to be maintained in good working order.

The Department proposes new N.J.A.C. 8:26-6.13(f), which would require a drainage system to remove pool splash water, deck water, and rain water and prevent it from re-entering the pool. The Department proposes new N.J.A.C. 8:26-6.13(g), which would require working yard drains to prevent water puddling in the general area of the deck. The Department proposes new N.J.A.C. 8:26-6.13(h), which would establish standards regarding underwater illumination. The Department proposes new N.J.A.C. 8:26-6.13(i), which would require diving stands, boards, slides, and floats to comply with the New Jersey UCC. The Department proposes new N.J.A.C. 8:26-6.13(j), which would require diving equipment to be not more than 10 feet above the water level and to have slip-resistant surfaces.

The Department proposes new N.J.A.C. 8:26-6.13(k), which would establish minimum water circulation requirements. The Department proposes new N.J.A.C. 8:26-6.13(k)1, which would require pumps, pipes, and related hardware to be maintained to ensure the complete circulation throughout all parts of the swimming pool. The Department proposes new N.J.A.C. 8:26-6.13(k)2, which would establish new water turnover rates for swimming pools of at least once every six hours and at least once every hour for wading pools. The new regulation would provide that pumps must be

operated 24 hours a day/seven days a week. In order to conserve energy, however, the Department proposes new N.J.A.C. 8:26-6.13(k)2i, which would allow a facility owner to install an energy efficient two-speed pump to save energy at night when the pool is closed. The Department proposes new N.J.A.C. 8:26-6.13(k)3 to establish water clarity standards. The Department proposes new N.J.A.C. 8:26-6.13(k)4, which would require the pump and component parts of the circulation system to be operated in a safe manner. The Department proposes new N.J.A.C. 8:26-6.13(k)5, which would provide mechanical seals shall be corrosion resistant and maintained in good repair. The Department proposes new N.J.A.C. 8:26-6.13(k)6, which would provide direction of water flow shall be clearly indicated on pumps and all visible piping. The Department proposes new N.J.A.C. 8:26-6.13(k)7, which would provide standards for strainers on filter systems. The Department proposes new N.J.A.C. 8:26-6.13(k)8, which would require filters to be maintained pursuant to manufacturer's instructions.

The Department proposes new N.J.A.C. 8:26-6.13(l), which would require the swimming pool to be closed if the suction outlet covers or drain covers are missing, broken, or not secure. The Department proposes new N.J.A.C. 8:26-6.13(m), which would establish that the owner or operator shall ensure that the pool is disinfected in compliance with the New Jersey UCC. The Department proposes new N.J.A.C. 8:26-6.13(m)1, which would require that the swimming pool be continuously disinfected by an agent with an easily measured residual. The Department proposes new N.J.A.C. 8:26-6.13(m)2, which would establish that the disinfecting agent shall be subject to simple and accurate field tests. The Department proposes new N.J.A.C. 8:26-6.13(m)3i, which would require disinfecting agents to be registered for use by the U.S. Environmental

Protection Agency and the New Jersey DEP. The Department proposes new N.J.A.C. 8:26-6.13(m)3ii, which would require disinfecting agents to have been demonstrated to provide a satisfactory residual effect that is easily measured and equally as effective the chlorine concentrations specified at N.J.A.C. 8:26-7.8.

The Department proposes new N.J.A.C. 8:26-6.13(m)4, which would require chemical controller systems to comply with several use requirements, as well as installation requirements outlined at N.J.A.C. 8:26-3.22(d). The Department proposes new N.J.A.C. 8:26-6.13(m)4i and (m)4i(1), (2), and (3) that would require owners and operators to have a written preventive maintenance plan that would ensure the accuracy of the controller and its sensors, be in accord with the manufacturer's recommendations, and show how the pool operator can ensure that all of the chemical feeders are working correctly to ensure proper levels and residuals. The Department proposes new N.J.A.C. 8:26-6.13(m)4ii, which would establish a chemical chart requirement for each individual pool to aid in chemical controller systems management. The Department proposes new N.J.A.C. 8:26-6.13(m)4iii, which would require the pool operator to check oxidation-reduction potential and pH readout levels against a manual test and document the results once daily. The Department proposes new N.J.A.C. 8:26-6.13(m)4iv, which would require records pertaining to N.J.A.C. 8:26-6.13(m)4 to be maintained on site. The Department proposes new language at N.J.A.C. 8:26-6.13(m)4v and sub-subparagraphs (m)4v(1) and (2), which would prescribe testing and data collection standards for cases in which the operator is using the chemical controller system in place of the testing requirement of N.J.A.C. 8:26-7.7(a).

The Department proposes new N.J.A.C. 8:26-6.13(m)5 and subparagraphs (m)5i and 5ii, which would prescribe chlorine feed and salt testing requirements in cases where the pool operator uses electrolytic chlorine generators to produce chlorine for disinfection. The Department proposes new language at N.J.A.C. 8:26-6.13(m)6 and subparagraphs (m)6i and 6ii, which would prescribe bromine testing and brominator equipment room requirements in cases where the pool operator uses bromine for disinfection.

The Department proposes new N.J.A.C. 8:26-6.13(n), which would prescribe standards for depth markings. The Department proposes new N.J.A.C. 8:26-6.13(o), which would require all equipment, fixtures, and the circulation system to be maintained in good and safe working order.

The Department proposes new N.J.A.C. 8:26-6.14, which would establish operational requirements for hot tubs and spas. The Department proposes new N.J.A.C. 8:26-6.14(a), which would establish that all hot tub or spa surfaces shall be smooth, easily cleaned, and free of cracks. The Department proposes new N.J.A.C. 8:26-6.14(b), which would require that the color, pattern, or finish of the pool interior shall not obscure the presence of objects or surfaces within the hot tub or spa. The Department proposes new N.J.A.C. 8:26-6.14(c), which would prohibit obstructions and other hazards that can cause entrapment or injury from hot tubs or spas. The Department proposes new N.J.A.C. 8:26-6.14(d), which would specify that maximum user load of a hot tub or spa shall conform to the requirements found in the New Jersey UCC, N.J.A.C. 5:23.

The Department proposes new N.J.A.C. 8:26-6.14(e), which would require the surface skimming system to be maintained in good working order. The Department proposes new N.J.A.C. 8:26-6.14(f), which would require a drainage system to remove pool splash water, deck water, and rain water and prevent it from re-entering the hot tub or spa. The Department proposes new N.J.A.C. 8:26-6.14(g), which would require working yard drains to prevent water puddling in the general area of the deck. The Department proposes new N.J.A.C. 8:26-6.14(h), which would establish standards regarding underwater illumination. The Department proposes new N.J.A.C. 8:26-6.14(i), which would require pump shut off switches to be accessible, prominently marked, and located within sight of the hot tub or spa.

The Department proposes new N.J.A.C. 8:26-6.14(j), which would establish minimum water circulation requirements. The Department proposes new N.J.A.C. 8:26-6.14(j)1, which would require pumps, pipes, and related hardware to be maintained to ensure the complete circulation throughout all parts of the hot tub or spa. The Department proposes new N.J.A.C. 8:26-6.14(j)2, which would establish new water turnover rates for hot tubs or spas of at least once every 30 minutes. The new regulation would provide that pumps must be operated 24 hours a day/seven days a week. In order to conserve energy, however, the Department proposes new N.J.A.C. 8:26-6.14(j)2i, which would allow a facility owner to install an energy efficient multiple speed pump to save energy when the hot tub or spa is closed. The Department proposes new N.J.A.C. 8:26-6.14(j)3 to establish water clarity standards.

The Department proposes new N.J.A.C. 8:26-6.14(j)4, which would require the pump and component parts of the circulation system to be operated in a safe manner.

The Department proposes new N.J.A.C. 8:26-6.14(j)5, which would provide mechanical seals shall be corrosion resistant and maintained in good repair. The Department proposes new N.J.A.C. 8:26-6.14(j)6, which would provide direction of water flow shall be clearly indicated on pumps and all visible piping. The Department proposes new N.J.A.C. 8:26-6.14(j)7, which would provide standards for strainers on filter systems. The Department proposes new N.J.A.C. 8:26-6.14(j)8, which would require filters to be maintained pursuant to the manufacturer's instructions.

The Department proposes new N.J.A.C. 8:26-6.14(k), which would require the hot tub or spa to be closed if the suction outlet covers or drain covers are missing, broken, or not secure. The Department proposes new N.J.A.C. 8:26-6.14(l), which would establish that the owner or operator shall ensure that the hot tub or spa is disinfected in compliance with the New Jersey UCC. The Department proposes new N.J.A.C. 8:26-6.14(l)1, which would require that the hot tub or spa be continuously disinfected by an agent with an easily measured residual. The Department proposes new N.J.A.C. 8:26-6.14(l)2, which would establish that the disinfecting agent shall be subject to simple and accurate field tests. The Department proposes new N.J.A.C. 8:26-6.14(l)3i, which would require disinfecting agents to be registered for use by the U.S. Environmental Protection Agency and the New Jersey DEP. The Department proposes new N.J.A.C. 8:26-6.14(l)3ii, which would require disinfecting agents to have been demonstrated to provide a satisfactory residual effect that is easily measured and equally as effective as the chlorine concentrations specified at N.J.A.C. 8:26-7.12. The Department proposes new N.J.A.C. 8:26-6.14(l)4, which would require owners or

operators to use a test kit specific for the disinfecting agent used to monitor and document the concentration of the disinfecting agent in the hot tub or spa water.

The Department proposes new N.J.A.C. 8:26-6.14(l)5, which would require chemical controller systems to comply with several use requirements, as well as installation requirements outlined at N.J.A.C. 8:26-3.22(d). The Department proposes new N.J.A.C. 8:26-6.14(l)5i and sub-subparagraph (l)5i(1), (2), and (3) that would require owners and operators to have a written preventive maintenance plan that would ensure the accuracy of the controller and its sensors, be in accord with the manufacturer's recommendations, and show how the hot tub or spa operator can ensure that all of the chemical feeders are working correctly to ensure proper levels and residuals.

The Department proposes new N.J.A.C. 8:26-6.14(l)5ii, which would establish a chemical chart requirement for each individual pool to aid in chemical controller systems management. The Department proposes new N.J.A.C. 8:26-6.14(l)5iii, which would require the pool operator to check oxidation-reduction potential and pH readout levels against a manual test and document the results once daily. The Department proposes new N.J.A.C. 8:26-6.14(l)5iv, which would require all recordkeeping to be maintained on site. The Department proposes new N.J.A.C. 8:26-6.14(l)6 and subparagraphs (l)6i and ii that would prescribe chlorine feed and salt testing requirements in cases where the pool operator uses electrolytic chlorine generators to produce chlorine for disinfection. The Department proposes new N.J.A.C. 8:26-6.14(l)7 and subparagraphs (l)7i and ii that would prescribe bromine testing and brominator equipment room requirements in cases where the pool operator uses bromine for disinfection.

The Department proposes new N.J.A.C. 8:26-6.13(m), which would prescribe standards for depth markings. The Department proposes new N.J.A.C. 8:26-6.14(n), which would require all equipment, fixtures, and the circulation system to be maintained in good and safe working order.

The Department proposes new N.J.A.C. 8:26-6.15, which would establish operational requirements for aquatic recreation facilities. Aquatic recreation facilities would be required to comply with N.J.A.C. 8:26-6.13 and 6.14, and the operations provisions of N.J.A.C. 5:14A-12, Water Amusement Rides, administered by the New Jersey Department of Community Affairs.

The Department proposes new N.J.A.C. 8:26-6.16, which would establish requirements for general sanitation and maintenance. The Department proposes new N.J.A.C. 8:26-6.16(a), which would prescribe sanitation requirements for bathrooms, dressing rooms, showers, floors, and toilets. The Department proposes new N.J.A.C. 8:26-6.16(b) that would require a bathing beach owner or operator to keep the bathing beach area free from garbage, medical waste, plastic, glass, and other similar refuse and to ensure that such solid waste is disposed of in durable, fly-tight, water-tight containers with tight fitting lids. The Department proposes new N.J.A.C. 8:26-6.16(c), which would require the maintenance, repair, and control of plumbing to comply with the New Jersey UCC.

Subchapter 7 establishes procedures for water sampling and minimum water quality standards for public recreational bathing facilities. The Department proposes to amend N.J.A.C. 8:26-7.1 to establish the water source standard for swimming pools, hot tubs, and spas. The Department proposes to amend N.J.A.C. 8:26-7.1(a) to provide

that aquatic recreation facilities would also be required to use potable water sources and to add an abbreviation for the New Jersey Department of Environmental Protection. The Department proposes new N.J.A.C. 8:26-7.1(b), which would specify that a non-potable water supply can only be used if it is free of coliform bacteria and contains at least one part per million of free chlorine. The Department proposes to amend recodified N.J.A.C. 8:26-7.1(c) to provide that “natural” salt water used in salt water pools shall meet the water quality criteria set forth at N.J.A.C. 8:26-7.18 and 7.19.

The Department proposes to subcodify N.J.A.C. 8:26-7.2 into four subsections to improve the readability of the section and to update the rule. N.J.A.C. 8:26-7.2(a) would establish the public recreational bathing facility microbial quality standard and that all testing shall be in conformance with NJDEP Sanctioned Analytical Methods (DSAMs), which are established pursuant to N.J.A.C. 7:18. N.J.A.C. 8:26-7.2(b) would require that all microbial analyses for public recreational bathing facilities must use United States Environmental Protection Agency (USEPA) standards found at 40 CFR Part 136.3 – Tables 1A and 1H, and 40 CFR Part 141.74(a), which are incorporated into the rule by reference, as amended and supplemented. These standards are approved laboratory methods for non-potable ambient water testing and cover micro-organism testing for E.coli. N.J.A.C. 8:26-7.2(c) would continue to state where one may obtain information concerning laboratory certification, and proposed new N.J.A.C. 8:26-7.2(d) would provide that all analyses shall be conducted in accordance with N.J.A.C. 7:18 and 7:18-2.22.

The Department proposes to amend N.J.A.C. 8:26-7.3 to include water sample collection standards for aquatic recreation facilities, as well as swimming pools, wading

pools, hot tubs, and spas. The Department proposes to amend N.J.A.C. 8:26-7.3(a) to specify when water samples shall be collected and to specify that this subsection also applies to aquatic recreation facilities. The Department proposes to amend N.J.A.C. 8:26-7.3(b) to replace “maximum use load” with “maximum user load” to improve the readability of the subsection. The Department proposes to amend N.J.A.C. 8:26-7.3(d)1 to provide that water samples shall be taken at one half the level of the water depth in the case of depths less than 18 inches and at the source for samples taken from spray areas. The Department proposes to amend N.J.A.C. 8:26-7.3(d)4 to specify how water samples shall be collected in a sterile container.

The Department proposes to amend the heading of N.J.A.C. 8:26-7.4 to indicate that this section applies to processing of water samples, rather than disposition. The Department proposes to subcodify N.J.A.C. 8:26-7.4 into four subsections to improve the readability of the rule and to add language setting forth the testing processing standards for water samples taken from public recreational bathing facilities. N.J.A.C. 8:26-7.4(a) would be amended to provide that samples taken from swimming pools, wading pools, hot tubs, spas, and aquatic recreation facilities shall be taken to a laboratory within eight hours of collection, rather than within 30 hours. N.J.A.C. 8:26-7.4(b) would be amended to provide that samples taken from bathing beaches shall be taken to the laboratory in time for the sample to be placed in an incubator or water bath within eight hours of sample collection, rather than six hours. N.J.A.C. 8:26-7.4(c) would provide that samples taken shall be maintained at less than 50 degrees Fahrenheit (10 degrees Celsius) while being transported and shall not be frozen, rather than between 34 degrees and 39 degrees Fahrenheit. N.J.A.C. 8:26-7.4(d) would

continue to provide that identification information concerning the sample shall accompany the sample.

The Department proposes to amend the heading of N.J.A.C. 8:26-7.5 to include aquatic recreation facilities. The Department proposes to amend N.J.A.C. 8:26-7.5(a) to replace the microbiological water quality standard Method 9215B pour plate method, found in the 19th edition of "Standard Methods for the Examination of Water and Wastewater," American Public Health Association, with DSAMs. The Department proposes to amend N.J.A.C. 8:26-7.5(b) to improve the readability of this subsection. The Department proposes to amend N.J.A.C. 8:26-7.5(b)1 and 2 to adopt DSAM procedures.

The Department proposes to amend N.J.A.C. 8:26-7.6(a) to provide for notification to the local health authority by a method specified by the local health authority within one hour of an unsatisfactory sample test result; and to include aquatic recreational facilities. The Department proposes to amend N.J.A.C. 8:26-7.6(a)1 to make it applicable to aquatic recreation facilities. The Department proposes to amend N.J.A.C. 8:26-7.6(a)2 to require the certified laboratory to provide the written report within one business day, rather than five, after an unsatisfactory sample result. The Department proposes to amend N.J.A.C. 8:26-7.6(b) to make it applicable to aquatic recreation facilities and to require resampling within 24 hours. The Department proposes to recodify existing N.J.A.C. 8:26-7.6(b)1 as N.J.A.C. 8:26-7.6(c). The Department proposes to amend recodified N.J.A.C. 8:26-7.6(c)1 to use the abbreviation "CCMP" for brevity. The Department proposes to amend recodified N.J.A.C. 8:26-7.6(c)2 to make it applicable to all natural bathing waters. The Department proposes to

add new N.J.A.C. 8:26-7.6(c)4i, ii, and iii that would establish standards for bracket testing. The Department proposes to add new N.J.A.C. 8:26-7.6(c)5, which would establish when an entire resample does not meet water quality standards.

The Department proposes to amend the heading N.J.A.C. 8:26-7.7 to include aquatic recreation facilities. The Department proposes to amend N.J.A.C. 8:26-7.7(a) to improve the readability of this subsection. The Department proposes new N.J.A.C. 8:26-7.7(a)1 to permit disinfectant and pH level monitoring by an automatic chemical controller system that meets the requirements of N.J.A.C. 8:26-6.13(m); and to add language improving the understandability of recordkeeping requirements at N.J.A.C. 8:26-7.7(a)2. The Department proposes to amend N.J.A.C. 8:26-7.7(b) and (c) to update testing methods to follow the 22nd edition of “Standard Methods for the Examination of Water and Wastewater” and to improve the readability of the rules. The Department proposes to amend N.J.A.C. 8:26-7.7(d) to permit the use of color comparators designed for pool testing that utilize phenol red. The Department proposes to amend N.J.A.C. 8:26-7.7(e) by subcodifying it into paragraphs and providing that the health authority may approve of forms of record documentation other than a bound log.

The Department proposes to amend N.J.A.C. 8:26-7.8 to include chemical water quality standards for aquatic recreation facilities. The Department proposes to amend N.J.A.C. 8:26-7.8(a) to delete chemical standards from the rule text and to relocate those standards to N.J.A.C. 8:26 Appendix C. The new levels would comply with the requirements of the New Jersey UCC for chlorine levels. The Department proposes to amend N.J.A.C. 8:26-7.8(a) to change the word “efficacy” to “efficiency” because this term better reflects why remedial action needs to be taken if combined chlorine exceeds

0.2 parts per million. The Department proposes to add the word “outdoor” to N.J.A.C. 8:26-7.8(c) to establish that this provision applies to outdoor pool water disinfectants. The Department proposes to add new N.J.A.C. 8:26-7.8(d) to establish testing standards for outdoor pools using cyanuric acid. The Department proposes to recodify existing N.J.A.C. 8:26-7.8(c)1 as new N.J.A.C. 8:26-7.8(e), without change.

The Department proposes to amend N.J.A.C. 8:26-7.9 to include aquatic recreation facilities.

The Department proposes to amend N.J.A.C. 8:26-7.10(a)2 by adding the word “bathing” to clarify the meaning of the phrase “recreational waters.”

The Department proposes to amend N.J.A.C. 8:26-7.11(a) to update testing procedures to DSAM standards. The Department proposes to add language at N.J.A.C. 8:26-7.11(b) to improve the readability of the subsection. The Department proposes to amend N.J.A.C. 8:26-7.11(b)1 to incorporate DSAM procedures. The Department proposes to amend N.J.A.C. 8:26-7.11(b)2 to adopt the microbiological water quality standards published at 40 CFR Part 131, which are incorporated by reference into the rule. This Federal regulation sets forth the discretion of the states to establish water quality standards as authorized by Section 303(c) of the Federal Clean Water Act, 33 U.S.C. § 1319.

The Department proposes to amend N.J.A.C. 8:26-7.12(a) to improve the readability of this provision. The Department proposes to update N.J.A.C. 8:26-7.12(b) to cross-reference N.J.A.C. 8:26-7.7(e), rather than N.J.A.C. 8:26-7.8(e). The Department proposes to amend N.J.A.C. 8:26-7.12(c) to remove chemical water quality standards from the rule text and to relocate the same at N.J.A.C. 8:26 Appendix D. In

addition, the Department proposes to amend N.J.A.C. 8:26-7.12(c) to change the word “efficacy” to “efficiency” because this term better reflects why remedial action needs to be taken if combined chlorine exceeds 0.2 parts per million. The Department proposes to add the word “outdoor” to N.J.A.C. 8:26-7.12(e) to provide disinfectant standards for outdoor hot tubs and spas. The Department proposes to add new N.J.A.C. 8:26-7.12(f) to require outdoor hot tub and spa water using cyanuric acid to be tested at least once per week. The Department proposes to recodify existing N.J.A.C. 8:26-7.12(e)1 as N.J.A.C. 8:26-7.12(g).

The Department proposes to amend the heading of N.J.A.C. 8:26-7.13 to specify that the rule covers algae in hot tubs and spas.

The Department proposes to amend N.J.A.C. 8:26-7.15(a) and to add new paragraph (a)4 to require the owner of a bathing beach to conduct a pre-operational assessment before the beach opens each year using the Checklist for Public Recreational Bathing Facilities, found at N.J.A.C. 8:26 Appendix E. The Department proposes to amend N.J.A.C. 8:26-7.15(b) to provide that records of the pre-operational assessment, including the Checklist for Public Recreational Bathing Facilities, found at N.J.A.C. 8:26 Appendix E, shall be submitted to the health authority. The Department proposes to subcodify existing N.J.A.C. 8:26-7.15(d) to improve the readability of the rule.

The Department proposes to amend N.J.A.C. 8:26-7.16(a) to delete language that would permit less frequent testing under certain circumstances. The Department proposes to recodify N.J.A.C. 8:26-7.16(a)1 as (b), in order to improve the readability of these rules. N.J.A.C. 8:26-7.16(b) would require that ocean and bay waters covered by

the Cooperative Coastal Monitoring Program (CCMP) be sampled in accordance with CCMP requirements and N.J.A.C. 8:26-7.18, which would generally include sampling water on Mondays. The Department proposes to amend recodified N.J.A.C. 8:26-7.16(b)1 to refer to the NJDEP. The Department proposes to amend recodified N.J.A.C. 8:26-7.16(b)2i to also include sampling of bay stations. The Department proposes to amend recodified N.J.A.C. 8:26-7.16(b)2ii to establish that if weather conditions are too dangerous for sampling personnel, then stations shall be sampled on the next safe day. The Department proposes to recodify existing N.J.A.C. 8:26-7.16(a)2 as (c) and to delete the word “other” to improve the readability of the rule. The Department proposes to recodify existing N.J.A.C. 8:26-7.16(a)3 as (d). The Department proposes new N.J.A.C. 8:26-7.16(e) to add language prescribing sampling procedures for ocean and bay bathing beaches not participating in the CCMP. The Department proposes to recodify existing N.J.A.C. 8:26-7.16(b) as N.J.A.C. 8:26-7.16(e)1, and amend it to apply to 300 linear feet of bathing beachfront only. The Department proposes to recodify existing N.J.A.C. 8:26-7.16(b)1 as (e)2. The Department proposes to add clarifying language at recodified N.J.A.C. 8:26-7.16(e)2i requiring that two samples shall be taken if the bathing beachfront is 300 to 500 linear feet long. The Department proposes to add clarifying language at recodified N.J.A.C. 8:26-7.16(e)2ii requiring that three samples shall be taken if the bathing beachfront is longer than 500 linear feet. The Department proposes to add new N.J.A.C. 8:26-7.16(e)2iii, which would establish that the criteria for bracket sample stations shall also be subject to N.J.A.C. 8:26-7.6(c)4 and 5.

The Department proposes to amend N.J.A.C. 8:26-7.17(a) to delete a reference to natural bathing waters and to re-arrange other language to improve the readability of the rule. The Department proposes to amend paragraph (a)1 by inserting new language that provides additional guidance for deep water and shallow bay water sampling situations. The Department proposes to amend paragraph (a)2 by specifying use of a wide mouth container placed 18 inches deep in order to obtain a better sample for testing. The Department proposes to amend N.J.A.C. 8:26-7.17(a)3i to give greater discretion over the use of reach poles to the water sample collector for safety purposes. The Department proposes to amend N.J.A.C. 8:26-7.17(a)4 to establish a one-inch head space requirement in sample containers and to prescribe sample mixing and head space requirements.

The Department proposes to amend N.J.A.C. 8:26-7.18(a) to replace fecal coliform and to establish *Escherichia coli* (*E. coli*) as the new indicator species of bacteria for bathing beach microbiological water quality. This would bring the rule into compliance with the U.S. EPA. The Department proposes to amend N.J.A.C. 8:26-7.18(b) to provide that testing for *Escherichia coli* shall be in conformance with DSAM procedures and that *E. coli* concentrations shall not exceed 320 colony forming units per 100 milliliters. The Department proposes to amend N.J.A.C. 8:26-7.18(d) to provide that enterococcus count concentrations shall be measured in conformance with DSAM procedures. The Department proposes to delete and replace N.J.A.C. 8:26-7.18(e) to provide a measurement chart for reference and to provide a disposition flow chart for re-testing, sanitary survey, and beach actions.

The Department proposes to amend N.J.A.C. 8:26-7.19(a) to provide that chemical water quality standards for bathing beaches shall be monitored by the bathing beach operator at the discretion of the health authority. The Department proposes to amend N.J.A.C. 8:26-7.19(b) to provide that aquatic vegetation control chemicals shall be applied in accordance with the New Jersey Pesticide Control Code, found at N.J.A.C. 7:30, rather than in accordance with N.J.A.C. 8:26-6.11(a).

The Department proposes to amend N.J.A.C. 8:26-7.20(a) to provide that physical water quality standards for “bathing beaches,” rather than “natural waters” shall be monitored by the bathing beach operator. The Department proposes to amend N.J.A.C. 8:26-7.20(b) to establish standards for bathing beach physical water quality, including the monitoring of visual indications, such as garbage, medical waste, and algal growths. The Department proposes new N.J.A.C. 8:26-7.20(c), which would require the bathing beach owner to take specific actions when adverse environmental conditions occur, such as when a storm causes rip currents to develop off of the bathing beach. These actions would include posting a sign at each beach entrance and both ends of the beach stating, “The storm has caused rip currents to develop. Do not go in the water while this dangerous condition exists.” The internationally recognized “No swimming” pictogram would be required on the sign.

The Department proposes to amend the heading of N.J.A.C. 8:26-8.1 to set forth “general provisions,” rather than “legal authority” regarding enforcement. The Department proposes to amend N.J.A.C. 8:26-8.1(a) to include aquatic recreation facilities. The Department proposes new N.J.A.C. 8:26-8.1(b), which would authorize the local health authority to require a public recreational bathing facility to correct a

specific condition not described at N.J.A.C. 8:26 that it deems necessary for proper sanitation, safety, or fire protection. The Department proposes new N.J.A.C. 8:26-8.1(c), which would provide that the Department may issue statements to clarify the meaning and purpose of portions of N.J.A.C. 8:26 that would be binding on the local health authority.

The Department proposes to amend the heading of N.J.A.C. 8:26-8.2 to indicate the inspection standards apply to aquatic recreation facilities. The Department proposes new N.J.A.C. 8:26-8.2(a), which would require the health authority to review the pre-operational checklist submitted by the owner or operator and to make a determination whether to conduct an onsite inspection before the facility opens. The Department proposes new N.J.A.C. 8:26-8.2(b), which would establish standards for bathing beach inspection by the health authority. The Department proposes to amend recodified N.J.A.C. 8:26-8.2(c) to include inspections of aquatic recreation facilities and to require at least one inspection during the bathing season. The Department proposes to add new N.J.A.C. 8:26-8.2(d) to provide that the health authority shall inspect every year-round swimming pool, wading pool, hot tub, spa, or aquatic recreation facility at least two times during the year. The Department proposes new N.J.A.C. 8:26-8.2(e) to require the health authority to inspect new swimming pools, wading pools, hot tubs, spas, aquatic recreation facilities, and bathing beaches prior to opening.

The Department proposes to amend the heading of N.J.A.C. 8:26-8.3 to also include notification of closures and evaluation placard rules. The Department proposes to amend N.J.A.C. 8:26-8.3 to establish that inspection findings shall be recorded on an inspection report form, which shall be provided to the Department upon demand. The

Department proposes to delete language from N.J.A.C. 8:26-8.3(b) in order to streamline this subsection and improve readability. The Department proposes to amend N.J.A.C. 8:26-8.3(c) to establish new closure notification timelines for the health authority. The Department proposes new N.J.A.C. 8:26-8.3(d), which would require closures at swimming pools, wading pools, hot tubs, spas, and aquatic recreation facilities to be reported at the end of the year. The Department proposes new N.J.A.C. 8:26-8.3(e), which would require the health authority to issue an evaluation of “Satisfactory,” “Conditionally Satisfactory,” or “Unsatisfactory” compliance. The Department proposes new N.J.A.C. 8:26-8.3(f), which would require the health authority to issue a placard with the evaluation rating and to leave the evaluation placard with the owner or operator. The Department proposes new N.J.A.C. 8:26-8.3(g), which would require the owner or operator to display the evaluation placard in a conspicuous location where it can be easily viewed by the public.

The Department proposes to amend N.J.A.C. 8:26-8.4 to provide that any reports made pursuant to this chapter would be available to the public in accordance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., and to delete language referencing the Department of Environmental Protection because it is no longer necessary.

The Department proposes to amend N.J.A.C. 8:26-8.5 to modify the general criteria for closure of public recreational bathing facilities. The Department proposes to amend N.J.A.C. 8:26-8.5(a) and (b) to include aquatic recreation facilities. The Department proposes to amend N.J.A.C. 8:26-8.5(c) to establish the reasons for closure and stoppage of bathing and swimming activities. The Department proposes to amend N.J.A.C. 8:26-8.5(c)1 and 3 to improve grammar, punctuation, and readability. The

Department proposes to amend N.J.A.C. 8:26-8.5(c)2 to specify that the rule is addressing supervisory personnel and/or lifeguards at the public recreational bathing facility during normal operating hours. The Department proposes new N.J.A.C. 8:26-8.5(c)4 to include underwater hazards that have not been identified. The Department proposes to amend N.J.A.C. 8:26-8.5(d) to require the health authority to close a public recreational bathing facility if the owner or operator does not take remedial action immediately. The Department proposes to subcodify N.J.A.C. 8:26-8.5(d) into three paragraphs that would provide for the means of ordering a closure, hearing rights within 15 days, and that the order shall remain in effect during the appeal.

The Department proposes to amend the heading of N.J.A.C. 8:26-8.6 to establish reopening standards applicable to swimming pools and wading pools. Proposed N.J.A.C. 8:26-8.6(a) would require a pool owner or operator to notify the health authority of a water “quality” sample that exceeds microbiological safety standards within one hour, rather than the same day, of learning the test result. The Department proposes to further amend N.J.A.C. 8:26-8.6(a) to delete language that the water quality sample must be resampled immediately and to add language that it must be resampled within 24 hours of notification in order to give remediation efforts time to improve the water quality. The Department proposes to amend N.J.A.C. 8:26-8.6(b) to require both the certified laboratory and the pool owner or operator to notify the health authority immediately if a resample exceeds the microbiological water quality standard. The Department proposes to amend N.J.A.C. 8:26-8.6(c) to require that laboratory analyses be transmitted to the health authority within one business day, rather than five, of completion. The Department proposes to amend N.J.A.C. 8:26-8.6(d) to require a

swimming pool or wading pool to immediately close if the disinfectant residual is not within the range set forth at N.J.A.C. 8:26-7.8 or if the chemical or physical water quality is not in conformance with N.J.A.C. 8:26-7.8 and 7.9.

The Department proposes to amend N.J.A.C. 8:26-8.7 to also establish reopening standards applicable to hot tubs and spas. Proposed N.J.A.C. 8:26-8.7(a) would require the certified laboratory and the owner or operator to notify the health authority that the sample has exceeded water quality standards within one hour of learning the water test result. N.J.A.C. 8:26-8.7(a)1 would require that the hot tub or spa be “immediately” closed, drained, disinfected, refilled, and resampled. The Department proposes to amend N.J.A.C. 8:26-8.7(c) to require the owner or operator to immediately close the hot tub or spa if the results of the resampling exceed the microbiological water quality standards set forth at N.J.A.C. 8:26-7.11 and to notify the health authority within one hour. The Department proposes to subcodify the remainder of existing N.J.A.C. 8:26-8.7(c), and to amend N.J.A.C. 8:26-8.7(c)2 to cross-reference to N.J.A.C. 8:26-7.11. The Department proposes to amend N.J.A.C. 8:26-8.7(d) to provide that a copy of the laboratory analysis shall be transmitted to the health authority within one business day, rather than five. The Department proposes to amend N.J.A.C. 8:26-8.7(e) to require that the hot tub or spa shall be closed “immediately” if the disinfectant residual or “pH” is not within the range set forth at N.J.A.C. 8:26-7.12.

The Department proposes to amend the heading of N.J.A.C. 8:26-8.8 to reflect that this section would now include reopening standards applicable to bathing beaches. The Department proposes to amend N.J.A.C. 8:26-8.8(a) to add the word “quality” to improve the readability of the rule. The Department proposes to amend N.J.A.C. 8:26-

8.8(a)1 to require the certified lab and the owner or operator to notify the health authority of an unsatisfactory microbiological water quality sample within one hour, but not later than 2:00 P.M. on the day the result is obtained. The Department proposes to codify part of existing N.J.A.C. 8:26-8.8(a)1 as (a)2, in order to improve the readability of the overall subsection. The Department proposes to amend recodified N.J.A.C. 8:26-8.8(a)2 to require that health authorities participating in the CCMP shall notify the NJDEP and the Department within 30 minutes of obtaining an unsatisfactory microbiological sample.

The Department proposes new N.J.A.C. 8:26-8.8(a)3, which would require health authorities not participating in the CCMP to notify the Department of an unsatisfactory microbiological sample result within 24 hours. The Department proposes new N.J.A.C. 8:26-8.8(a)4, which would require resampling of the bathing beach water within 24 hours. The Department proposes to recodify existing N.J.A.C. 8:26-8.8(a)1i, ii, and iii as N.J.A.C. 8:26-8.8(a)4i, ii, and iii. The Department proposes to add language referencing N.J.A.C. 8:26-7.6(b) to recodified N.J.A.C. 8:26-8.8(a)4i. The Department proposes to amend recodified N.J.A.C. 8:26-8.8(a)5 to be more descriptive regarding the sanitary survey requirement. The Department proposes new signage requirements at N.J.A.C. 8:26-8.8(a)6.

The Department proposes to amend recodified N.J.A.C. 8:26-8.8(a)7 to add language referencing the microbiological water quality standards at N.J.A.C. 8:26-7.18 and to provide that any condition that may present an imminent hazard to public health or safety shall result in the “immediate” closure of the beach. The Department proposes to codify part of recodified N.J.A.C. 8:26-8.8(a)7 as N.J.A.C. 8:26-8.8(a)7i and to add

language that would establish a 30-minute timeline, referencing the Department of Environmental Protection, and changing “recreational bathing areas” to “bathing beaches.” The Department proposes new N.J.A.C. 8:26-8.8(a)7ii, which would require the local health authority to notify the Department of a non-CCMP beach closing within 24 hours. The Department proposes new N.J.A.C. 8:26-8.8(a)7iii, which would prescribe notification requirements for beach owners or operators, including signage requirements and internet posting requirements.

The Department proposes to amend recodified N.J.A.C. 8:26-8.8(a)8 to improve the readability of the rule and to more clearly explain that a bathing beach should be kept closed until such time as the water quality improves. The Department proposes to amend recodified N.J.A.C. 8:26-8.8(a)8i to provide that past sampling data may be used to determine how long a bathing beach should be kept closed. The Department proposes to amend recodified N.J.A.C. 8:26-8.8(a)8ii to replace “surcharging” with the phrase, “effluent discharging from” manholes and to make other edits to improve the readability of the rule. The Department proposes new N.J.A.C. 8:26-8.8(a)8iii, which would prescribe data-based actions for bathing beaches that have been closed more than 50 percent of the time over the course of a year after an environmental event, such as rainfall. The Department proposes new N.J.A.C. 8:26-8.8(a)8iii(1), which would require the owner or operator of such a bathing beach to post a permanent sign at all beach entrances and both ends of the beach saying, “Warning! Rainfall causes the water quality at the beach to exceed microbiological water quality standards. Water contact may cause illness. No swimming or bathing is allowed for ___ hours after the rain has stopped to enable the rainfall-caused water pollution to dissipate.” The bathing

beach owner or operator would have to specify the number of hours during which swimming or bathing is prohibited based upon testing experience, which would demonstrate the length of time typically required for any given body of water to return to safe bathing and swimming conditions. The rule would require the owner or operator to ensure that the internationally recognized “No swimming” pictogram be included on the sign and that the sign shall include the date of posting and the telephone number of the local health authority. The Department proposes new N.J.A.C. 8:26-8.8(a)8iii(2), which would also require the bathing beach owner or operator to post a notice of the beach closing on the owner or operator’s website, and to link to the Department of Environmental Protection’s CCMP website, if applicable.

The Department proposes to amend recodified N.J.A.C. 8:26-8.8(a)9 to prescribe that a bathing beach shall not be reopened until the water quality meets the standards set forth at N.J.A.C. 8:26-7.18 and 7.20. The Department proposes new N.J.A.C. 8:26-8.8(a)9i, which would provide that if a prior sanitary survey has identified the source of the pollution, a new sanitary survey does not have to be conducted. The Department proposes to amend recodified N.J.A.C. 8:26-8.8(a)9ii to require the local health authority to notify the Department of Health and the Department of Environmental Protection within one hour when a bathing beach has been reopened.

The Department proposes to amend N.J.A.C. 8:26-8.9 to revise recordkeeping standards applicable to public recreational bathing facilities. The Department proposes to amend N.J.A.C. 8:26-8.9(a) to require that records be “immediately” available to the health authority, to require that routine records shall be kept for a minimum of three years (rather than one year), and to improve the readability of the rule. The Department

proposes to amend N.J.A.C. 8:26-8.9(a)5 to refine the data set to be retained in records of accidents requiring external emergency services and to improve the readability of the rule. The Department proposes to amend N.J.A.C. 8:26-8.9(a)6 to refine the data set to be retained in records of deaths and/or drownings and to improve the readability of the rule. The Department proposes new N.J.A.C. 8:26-8.9(a)8, which would require a record of notification to health authorities of water quality samples that did not meet water quality standards and of public recreational bathing area closings and re-openings. The Department proposes new N.J.A.C. 8:26-8.9(a)9, which would require a record to be kept of non-biological water contamination events. The Department proposes new N.J.A.C. 8:26-8.9(a)10, which would require a record to be kept of floatable debris wash-up events. The Department proposes new N.J.A.C. 8:26-8.9(a)11, which would require a record to be kept of the checklist found at N.J.A.C. 8:26-Appendix E. The Department proposes new N.J.A.C. 8:26-8.9(a)12, which would require a record to be kept of the credentials found at N.J.A.C. Appendices C and D.

The Department proposes new N.J.A.C. 8:26-8.9(b), which would require the local health authority to calculate the geometric mean of the microbiological water quality samples taken during the season and at the end of each season and to report the results electronically to the Department. Proposed N.J.A.C. 8:26-8.9(b)1 would prescribe that the Department of Environmental Protection shall calculate the geometric mean for CCMP waters. Proposed N.J.A.C. 8:26-8.9(b)2 would provide that the local health authority shall calculate the geometric mean for non-CCMP waters. Proposed N.J.A.C. 8:26-8.9(b)2i would require that the geometric mean be calculated according to 40 CFR Part 131, incorporated by reference, and proposed N.J.A.C. 8:26-8.9(b)2ii

would prescribe the electronic reporting method and the time for reporting of data to the Department and the Department of Environmental Protection. Proposed N.J.A.C. 8:26-8.9(b)3 would prescribe when the local health authority would be required to conduct a sanitary survey based on geometric means calculations for ocean and bay water bathing beaches. Similarly, proposed N.J.A.C. 8:26-8.9(b)4 would prescribe when the local health authority would be required to conduct a sanitary survey based on geometric means calculations for fresh water bathing beaches.

The Department proposes to amend the heading of N.J.A.C. 8:26-8.10 to indicate that the section would establish the reporting standard for deaths and serious injuries and also to codify the existing rule into subsections. The Department proposes to amend recodified N.J.A.C. 8:26-8.10(a) to delete unnecessary language and to specify that the facility owner or operator is responsible for reporting deaths and certain injuries to the local health authority. The Department proposes to amend recodified N.J.A.C. 8:26-8.10(b) to specify that the local health authority shall notify the Department of such deaths or serious injuries within 24 hours, rather than 30 days, in order for the Department to conduct a review in a more timely fashion. The Department proposes new N.J.A.C. 8:26-8.10(c), which would specify the investigation obligations of the local health authority. The Department proposes new N.J.A.C. 8:26-8.10(c)1 and 2 that would require the local health authority to complete the Fatal/Serious Accident Report (CB-2), found at N.J.A.C. 8:26 Appendix F and on the Department's webpage at <https://healthapps.state.nj.us/forms/subforms.aspx?pro=eoh/phss> and to submit the form to the Department.

The Department proposes to amend N.J.A.C. 8:26-8.11 for grammatical purposes.

The Department proposes to repeal existing N.J.A.C. 8:26 Appendix and replace it with new N.J.A.C. 8:26 Appendix A to provide a list of organizations that confer certifications that would be recognized by the Department for CPR, First Aid, Lifeguarding, and Trained Pool Operators. The Department proposes new N.J.A.C. 8:26 Appendix B to provide a list of first aid supplies that would be required at public recreational bathing facilities. The Department proposes new N.J.A.C. 8:26 Appendix C to establish chemical water quality standards for chlorine, combined chlorine, bromine, and pH in swimming pools, wading pools, and aquatic recreation facilities. The Department proposes new N.J.A.C. 8:26 Appendix D, which would establish chemical water quality standards for chlorine, combined chlorine, bromine, and pH in hot tubs and spas. The Department proposes new N.J.A.C. 8:26 Appendix E, which would provide the pre-operational and operational Checklist for Public Recreational Bathing Facilities. The Department proposes new N.J.A.C. 8:26 Appendix F, which would provide the form local health departments would use to report serious and fatal accident information to the Department.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments, repeals, and new rules would continue to protect the health and safety of patrons and workers by establishing minimum design, operational,

and personnel standards to prevent accidents and the spread of disease at public recreational bathing facilities, and by enabling officials with jurisdiction to enforce these standards and impose corrective and punitive measures in the event of noncompliance.

The proposed amendments, repeals, and new rules would enhance public confidence in the cleanliness and safety of New Jersey's public recreational bathing facilities, thereby maintaining and enhancing the State's positive reputation as a wonderful place at which to spend leisure time, and having a direct beneficial effect in promoting the State's tourism industry.

Failure to adopt the proposed amendments, repeals, and new rules would jeopardize the health and safety of patrons and workers at recreational bathing facilities. Failure to maintain water quality standards could result in facility closures. In addition to the inherent harm in the occurrence of these adverse events, public awareness of these adverse events would have a negative impact on the State's leisure and tourism industries by harming the State's reputation as a good place to spend a vacation.

Economic Impact

The proposed amendments, repeals, and new rules would have an economic impact on owners and operators of public recreational bathing facilities. Costs of compliance include expenses necessary to comply with design standards, to purchase, install, and maintain required operational and safety equipment, to conduct water quality testing, and to retain professionals and other personnel, such as lifeguards and first responders, construction and design professionals, and water quality testing laboratories.

The proposed amendments, repeals, and new rules prescribe a higher level of safety and sanitation, and are designed to prevent accidents, the spread of disease, and the occurrence of negative ecological events, all of which can result in illness, injuries, deaths, and facility closures. Public awareness of the occurrence of such adverse events can harm New Jersey's reputation for having clean and safe recreational bathing facilities and, thereby, have a negative impact on the State's leisure and tourism industries, with resulting loss of revenue.

Owners and operators of public recreational bathing facilities who adhere to the chapter's requirements benefit by mitigating costs of compensating persons who would otherwise be sickened, injured, or die but for that adherence. Additionally, such compliance will enhance a business's reputation as a safe facility and encourage patronage.

The Department acknowledges that the costs of compliance with the proposed amendments, repeals, and new rules may exceed a particular owner or operator's ability to continue to operate. For example, the downturn in the economy has made it difficult for certain public recreational bathing facilities in State parks to remain operational at taxpayer expense, resulting in possible fee increases or facility closures. If public demand for access to public recreational bathing facilities, as reflected in taxpayer support and public willingness to pay facility fees, does not meet the costs of compliance with the chapter, some facilities may need to close. The Department believes that the need to impose reasonable standards to protect against the known risks of illness and injury at recreational bathing facilities outweighs the cost with mitigating such known associated risks.

As described in the Summary above and the Federal standards statement below, the proposed amendments, repeals, and new rules, together with rules of the Department of Environmental Protection at N.J.A.C. 7:9A governing Surface Water Quality Standards, would maintain the State's eligibility for grant funding pursuant to the Beaches Environmental Assessment and Coastal Health (BEACH) Act of 2000, Pub. Law 106-284, 114 Stat. 871, approved October 10, 2000, which amended the Federal Water Pollution Control Act, 33 U.S.C. § 1251, and Baker Act.

Federal Standards Statement

The proposed amendments, repeals, and new rules require the State's public recreational bathing facilities to meet national sanitary and safety standards. The proposed amendments, repeals, and new rules comply with, but do not exceed the BEACH Act and the implementation regulations at 40 CFR Part 131. This Federal regulation sets forth the discretion of the states to establish water quality standards as authorized by Section 303(c) of the Federal Clean Water Act, 33 U.S.C. § 1319. The BEACH Act and the implementation regulations generally require, as a condition of continued Federal grant funding, coastal and Great Lakes states and territories to test for the presence of enterococci bacteria to determine the water quality of their coastal recreation waters. The rules incorporate 40 CFR 136.3 – Tables 1A and 1H, and 40 CFR 141.74(a). These standards are approved laboratory methods for non-potable ambient water testing and cover micro-organism testing for E.coli. DSAM procedures, which are established by the NJDEP pursuant to N.J.A.C. 7:18, are used for certifying

laboratories to perform water quality testing. They are consistent with and do not exceed Federal standards.

The Baker Act requires that by December 19, 2008, the following be installed in public pools and spas: (1) drain covers compliant with UCC, and (2) when there is only a single main drain, a second anti-entrapment system. The proposed amendments, repeals, and new rules meet but do not exceed most current requirements of the Consumer Products Safety Commission (CPSC). The CPSC currently requires the use of ANSI/APSP-7, which is incorporated by reference in the UCC. This is the most current version of ASME/ANSI standard A112.19.8-2007, and the NJUCC has already adopted ANSI/APSP-7, which contains construction and maintenance requirements for swimming pools and hot tubs and spas, respectively. 16 CFR Part 1207 contains standards for the design and construction of water slides.

Jobs Impact

The proposed amendments, repeals, and new rules governing public recreational bathing are not likely to generate jobs or cause jobs to be lost, but the Department acknowledges that the cost of compliance with the higher safety and hygiene standards proposed in these rules could possibly result in the loss of some jobs if facilities close. See further discussion of these costs in the Economic Impact statement above.

Agriculture Industry Impact

The proposed amendments, repeals, and new rules governing public recreational bathing would have no impact on agriculture in the State of New Jersey.

Regulatory Flexibility Analysis

The proposed amendments, repeals, and new rules would place recordkeeping and reporting requirements on public recreational bathing facility owners and operators, some of which are small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments, repeals, and new rules impose costs on owners and operators of public recreational bathing facilities, as discussed in the Economic Impact and Summary above. These costs are the same as those imposed on all owners and operators of public recreational bathing facilities generally. Owners and operators that are governmental entities or larger businesses may be able to participate in joint purchasing programs or otherwise take advantage of economies of scale by negotiating contracts for supplies and services that are necessary for compliance with the chapter. These savings may not be available to small businesses. In contrast, governmental entities that retain staff to perform services the chapter requires typically incur costs that small businesses do not necessarily incur, such as employee pension and health benefits.

The proposed amendments, repeals, and new rules would require owners and operators of public recreational bathing facilities to retain the services of professionals to be compliant. These professionals include: design, engineering, construction, and maintenance personnel to ensure facilities comply with design, construction, engineering, operation, and sanitation standards; lifeguards and first responders to oversee and implement adherence to standards for safe facility use; and laboratorians to perform water quality testing and analysis. The costs to small businesses that own or

operate public recreational bathing facilities to retain these professionals are the same as the costs to all owners and operators generally.

The proposed amendments, repeals, and new rules contain exemptions for specially exempt facilities, almost all of which are small businesses. These would include condominium associations, private campgrounds, motels, private marinas, and health clubs. These specially exempt facilities would not be subject to the first aid and lifeguarding requirements of public recreational bathing facilities generally. The Department would not recommend exempting small businesses from the other health and safety requirements of these rules as such would put the public at risk.

Housing Affordability Impact Analysis

The proposed amendments, repeals, and new rules governing public recreational bathing would have no impact on the affordability of housing, or upon the average costs associated with housing.

Smart Growth Development Impact Analysis

The proposed amendments, repeals, and new rules governing public recreational bathing would have no impact on smart growth development or upon housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 8:26-2.3, 2.5, 3.1, 3.3 through 3.8, 3.10, 3.11, 3.14, 3.16, 3.20, 3.23, 4.2, 4.6, 4.7, 4.8, 4.10, and 4.11 and 8:26 Appendix.

Full text of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. PURPOSE, SCOPE, AND DEFINITIONS

8:26-1.1 Purpose

The purpose of this chapter [shall be] **is** to set reasonable sanitary and safety regulations for public recreational bathing [places] **facilities** and to preserve and improve the public health in this state as provided for in N.J.S.A. 26:1A-7.

8:26-1.2 Scope

These rules shall govern all public recreational bathing [places] **facilities** in New Jersey. Pursuant to N.J.S.A. 26:1A-9, the provisions of this chapter are enforceable by the New Jersey Department of Health [and Senior Services], local [departments of] health **authorities**, local police authorities, local sheriff's departments, and other enforcement agencies.

8:26-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise[.]:

...

"Alter," **“altered,” and “alteration”** mean[s and includes] any modification[,] or relocation of any structure or equipment, or [diversion and] change of water flow patterns[,] in an existing public recreational bathing [place] **facility**, such that the design, configuration, [and/or] **or** operating characteristics are different from the original design, configuration, [and/or] **or** operating characteristics. **Altered structures and equipment must comply with this chapter.** The term does not include normal maintenance, repair, or replacement of [previously approved] equipment **with the same or a newer model.**

"American National Standards Institute, Inc. (ANSI)" [means that] **is a private nonprofit organization, which, for the purposes of this chapter, provides technical materials and expertise and is located at [11 West 42nd Street, 13th Floor, New York, New York 10036-8002 at (212) 642-4949] 1819 L Street, NW, Washington, D.C. 20036, Telephone: (202) 293-8020, Website: www.ansi.org.**

“American Public Health Association” or “APHA,” is a nonprofit organization of public health professionals, which, for the purposes of this chapter, provides technical materials, standards and expertise and is located at 800 I Street, NW, Washington, D.C. 20001, Telephone: (202) 777-2742, Website: www.apha.org.

“American Red Cross” or “Red Cross” means a nonprofit organization, which, for the purposes of this chapter, provides safety and lifesaving training

and is located at 430 17th Street, Washington, D.C., 20006, Telephone: 202-303-4233, Website: www.redcross.org.

1. Lifeguard training and certification standards may be found at www.redcross.org/participantmaterials.

"American Society of Mechanical Engineers (ASME)" [means that] is a nonprofit educational and technical organization which, for the purpose of this chapter, provides technical materials and expertise and is located at 3 Park Avenue, New York, New York 10016-5990 [at (212) 591-7722], Telephone: (800) 843-2763, Website: www.asme.org.

["Approved" means acceptable to the State Department of Health and Senior Services or the local health authority based on its determination as to conformance with appropriate standards and good public health practices.]

“Aquatic activity area” means an area containing aquatic play equipment, which is governed by N.J.A.C. 5:14A-12 only when located in an amusement park or water park in which there are other rides covered by N.J.A.C. 5:14A-12.

“Aquatic play equipment” means water-related play equipment or devices intended for use in aquatic activities areas. Examples include, but shall not be limited to, rope ladders, hand-over-hand activities, slides, and devices designed to squirt, shoot, spray, dump, discharge, or disperse water intended to come in contact with people for recreational purposes.

“Aquatic recreation facility” means a facility that is designed for free-form aquatic play and recreation and shall include, but not be limited to, wave or surf action pools, leisure rivers, sand bottom pools, vortex pools, activity pools, inner

tube rides and body slides, interactive play attractions, water parks, spray parks, and water amusement rides that, with the exception of spray parks, are licensed and regulated by the New Jersey Department of Community Affairs pursuant to N.J.A.C. 5:14A-12.

“Association of Pool and Spa Professionals” or “APSP” is a professional organization, which, for the purposes of this chapter, provides technical materials and expertise and is located at 2111 Eisenhower Avenue, Alexandria, Virginia 22314, Telephone: (703) 838-0083, Website: www.apsp.org/Public/Home/index.cfm.

"Authorized agent" means a licensed health officer[, sanitary inspector,] or [any other properly qualified and licensed person] **registered environmental health specialist** who is delegated to function [within specified limits] as the agent of the local health authority or the department.

...

["Campground" means a plot of ground upon which two or more campsites are located, established or maintained for occupancy by camping units of the general public as temporary living quarters for children or adults, or both, for a total of 15 days or more in any calendar year, for recreation, education, or vacation purposes.]

...

"Construct" means and includes building or installing a new public recreational bathing [place] **facility** or altering an existing public recreational bathing [place] **facility** or any of its facilities.

“Cooperative Coastal Monitoring Program” or “CCMP” means a bathing beach and coastal water quality monitoring program that tests bathing beach water, conducts aerial coastal surveillance, monitors ocean water pollution sources, and notifies the public of beach conditions. The CCMP is a cooperative effort among the New Jersey Department of Environmental Protection, the New Jersey Department of Health, and a number of coastal county and local government agencies and health departments.

...

"Deep" means water depths **of** five feet or greater.

"Department" means the [State] **New Jersey** Department of Health [and Senior Services].

“Department-sanctioned analytical methods” or “DSAMs” are testing methods that laboratories may be certified to perform if they qualify under the State Department of Environmental Protection’s requirements at N.J.A.C. 7:18.

“Design professional” means an individual who is licensed as an architect or professional engineer.

...

"Diving area" means [that] **the** portion of a swimming pool, which is eight feet forward of the tip of the diving board, eight feet behind the tip of the diving board, and eight feet to each side of the diving board.

"Health authority" means the [agent of the Local Board of Health and/or State] **local health authority or the New Jersey** Department of Health [and Senior Services]

duly licensed to act in the enforcement of its ordinances and the sanitary laws of the state] or its authorized agent.

“Health club” means a health club that is registered with the Director of the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to N.J.S.A. 56:8-39 et seq.

"Hot tub or spa" means any pool having a maximum depth of 48 inches used in conjunction with high velocity water recirculation systems[. Mineral] **in which mineral or non-mineral water is used and is not emptied after each use. Water temperature is hot, cold, or ambient. The term shall not include hot tubs and spas used solely for aquatic physical therapy, except as covered by N.J.A.C. 8:43H-21.3(e) and other applicable rules.**

...

“IAF” means the International Aquatic Foundation.

"Lifeguard" means a person who holds a lifeguarding certificate from an organization recognized by the New Jersey [State] Department of Health [and Senior Services], as listed in [the] **N.J.A.C. 8:26** Appendix [of this chapter] **A, or:**

1. For a lifeguard serving at a swimming pool or lake, a person who holds a lifeguarding certificate from an organization determined by the Department to meet American Red Cross training standards; or

2. For a lifeguard serving at an ocean or tidal waters facility, a person who holds a lifeguarding certificate from an organization

determined by the Department to meet United States Lifesaving Association (USLA) training standards.

The Department maintains a list of recognized organizations on the New Jersey Department of Health website at

http://www.nj.gov/health/ceohs/documents/phss/recognized_cert_list.pdf.

“Local code officials” mean the construction, electrical, and/or plumbing code officials who work for a municipality or the New Jersey Department of Community Affairs and enforce the New Jersey Uniform Construction Code.

“Local health authority” means a municipal, county, or regional board of health, established pursuant to N.J.S.A. 26:3-1, and its authorized agents.

"Locate" means designating the site or place of a public recreational bathing [place] facility.

...

["National Spa and Pool Institute (NSPI)" means that professional organization which, for the purposes of this chapter, provides technical materials and expertise and is located at 2111 Eisenhower Avenue, Alexandria, Virginia 22314 at (703) 838-0083.]

...

“Non-bathing beach” means an area of a natural or artificially constructed pond, lake, stream, river, bay, tidal waters, ocean, or other body of fresh or salt water, which has not been designated by the owner or operator of the property as a bathing beach, but which is used for primary contact recreation (recreational activities that involve significant ingestion risks), such as surfing and water-skiing. Non-bathing beaches are not covered by this chapter.

...

["Person" means any corporations, companies, associations, societies, clubs, firms, partnerships, joint stock companies, governmental agencies as well as individuals.]

“Operator” means any corporation, company, association, society, club, firm, partnership, joint stock company, government agency, or individual, that operates a public recreational bathing facility pursuant to an agreement with the owner. An owner may also be the operator.

“Owner” means any corporation, company, association, society, club, firm, partnership, joint stock company, government agency, or individual, that owns a public recreational bathing facility.

“Potable water” means water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming in its bacteriological and chemical quality to the requirements of the Public Health Service Drinking Water Standards or the regulations of the public health authority having jurisdiction.

“Primary contact recreation” means water-related recreational activities that involve significant ingestion risks and includes, but is not limited to, wading, swimming, and diving.

"Private [lake/river/bay] **lake, river, or bay**, or private community [lake/river/bay] **lake, river, or bay** association" means an organization of property owners within a fixed or defined geographical area with deeded or other rights to utilize, with similarly situated owners, various lakefront, riverfront, or bayfront properties, which said properties are

not open to the general public, other than bona fide guests of a member of the private [lake/river/bay] **lake, river, or bay** or private community [lake/river/bay] **lake, river, or bay** association.

...

["Private recreational bathing place" means a body of water, natural or modified by man, used for swimming, diving, and recreational bathing by an individual, family, or living unit member(s) and their guests which shall not serve any type of cooperating house or joint tenancy of three or more living units.]

“Private recreational bathing facility” means any bathing beach, swimming pool, wading pool, hot tub, or spa used only by residents of one or two living units, and their guests.

“Public campground” means a plot of ground upon which two or more campsites are located, established, or maintained for occupancy by camping units of the general public as temporary living quarters for children or adults, or both, for a total of 15 days or more in any calendar year, for recreation, education, or vacation purposes.

"Public recreational bathing [place] **facility**" means any bathing beach, hot tub, [or] spa, swimming pool, [and] wading pool [that is not private and], **and aquatic recreation facility that** includes State, county, and municipal facilities, **as well as any beach that an owner or operator permits for use as a public swimming area through advertising, publicity, or designation. Public recreational bathing**

facilities do not include a non-bathing beach and/or a private recreational bathing facility.

...

“Specially exempt facility” means a **public recreational bathing facility that is:**

1. A private lake, river, or bay or private community lake, river, or bay association, or private nonprofit common interest community [which] that restricts the use of its lake, river, bay, or pool, as appropriate, to the owners of units thereof and their invited guests[. Specially exempt facility also includes a];

2. A campground, hotel, motel, mobile home park, or retirement community [which] that restricts the use of its pool to renters of the lodging units or owners of the dwelling units, as appropriate, and their invited guests, or day-use visitors[, or a];

3. A private marina, which restricts the use of its swimming pool to owners of boats eligible to use the facilities and their invited guests[. Specially exempt facility also includes a];

4. A privately-owned campground, which restricts the use of a swimming area other than its swimming pool to renters of the loading units or owners of the dwelling units, as appropriate, and their invited guests, or day-use visitors[.]; or

5. A health club, which restricts the use of its pool to members and their invited guests and does not permit the use of its pool by persons under 16 years of age, and in which the maximum depth of the water in the pool does not exceed five feet, but does not include a health club that shares use of its pool with another entity. A health club that would

ordinarily qualify as a specially exempt facility, but no longer satisfies all of the requirements for exemption because it has elected to provide swimming lessons, classes, or instruction, either directly or through a third-party entity, to persons who are not members of the health club, or to persons who are under 16 years of age, shall continue to be deemed a specially exempt facility for the purposes of P.L. 1991, c. 135, provided that the health club complies with the first aid personnel and lifeguard requirements of N.J.A.C. 8:26-5 while the swimming lessons, classes, or instruction are taking place.

“Spray park” means a recreational facility in which water is sprayed on participants, the water is recirculated, and the water may or may not have depth. All spray parks are covered by this chapter regardless of whether they are licensed and regulated by the New Jersey Department of Community Affairs pursuant to N.J.A.C. 5:14A-12.

"Standard methods for the examination of water and wastewater" means that standard which, for the purposes of this chapter, is the recognized standard that provides the protocol for the microbiological water quality standards for all public recreational bathing places and may be obtained from the American Public Health Association[, 1015-18th Street, N.W., Washington, DC 20036].

"Swimming pool" means a watertight structure of concrete, masonry, or other approved materials, located either indoors or outdoors, used for bathing, **wading**, or swimming and filled with a filtered and disinfected water supply, together with buildings, appurtenances, and equipment used in connection therewith.

1. A swimming pool shall mean a conventional pool, spa-type pool, wading pool, special purpose pool, or water recreation attraction, to which admission may be gained with or without payment of a fee, and includes, but is not limited to, pools operated by or serving campgrounds, clubs, churches, cities, common interest communities, counties, day care centers, group home facilities for six or more clients, health spas, institutions, parks, private lake, river, or bay **associations**, or private community lake, river, or bay associations, State, county, and municipal agencies, retirement communities, schools, specially exempt facilities, subdivisions, or [the] cooperative living type projects of three or more living units, such as apartments, boarding homes, condominiums, hotels, mobile home parks, motels, recreational vehicle parks, townhouses, trailer parks, and youth camps.

2. The term shall not include swimming pools used solely for aquatic physical therapy.

“Trained pool operator” or “TPO” means an individual who is responsible for compliance with the requirements of this chapter at swimming pools, wading pools, hot tubs, spas, and aquatic recreation facilities, and is certified by an organization approved by the Department listed in N.J.A.C. 8:26 Appendix A.

...

“United States Environmental Protection Agency” or “USEPA” means an agency of the Federal government responsible for protecting air, land, water, and other natural resources through monitoring and enforcement of environmental laws and regulations. The agency may be contacted as follows: Environmental

Protection Agency, 1200 Pennsylvania Avenue N.W., Washington, D.C. 20460.

Telephone number: 202-272-0167, www.epa.gov.

“United States Lifesaving Association” or “USLA” means a nonprofit organization, which, for purposes of this chapter, provides open water lifeguard training and certification. The organization may be contacted as follows: United States Lifesaving Association, PO Box 366, Huntington Beach, CA 92648, Telephone number: 866-367-8752, www.usla.org.

1. Lifeguard training and certification standards may be found at <http://www.usla.org/?page=AGENCYCERT>.

"User load" means the number of persons in the swimming pool, hot tub, or spa [area] at any given moment, or during any stated period of time.

...

["Water slide" means a slide exceeding 15 feet in height which carries or conveys passengers along, around, or over a fixed or restricted route or course for the purpose of giving the passengers amusement, pleasure, thrills, or excitement.]

“Water slide” means a water amusement ride using gravity to convey riders independently or riding on a sled, mat, or inflatable device, which empties into a catch pool or a run-out.

8:26-1.4 Waiver

(a) The Commissioner, or his or her designee, may, in accordance with the general purposes and intent of N.J.S.A. **26:1A-7 and 26:4A-[1]4** et seq., [and

amendments thereto,] waive sections of this chapter if, in his or her opinion, such waiver would not endanger the safety or health of the public.

1. The Department shall not waive any provision of N.J.A.C. 8:26-7.5.

(b) Any [agency, organization, or entity] **owner or operator** seeking a waiver of the standards in this chapter shall apply in writing to:

Consumer, [and] Environmental, **and Occupational** Health Service[s]

New Jersey [State] Department of Health [and Senior Services]

PO Box 369

Trenton, NJ 08625-0369

(c) The written application for waiver shall include the following:

1. – 2. (No change.)

3. The reasons for requesting a waiver, including a statement of the type and degree of hardship that would result [upon full compliance] **if the waiver is not granted;**

4. – 5. (No change.)

(d) The Department [of Health and Senior Services] reserves the right to request additional information before processing an application for waiver.

SUBCHAPTER 2. ADMINISTRATION

8:26-2.1 Review of plans for a public recreational bathing [place] **facility**

The health authority shall review and approve all specifications, plans, and reports prior to the location, construction or alteration of a public swimming pool,

wading pool, hot tub, [or] spa, **or aquatic recreation facility**, and prior to the conversion of a pond, lake, stream, river, ocean, or other body of fresh or salt water to use as a public recreational bathing [place] **facility**.

8:26-2.2 Procedure for obtaining [written] approval to locate and/or construct a public recreational bathing [place] **facility**

[(a) The health authority's approval shall be contingent upon receipt and approval of a letter or application previously approved by the planning and zoning agencies. Final plans, specifications, and reports shall be prepared in accordance with the Uniform Construction Code, N.J.A.C. 5:23.]

(a) The health authority shall not grant approval to locate and/or construct a public recreational bathing facility until approval has been granted by the local code officials.

(b) [Plans] **The public recreational bathing facility owner shall prepare all plans, specifications, [and] reports, blueprints, and other documents in accordance with the New Jersey Uniform Construction Code, N.J.A.C. 5:23, incorporated herein by reference, as amended and supplemented, which shall include, but [are] not be limited to:**

1. The proposed site of the public recreational bathing [place] **facility**;
2. The nature and extent of the area to be served by the public recreational bathing [place] **facility** and estimated daily patronage;
3. (No change.)

4. The layout of the public recreational bathing [place] **facility**, including, but not limited to: dimensions, bathhouses, [water closet] **bathroom** facilities, food service facilities pursuant to the requirements of N.J.A.C. 8:24, first aid facilities, and other recreational facilities associated with the public recreational bathing [place] **facility**;

5. Details of on-site filter wastewater, shower wastes, and sanitary sewage disposal[,] where a municipal sewer is not available, or where a municipal sewer is available, details of the connection thereto;

6. – 7. (No change.)

8. Safety by design as specified in this [code] **chapter**; [and]

9. A comprehensive sanitary **and hazard** survey of the bathing beach and surrounding area. The survey shall include a plot map, drawn to scale, indicating the location(s) and type(s) of all known sources of potential contamination[,] **and hazards**; and

10. All documents shall be sealed and certified by a design professional.

(c) The public recreational bathing facility owner shall submit the plans, specifications, reports, blueprints, and other documents prepared in accordance with the New Jersey Uniform Construction Code, N.J.A.C. 5:23, to the health authority at the same time they are submitted to the local code officials.

[(c)] **(d)** Upon compliance with all provisions set forth in [(a) and] (b) **and (c)** above, the health authority shall review and [either] approve or disapprove the

application in writing within 30 days of the date of [submission] **approval by the local code officials.**

(e) Approval by the health authority does not relieve the [applicant] **owner** of [his or her] responsibility for compliance with all other applicable Federal, State, and local requirements.

(f) **The health authority may request additional information about the proposed location and/or construction prior to making its decision. The request for additional information shall increase the 30-day period at (d) above to 90 days from the date of approval by the local code officials.**

(g) **Upon designation by the Department, a local health authority shall review and approve or disapprove the application to construct a public recreational bathing facility at a State college or university.**

(h) **The public recreational bathing facility owner shall not begin construction of a new facility or alteration of an existing facility until after both the approval of the construction code official and the approval of the local health authority have been issued in writing.**

8:26-2.3 Procedure for obtaining approval to alter a public recreational bathing facility

(a) **The health authority shall not grant approval to alter a public recreational bathing facility until such approval has been granted by the local code officials.**

(b) The public recreational bathing facility owner shall prepare all plans, specifications, reports, blueprints, and other documents describing the proposed alteration in accordance with the New Jersey Uniform Construction Code, N.J.A.C. 5:23, incorporated herein by reference. All documents shall be sealed and certified by a design professional.

(c) The plans, specifications, reports, blueprints, and other documents prepared in accordance with the New Jersey Uniform Construction Code, N.J.A.C. 5:23, shall be submitted to the health authority at the same time they are submitted to the local code officials.

(d) Upon compliance with the provisions set forth in (b) and (c) above, the health authority shall review and approve or disapprove the application in writing within 30 days of the date of approval by the local code officials.

(e) Approval by the health authority does not relieve the owner of the responsibility for compliance with all other applicable Federal, State, county, and local requirements.

(f) The health authority may request additional information about the proposed alteration prior to making its decision. The request for additional information shall stay the 30-day deadline.

(g) Upon designation by the Department, a local health authority shall review and approve or disapprove the application to alter a public recreational bathing facility at a State college or university.

8:26-2.4 Denial of approval for location, construction, or alteration of a public recreational bathing [place] **facility**

(a) Any [applicant] **owner** denied approval for the location and construction or for the alteration of a public recreational bathing [place] **facility** shall be notified by the health authority.

(b) The notice shall be in writing and shall specify the reason(s) for the denial and shall afford the [applicant] **owner** the opportunity to appeal the decision **to the health authority**.

(c) The [applicant] **owner** shall appeal the decision in writing within 30 calendar days after receipt of the denial notice.

(d) Where an [applicant] **owner** fails to request a hearing within the 30 calendar day period, his or her right to a hearing pursuant to this section shall be deemed waived and the health authority's denial shall become final.

8:26-2.5 Operational assessment and inspection of a public recreational bathing facility

(a) The owner or operator of a seasonal public recreational bathing facility, or trained pool operator for a swimming pool or wading pool, shall complete the Checklist for Public Recreational Bathing Facilities developed by the Department and found at N.J.A.C. 8:26 Appendix E, incorporated herein by reference, and shall submit it to the health authority 21 days before the bathing facility is scheduled to open.

1. For ponds, lakes, streams, rivers, and bays, the Checklist for Public Recreational Bathing Facilities shall include a sanitary survey and a survey of hazardous conditions such as obstructions.

(b) For year-round swimming pools, wading pools, hot tubs, spas, and aquatic recreation facilities, the owner or operator, or trained pool operator for a swimming pool or wading pool, shall complete the Checklist for Public Recreational Bathing Facilities developed by the Department and found at N.J.A.C. 8:26 Appendix E, incorporated herein by reference, and shall submit it to the health authority 30 days prior to expiration of its written approval.

(c) The Checklist for Public Recreational Bathing Facilities, found at N.J.A.C. 8:26 Appendix E, incorporated herein by reference, shall be certified by the owner, operator, or trained pool operator as being true, accurate, and complete.

(d) For year-round public recreational bathing facilities, the facility shall be inspected by the health authority at least twice during the year to determine compliance with the requirements of this chapter. A written approval or disapproval shall be issued within 10 business days of the inspection.

1. The health authority shall inspect each new public recreational bathing facility before it opens to the public for the first time.

(e) For seasonal public recreational bathing facilities, the facility shall be inspected by the health authority at least once during the season to determine compliance with the requirements of this chapter. A written approval or disapproval shall be issued within 10 business days of the inspection.

8:26-2.6 Approval to operate a public recreational bathing [place] **facility**

(a) A public recreational bathing [place] **facility** shall not be opened for public use until the health authority has [given formal] **determined that the facility is in compliance with the requirements of this chapter and has issued a written approval** [by issuance of a license or permit]. **The approval must be renewed each year.**

(b) **The written approval may be issued after receipt and review of the Checklist for Public Recreational Bathing Facilities, found at N.J.A.C. 8:26 Appendix E, incorporated herein by reference, except for new facilities which must be inspected before issuance of the written approval.**

(c) **The written approval may be in the form of a license, permit, letter, checklist, or other format determined by the health authority.**

(d) **The written approval shall be effective for a 12-month period, or to the end of the outdoor swimming season for seasonal facilities.**

(e) [This license or permit] **The written approval** shall be displayed in a conspicuous place on the premises where it may be readily observed by all patrons.

(f) [A person] **An owner or operator** shall not operate a public recreational bathing [place] **facility** whose [license or permit] **approval** has been suspended.

8:26-2.7 Operator inspection of swimming pools, wading pools, hot tubs, and spas

(a) The owner or operator shall ensure that the trained pool operator visits the swimming pool, wading pool, hot tub, or spa, at least once per week to ensure that the facility is in compliance with the requirements of this chapter.

(b) Such visits shall be documented in writing and the documents shall be available for inspection by the health authority.

1. The owner or operator shall ensure that the required documents are kept in the office at the public recreational bathing facility.

SUBCHAPTER 3. SWIMMING POOLS AND WADING POOLS

8:26-3.1 Construction and design

The pool owner and operator shall ensure that the construction, design, signage, and safety features of a new or altered swimming pool or wading pool conform to the requirements of the New Jersey Uniform Construction Code (UCC), N.J.A.C. 5:23, incorporated herein by reference.

8:26-3.2 Construction materials

[(a) Swimming pools and all appurtenances thereto shall be constructed of nontoxic, impervious, and enduring materials. All materials shall be capable of withstanding design stresses and shall provide a watertight structure. All surfaces shall be smooth and easily cleaned and free of cracks or non-structural joints.

(b) Sand or earth shall not be permitted as an interior finish in a swimming pool.

(c) All surfaces within a swimming pool which are intended to provide a footing for bathers shall have a slip-resistant surface, but shall not be rough so as to cause injury or discomfort to bathers.

(d) The color, pattern, or finish of the pool interior shall not obscure the presence of objects or surfaces within the pool.]

[(e)] All construction materials shall conform to the requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23, **incorporated herein by reference.**

8:26-3.3 through 8:26-3.8 (Reserved)

8:26-3.9 Surface skimming system

(a) A surface skimming system shall be provided in all swimming pools. [The surface skimming system may be comprised of an overflow gutter, an automatic skimmer(s), or any other cleaning device which is approved by the health authority.]

(b) The surface skimming system shall conform to the requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23, **incorporated herein by reference.**

[(c) The surface skimming system shall conform to the requirements set forth at Article X of the 1991 American National Standard for Public Swimming Pools (ANSI/NSPI-1), incorporated herein by reference, as amended and supplemented.]

8:26-3.10 through 8:26-3.11 (Reserved)

8:26-3.12 Fencing and enclosures

(a) Fencing and enclosures shall conform to the requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23, **incorporated herein by reference.**

(b) A minimum four-foot high barrier shall be installed around a wading pool. The barrier shall have a self-closing and self-latching gate.

8:26-3.13 Electrical, illumination, and ventilation requirements

(a) All electrical wiring, illumination, [and] ventilation, **and bonding and grounding certification**, shall conform to the requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23, **incorporated herein by reference.**

[(b) Underwater illumination shall permit the deepest portion of the swimming pool floor to be clearly visible from the swimming pool's edge.]

(b) Bonding and grounding certification shall be provided annually by the owner or operator of a seasonal swimming pool or wading pool to the health authority prior to the opening of the swimming pool or wading pool.

8:26-3.14 (Reserved)

8:26-3.15 Circulation systems

[(a) A circulation system consisting of pumps, piping, return inlets and suction outlets, filters, and other necessary equipment shall be provided for the complete circulation of water throughout all parts of the swimming pool.

(b) The circulation system shall be sized so as to turn over the entire pool water capacity at least once every eight hours.

(c) Water clarity, a function of proper filtration and maintenance of proper chemical operational parameters, shall be maintained. The deepest portion of the swimming pool floor shall be clearly visible from the swimming pool's edge.

(d) A pump and motor shall be provided for circulation of the swimming pool water. All pumps shall flow so as to clean and filter against the total dynamic head.

1. Pumps shall perform the functions intended by the manufacturer.

Pumps and motors shall be accessible for inspection and service.

2. Where the pump is located below the water level of the swimming pool, valves shall be installed on permanently connected suction and discharge lines. These lines shall be located outside the walls of the swimming pool and shall be readily and easily accessible for maintenance and removal.

3. The design and construction of the pump and component parts shall provide safe operation that is not hazardous to the operator or maintenance personnel.

4. Mechanical seals shall be corrosion-resistant and shall be capable of operating under conditions normally encountered in swimming pool operation.]

[5.] **(a)** Pump rotation direction shall be clearly indicated on the pump **and all visible piping**.

[6. Motors shall have an open drip-proof enclosure configured electrically and mechanically so they perform satisfactorily and safely under the conditions of load and in the environment normally encountered in the swimming pool installation.

7. Motors shall be capable of operating the pump under full load with a voltage variation of at least 10 percent of name plate rating. If the maximum service factor of the motor is exceeded at full voltage, the manufacturer shall indicate this on the pump curve.

8. Motors shall have thermal or current overload protection, or the equivalent, either built in or in the line starter, in order to provide locked rotor and running protection.

9. Grounding of the motor frame shall conform to the requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23.

(e) Strainers shall be provided on all pressure filter systems. Strainers shall be removable and shall be located upstream of the circulation pump(s) to remove solids, debris, hair, and lint. Water entering the pump shall pass through the removable strainer.

(f) Filters shall meet the following requirements:

1. Filters shall be designed so that after they are cleaned pursuant to the manufacturer's instructions, the system can provide the required water clarity.]

[2.] **(b)** (No change in text.)

[3. Gauges which measure loss of head shall be installed on all filters. Gauges tapped into the influent and effluent lines of the filter shall be located together at the same elevation.

4. All filters shall have rate of flow meters which shall measure flow in gallons per minute;

i. Flow meters shall have a range between plus or minus 10 percent of the established flow rate.

ii. Flow meters shall be installed on a straight length of pipe at a distance equal to at least six times the diameter of the pipe from any valve, elbow, or other source of turbulence. This requirement may be waived by the health authority for meters which are not affected by pipeline turbulence.]

[5.] **(c)** Pressure filters shall have sight glasses, **or the equivalent**, installed on the wastewater discharge line in order that filter washing progress may be determined. The sight glasses shall be readily removable for cleaning purposes.

[6. On pressure filters, a means shall be provided to permit the release of air which enters the filter tank. Any filter incorporating an automatic internal air release as its principal means of air release shall have access lids which provide a slow and safe release of pressure as a part of its design. Any separation tank used in conjunction with any filter tank must have a manual means of air release or an access lid which provides a slow and safe release of pressure as it is opened.

(g) Sumps shall conform to the requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23.]

(d) The circulation system shall contain a pump suction (vacuum) gauge, filter inlet pressure gauge, filter outlet pressure gauge, and flow meter.

8:26-3.16 (Reserved)

8:26-3.17 Protection of potable water

[(a) Physical connections between potable water systems and swimming pool circulation systems shall be prohibited.

(b) Potable make-up water shall be added to a swimming pool through a shielded over-the-rim spout. The open end of the over-the-rim spout shall have no sharp edges and shall not protrude more than two inches beyond the edge of the swimming pool.

(c) An alternate method of adding potable make-up water may be employed with the approval of the health authority.]

[(d)] **(a)** Protection of the potable water supply shall conform to the requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23, **incorporated herein by reference.**

(b) An alternate method of adding potable makeup water may be employed with the approval of the health authority.

8:26-3.18 Wading pools

(a) [Wading] **Newly constructed wading** pools shall be physically set apart from swimming pools by a minimum of six feet of deck. [A minimum four feet high barrier shall be installed surrounding the wading pool from the swimming pool. The barrier shall have a self-closing and self-latching gate.]

[(b) Wading pool walls shall be vertical or within 11 degrees of vertical except for the lower six inches which shall be radiused to the floor. The walls shall not extend more than six inches above the water line at any point.

(c) Wading pool floors shall be uniformly sloped to drain with a maximum slope of one foot in 12 feet.]

(b) Single main drains are prohibited in newly constructed wading pools and shall comply with the Uniform Construction Code, N.J.A.C. 5:23, incorporated herein by reference.

(c) Existing wading pools with a single main drain, other than gravity flow, shall have an automatic shutoff that goes into operation when the drain becomes covered.

(d) Wading pools shall have a maximum depth of 24 inches. [The water depth at the perimeter shall not exceed 18 inches.] The water depth may be reduced and brought to zero inches at the most shallow point of the wading pool.

(e) Wading pools shall have a separate circulation system of adequate size to turn over the entire pool water capacity at least once every [two] hour[s].

[(f) Dual suction outlets which are less than 12 inches by 12 inches shall be equipped with anti-vortex covers.

(g) The maximum velocity through any suction outlet shall not exceed 1.5 feet per second unless the outlet conforms to the requirements set forth at ASME/ANSI A 12M-1987 Suction Fittings for Use in Swimming Pools, Spas, Hot Tubs, Wading Pools, and Whirlpool Bathtub Appliances. The maximum velocity in the pump suction hydraulic system shall not exceed six feet per second when 100 percent of the pump flow comes from the main drain system and any suction fitting in the system is completely blocked. The flow through the open area of the remaining suction outlet shall not exceed 1.5 feet per second or shall conform

to the requirements set forth at ASME/ANSI A 12M-1987 Suction Fittings for Use in Swimming Pools, Spas, Hot Tubs, Wading Pools, and Whirlpool Bathtub Appliances.

(h) Other methods that produce equivalent protection against suction entrapment, evisceration, and hair entanglement/entrapment shall be permitted.

(i) If the main drain grate or anti-vortex cover is missing, broken, or loose, the wading pool shall be immediately closed and shall remain closed until a proper repair or replacement has been effected.

(j) When provided, vacuum fittings shall be located in an accessible position and shall be between six and 18 inches below the minimum operating water level or as an attachment to the skimmers. When not in use, all vacuum fittings shall be covered with an automatic closure device. When a skimmer is used for vacuuming, automatic closure is not required.]

8:26-3.19 Water slides

(a) Water slides may be permitted with [special] approval by the health authority, provided the construction and supervision at the water slide conform to the requirements of the United States Consumer Product Safety Commission standard for swimming pool slides [as published in the Federal Register, December 18, 1978, Vol. 43, No. 243], **16 CFR Part 1207**, incorporated herein by reference[, as amended and supplemented].

(b) Water slides **that exceed 15 feet in height** shall conform to the requirements of the New Jersey Department of Community Affairs [Standard], [N.J.S.A. 5:3-31 through 55] **found at N.J.A.C. 5:14A.**

8:26-3.20 Rope drops, cliff jumping, and aquatic play equipment

(a) **The owner or operator of a public recreational bathing facility shall ensure that all rope drops, cliff jumps, or other jumping activities where the bather enters the water feet first, and aquatic play equipment:**

1. Are designed and constructed in conformance with N.J.A.C. 5:14A-12.5, regardless of location; and

2. Meet the requirements of N.J.A.C. 5:14A-12, Water Amusement Rides, when in an aquatic activity area.

(b) **Rope drops, cliff jumps, and other jumping activities are prohibited at heights greater than 15 feet.**

8:26-3.21 Floats and fixed platforms

Floats and fixed platforms that are set up and installed pursuant to manufacturer's specifications shall [not] be permitted in a swimming pool or wading pool upon approval of the health authority. Floats are objects that float on the water such as inflatable rafts. Fixed platforms are objects that are attached to the bottom or side of the pool, such as a floating bridge.

8:26-3.22 Disinfection

[(a) Swimming pool and wading pool water shall be continuously disinfected by a disinfecting agent which gives off an easily measured residual.

1. The disinfecting agent shall be subject to simple and accurate field testing procedures. Chlorine or chlorine compounds are the most frequently used disinfecting agents. Other bacteriological agents or apparatus shall be acceptable if registered for said use by the United States Environmental Protection Agency and the New Jersey Department of Environmental Protection.

[(b)] **(a)** (No change in text.)

[(c)] **(b)** Gas chlorination shall [conform to the following:] **be prohibited.**

[1. The chlorinator, cylinders of chlorine, and associated equipment shall be housed in a gas-tight and corrosion-resistant enclosure. Cylinders shall be stored in an upright position and shall be properly secured.

2. The enclosures may be located at ground level, aboveground level, or below ground level. The enclosure shall be provided with air-tight ducts running from the bottom of the enclosure to the atmosphere. The ducts shall exhaust into an unrestricted area and shall have a motor-driven exhaust fan capable of producing at least one air change per minute. The enclosure shall have automatic louvers near the top of the enclosure for the introduction of fresh air. These standards shall apply only to new construction and to retrofits.

3. Electrical switches for lighting and ventilation in the enclosure shall be located adjacent to the door on the outside of the enclosure.

4. An automatic chlorine leak detector and alarm shall be installed in the chlorinator room.

5. Respirators approved by the National Institute for Occupational Safety and Health shall be readily available for protection against chlorine. At least one approved pressure-demand, self-contained breathing apparatus shall be provided. Respiratory protective equipment shall be mounted outside the chlorine enclosure.

6. Compliance with this subsection does not relieve the operator of his or her responsibility for compliance with specific respiratory program requirements as promulgated by the Federal Occupational Safety and Health Administration or the Public Employees Occupational Safety and Health Program, as the case may be.

7. A warning sign stating: "CAUTION chlorine hazard area. Unauthorized persons keep out. Chlorine causes burns, severe eye hazard, and other injuries which may be fatal if inhaled" or words of similar meaning shall be affixed in a readily visible location at entrances to areas where chlorine is present in containers or piping. A statement giving the specific location(s) where personal protective equipment may be found shall be included.

8. Facilities shall have a scale for weighing chlorine cylinders. Changing cylinders shall occur only after weighing indicates that the contents of the cylinder are exhausted.

9. Care shall be taken when closing the cylinder valve in order to prevent water suck-back into the empty cylinder.

10. Valve protection caps and valve outlet caps shall be in place at all times except when the cylinder is connected for use. Cylinders shall not be

dropped and shall be protected from falling objects. Cylinders shall be used in a first-in, first-out basis. New, approved washers shall be used each time a cylinder is connected.]

[(d)] **(c)** Chemical feeders, **also called chemical controller systems, shall only be permitted if their** installation (and use [shall] **as specified in N.J.A.C. 8:26-6.13(m)**) conforms to the following:

1. (No change.)

2. Where the chemical feeder is equipped with its own pump, the pump shall be installed so that it introduces the [gas or] solution downstream from the heater and at a position lower than the heater outlet fitting.

3. -4. (No change.)

[(e)] **(d)** (No change in text.)

[(f)] **(e)** Bromination, when used for disinfection, shall conform to the following:

1. (No change.)

2. Brominator equipment rooms shall be [constructed and] ventilated [as required at N.J.A.C. 8:26-3.22(c)].

[(g)] Slurry feeders for the addition of pre-coat material, pH adjustment, coagulants, and corrosion control chemicals may be used, provided they are approved by the National Sanitation Foundation or its equivalent.

(h) Other disinfecting materials or methods may be accepted by the health authority when they have demonstrated to provide a satisfactory residual effect. This residual effect shall be easily measured and be equally as effective in conditions of use as the chlorine concentrations specified at N.J.A.C. 8:26-7.8. These disinfecting

materials shall not be dangerous to public health, shall not create objectionable physiological effects, and shall not emit toxicities into the water.

(i) Combustible chemicals shall be stored away from water, cleaning solutions, and organic materials which may cause fire or explosion. "No smoking" signs shall be posted in areas where these chemicals are stored.]

8:26-3.23 Depth markings

The owner or operator shall ensure that depth markings are accurate and in compliance with the Uniform Construction Code, N.J.A.C. 5:23, incorporated herein by reference.

8:26-3.24 Existing swimming pools and wading pools

(a) The location and construction requirements [at N.J.A.C. 8:26-3.1 to 3.18] **in this chapter** shall not apply to those swimming pools and wading pools that were constructed prior to [June 5, 2000,] **September 7, 2010**, until alterations are made.

1. Alterations shall [be made in accordance with the applicable provisions of this chapter] **conform to the requirements of the Uniform Construction Code, N.J.A.C. 5:23, incorporated herein by reference.**

2. **Alterations shall require approval by the health authority in addition to local code officials.**

3. **The pool owner or operator shall submit to the health authority all plans, specifications, reports, blueprints, and other documents detailing**

the alterations, sealed and certified by a design professional, at the same time they are submitted to the local code officials.

[(b) For each existing swimming pool or wading pool having a single drain, with or without a skimmer, in addition to complying with (c) through (f) below, at least one of the following actions shall be taken:

1. Rework the drain system to include a minimum of two drains per pump;
2. Lock the valves of the drain and skimmer in the open position to prevent the drain from becoming a sole source of suction; or
3. Install a secondary back-up system (intervening switch) which shuts down the pump when a blockage is detected.

(c) Facility staff shall inspect the swimming pool or wading pool daily to ensure that the drain covers are firmly attached and in sound condition.

(d) Noncorroding fasteners shall be used to secure all drain covers to the swimming pool or wading pool.

(e) An emergency pump shut off switch shall be installed if antivortex drain covers are not installed. The emergency pump shut off switches shall be accessible, located within sight of the swimming pool or wading pool and be prominently marked.

(f) Antivortex drain covers, if commercially available for the size of the drains, shall be installed.]

(b) All existing swimming pools and wading pools shall comply with the Virginia Graeme Baker Pool and Spa Safety Act, 15 U.S.C. §§ 8001 through 8007, which became effective on December 17, 2008.

8:26-3.25 Aquatic recreation facilities

(a) All provisions of this subchapter apply to aquatic recreation facilities, except for N.J.A.C. 8:26-3.12(b) pertaining to barriers, and N.J.A.C. 8:26-3.18(d) pertaining to depth of wading pools.

(b) N.J.A.C. 5:14A-12, Water Amusement Rides, administered by the New Jersey Department of Community Affairs, applies to aquatic recreation facilities.

1. N.J.A.C. 5:14A-12, Water Amusement Rides, is available from the New Jersey Department of Community Affairs, PO Box 808, Trenton, NJ 08625.

SUBCHAPTER 4. HOT TUBS AND SPAS

8:26-4.1 [General construction] Construction and design

(a) The hot tub or spa owner and operator shall ensure that the construction, design, signage, and safety features of a new or altered hot tub or spa conforms to the requirements of the Uniform Construction Code, N.J.A.C. 5:23, incorporated herein by reference.

[(a)] (b) (No change in text.)

[(b) The maximum depth of any seat or sitting bench, including multi-level seating, in the hot tub or spa shall be 28 inches as measured from the water line.

(c) Handholds shall be provided around the hot tub or spa perimeter where the water depth exceeds three feet six inches. Handholds shall be installed no more than four feet apart from each other. Handholds may be:

1. Coping, ledges, radiused flanges, or decks along the immediate top edge of the hot tub or spa which provides a slip-resistant handhold. This handhold shall be no more than 12 inches above the water line;

2. Ladders, steps, or seat ledges; or

3. A secured rope or railing fastened to the wall and placed no more than 12 inches above the water line.

(d) The slope of the hot tub or spa shall not exceed one foot of fall in 12 feet.

(e) There shall be no protrusions, extensions, means of entanglement, or other obstructions which can cause entrapment, entanglement, or injury to the bather.

(f) Steps, seats, ladders, or recessed treads shall be provided where hot tub or spa depths are greater than 24 inches.

(g) Hot tubs or spas shall be equipped with at least one handrail or ladder-equivalent for every 50 feet of perimeter. The handrail(s) shall designate the points of entry and exit.

(h) The design and construction of hot tub or spa steps, including recessed steps, shall conform to the following:

1. Step treads shall have a minimum unobstructed tread depth of 10 inches and a minimum width of 12 inches.

2. Riser heights shall be a minimum of seven inches and a maximum of 12 inches. When the bottom tread serves as a bench or seat, the bottom riser may be maximum of 14 inches above the hot tub or spa floor.

3. The first and the last risers need not be uniform, but shall comply with the riser height requirements specified in (h)2 above. The first (top) riser shall be measured from the finished deck.

4. Intermediate risers, those between the first and last risers, shall be uniform in height.

5. Step treads shall have slip-resistant tread surfaces.

6. Each set of steps shall be provided with at least one handrail to fully serve all treads and risers.

7. Seats or benches may be provided as part of the steps.

(i) Handrails shall be anchored so they can only be removed with tools.

1. The leading edge of the handrails which facilitate hot tub or spa exit shall be located within 18 inches from the bottom riser.

(j) The design and construction of hot tub or spa ladders shall conform to the following:

1. Ladders shall be made from corrosion resistant materials.

2. Ladder treads shall have slip-resistant tread surfaces.

3. Ladders shall provide two handholds or handrails to fully serve all treads.

4. The maximum outside diameter of handrails shall be 1.9 inches and the minimum outside diameter shall be one inch.

5. There shall be a three to six-inch clearance between any ladder and the hot tub or spa wall.

6. The clear distance between ladder handrails shall be a minimum of 17 inches and a maximum of 24 inches.

(k) The design and construction of recessed treads shall conform to the following:

1. Stepholes at the centerline shall have a maximum uniform vertical spacing of 12 inches and a minimum uniform vertical spacing of seven inches.

2. Stepholes shall have a minimum tread depth of five inches and a minimum tread width of 12 inches.

3. Stephole treads shall be slip-resistant and shall drain into the hot tub or spa to prevent the accumulation of dirt.

4. Maximum vertical distance between the coping edge and the uppermost recessed stephole tread shall be 12 inches.

5. Each set of recessed stephole treads shall be provided with two handrails to fully serve all treads and risers.]

8:26-4.2 Construction materials

All construction materials shall conform to the requirements of the Uniform Construction Code, N.J.A.C. 5:23, incorporated herein by reference.

8:26-4.3 Heater and temperature requirements

(a) The maximum temperature of hot tub or spa water shall be 104 degrees Fahrenheit **(40 degrees Celsius)**.

(b) [A thermostatic control] **Water temperature regulating controls** for maintaining the water temperature shall be installed and maintained in good operating condition.

[(c) An approved audible alarm or an equivalent device shall be installed to warn users and management if the temperature of the water exceeds 104 degrees Fahrenheit.]

[(d)] **(c)** An automatic safety device shall be installed to shut off the heater if the water temperature exceeds 104 degrees Fahrenheit **(40 degrees Celsius)**.

[(e)] **(d)** A thermometer shall be installed in the hot tub or spa. This thermometer shall be accurate to plus or minus [two] **one** degree[s] Fahrenheit **(0.56 degrees Celsius)** and shall be visible to the public.

8:26-4.4 Electrical, illumination, and ventilation requirements

(a) All electrical wiring, illumination, [and] ventilation, **and bonding and grounding certification** shall conform to the requirements of the [New Jersey] Uniform Construction Code, N.J.A.C. 5:23, **incorporated herein by reference**.

(b) Bonding and grounding certification shall be provided annually by the owner or operator of a seasonal swimming pool or wading pool to the health authority prior to the opening of the swimming pool or wading pool.

8:26-4.5 Protection of potable water

[(a) Physical connections between potable water systems and hot tub or spa circulation systems shall be prohibited.]

(b) Potable water for hot tub or spa make-up purposes shall be added through a shielded over-the-rim spout. The open end of the over-the-rim spout shall have no sharp edges and shall not protrude more than two inches beyond the edge of the hot tub or spa.

(c) An alternate method of adding make-up water may be employed, with the approval of the health authority.]

[(d)] **(a)** Protection of **the** potable water supply shall conform to the requirements of the [New Jersey] Uniform Construction Code, N.J.A.C. 5:23, **incorporated herein by reference.**

(b) An alternate method of adding potable makeup water may be employed with the approval of the health authority.

8:26-4.6 (Reserved)

8:26-4.7 Circulation systems

(a) Pump rotation direction shall be clearly indicated on the pump and all visible piping.

(b) Filters shall be designed so that filtration surfaces can be inspected and serviced.

(c) Pressure filters shall have sight glasses, or the equivalent, installed on the wastewater discharge line, so that filter washing progress may be determined. The sight glasses shall be readily removable for cleaning purposes.

(d) The circulation system shall contain a pump suction (vacuum) gauge, filter inlet pressure gauge, filter outlet pressure gauge, and flow meter.

8:26-4.8 Disinfection

(a) Disinfecting equipment shall:

1. Provide adequate and appropriate introduction, feeding, and regulating of a disinfectant into the circulation system of the hot tub or spa;

2. Consistently maintain the disinfectant residual in the hot tub or spa; and

3. Withstand wear in the course of normal use.

(b) Gas chlorination shall be prohibited.

(c) Chemical feeders, also called chemical controller systems, shall only be permitted if their installation (and use as specified in N.J.A.C. 8:26-6.14(I)) conforms to the following:

1. Chemical feeders shall be installed downstream from the filter and heater.

2. Where the chemical feeder is equipped with its own pump, the pump shall be installed, so that it introduces the gas or solution downstream from the heater and at a position lower than the heater outlet fitting.

3. Chemical feeders shall be wired, so they cannot operate unless the filter pump is running. Where the chemical feeder has an independent timer, the chemical feed pump timers shall be interlocked.

4. Erosion-type feeders shall be allowed to feed their solution to the suction side of the pump.

(d) Electrolytic chlorine generators, when used for producing chlorine for disinfection, shall conform to the following:

1. Electrolytic chlorine generators shall ensure an adequate feed to meet the chlorine residual specified at N.J.A.C. 8:26-7.12.

2. A sodium chloride test kit shall be provided to monitor the salt concentration of the hot tub or spa.

(e) Bromination, when used for disinfection, shall conform to the following:

1. A bromine test kit shall be available to monitor the bromine concentration of the hot tub or spa water.

2. Brominator equipment rooms shall be ventilated.

8:26-4.10 through 8:26-4.11 (Reserved)

8:26-4.12 Depth markings

[(a) Water depth shall be plainly and conspicuously marked in feet.

(b) The depth markings shall be spaced at maximum 25 feet intervals and shall be uniformly located around the perimeter of the hot tub or spa.

(c) The depth markings shall be placed within 18 inches of the water's edge.

(d) The depth markings shall be placed so they are legible to a person standing on the deck facing the water.]

[(e)] **(a)** (No change in text.)

[(f)] Depth markings shall be slip-resistant.]

(b) The owner or operator shall ensure that depth markings are accurate and in compliance with the Uniform Construction Code, N.J.A.C. 5:23, incorporated herein by reference.

8:26-4.13 Existing hot tubs and spas

(a) Alterations to existing hot tubs and spas shall [be made in accordance with the applicable provisions of this chapter] **conform to the requirements of the Uniform Construction Code, N.J.A.C. 5:23, incorporated herein by reference.**

1. As used in this section, "existing" means installed and in use prior to [June 5, 2000] **September 7, 2010.**

2. Alterations shall require approval by the health authority in addition to local code officials.

3. The hot tub or spa owner or operator shall submit to the health authority all plans, specifications, reports, blueprints, and other documents detailing the alterations, sealed, and certified by a design professional, at the same time they are submitted to the local code officials.

(b) (No change.)

[(c)] For each existing hot tub and spa having a single drain, with or without a skimmer, in addition to complying with (d) through (g) below, at least one of

the following actions shall be taken:

1. Rework the drain system to include a minimum of two drains per pump;
 2. Lock the valves of the drain and skimmer in the open position to prevent the drain from becoming a sole source of suction; or
 3. Install a secondary back-up system (intervening switch) which shuts down the pump when a blockage is detected.
- (d) Facility staff shall inspect the hot tub or spa daily to ensure that the drain covers are firmly attached and in sound condition.
- (e) Non-corroding fasteners shall be used to secure all drain covers to the hot tub or spa.
- (f) Pump shut off switches shall be accessible, located within sight of the hot tub or spa and prominently marked.
- (g) Antivortex drain covers, if commercially available for the size of the drains, shall be installed.]
- (c) All existing hot tubs and spas shall comply with the Virginia Graeme Baker Pool and Spa Safety Act, 15 U.S.C. §§ 8001 through 8007, which became effective on December 17, 2008.**

8:26-4.14 Aquatic recreation facilities

All provisions of this subchapter and N.J.A.C. 5:14A-12, Water Amusement Rides, administered by the Department of Community Affairs, shall apply to aquatic recreation facilities.

SUBCHAPTER 5. WATERFRONT SAFETY

8:26-5.1 Specially exempt facilities **from first aid personnel and lifeguard requirements only**

(a) Specially exempt facilities shall be exempt from mandatory compliance with the first aid personnel and lifeguard [provisions] **requirements** of this subchapter at N.J.A.C. 8:26-5.2(b), (b)1, (d), and (e); 5.6(b); [5.7(a);] 5.8(b) and (b)1; and 5.10(b), (b)1, (c), and (e).

1. This [exception] **exemption** shall not apply to specially exempt facilities which use ocean waters for bathing. [For purposes of this subchapter, invited guests may include occupants or tenants who by affirmative designation by the specially exempt facility through bathing place rules, association rules and bylaws, and lease agreements, are granted such status and corresponding responsibilities normally associated with that of an invited guest.]

2. **This exemption shall not apply to a specially exempt facility that has a functional diving board, water slide, or other recreational appurtenance that may present an increased safety risk or hazard.**

(b) A campground, private marina with a swimming pool, hotel, motel, mobile home park, or retirement community, which does not voluntarily comply with the exempted requirements listed in (a) above shall have an owner or operator on the premises at all times when its swimming area or swimming pool is open for use.

(c) A health club which does not voluntarily comply with the exempted requirements listed in (a) above shall have an owner or operator on the premises at all times when its swimming pool is open for use. The provisions of this subchapter shall not exempt a health club from the provisions of N.J.S.A. 2A:62A-30 et seq., concerning defibrillators.

[(b)] **(d)** [Specially] **Except as provided in (f) below, specially** exempt facilities [which] **that** do not voluntarily comply with the [provisions] **exempted requirements listed** in (a) above shall post a sign at least three feet by four feet in size. [This]

1. The sign shall be prominently displayed at every entrance to each swimming area, and shall state:

"No lifeguard on duty."

"Persons under the age of 16 must be accompanied by an adult."

"No swimming alone."

2. The sign shall include the hours that the public recreational bathing facility is open, and can be added to an existing sign.

3. The information on the sign shall be easily readable with contrasting colors.

[(c)] **(e)** At campgrounds, hotels, motels, mobile home parks, or retirement communities[, the]:

1. The sign shall also state:

"This swimming area [shall be] **is** closed when the owner or [manager] **operator** is not on the premises." **or**

"This pool is closed when the owner or operator is not on the premises."

2. The notice shall also be posted on a sign at least eight inches by 10 inches in size at the registration desk and in each guest room or suite of the campground, hotel or motel used for occupancy by guests.

(f) A health club that is a specially exempt facility and does not voluntarily comply with the exempted requirements listed in (a) above, shall have an owner or operator on the premises at all times when its swimming pool is open for use, and shall take the following action:

1. **Post a sign not less than three feet by four feet in size, which shall be prominently displayed at the entrance to the swimming pool.**

2. **The sign shall state:**

“No lifeguard on duty. Persons under the age of 16 are not permitted to use this pool.”

“The pool is closed when the owner or operator is not on the premises.”

3. **The notice shall also be posted on a sign at least eight inches by 10 inches in size at the member service desk of the health club.**

(g) A specially exempt facility shall inform the local health authority whether it is going to comply with the exempted provisions of this section.

8:26-5.2 Swimming pool supervision

(a) **Designated adult supervisor.** A swimming pool shall be under the management of a designated adult supervisor who is knowledgeable of [these rules] **this chapter** and who shall be responsible for all phases of the operation.

1. The name and telephone number of the designated adult supervisor shall be conspicuously posted.

2. For pools larger than 2,000 square feet, the designated adult supervisor shall possess pool director training certification. Current adult pool supervisors shall have until (one year from the effective date of this amendment) to obtain certification.

(b) At least one person currently certified in standard first aid and professional level infant, child, and adult cardiopulmonary resuscitation (CPR) by a Department of Health [and Senior Services] approved organization [as] listed in [the] **N.J.A.C. 8:26 Appendix A**, shall be on the premises, available, and readily accessible when the swimming pool is in use. [If the trained and qualified personnel are not stationed at the swimming pool side, then the facility shall conspicuously post a sign indicating the location and method of access of such personnel. The facility shall demonstrate to the health authority that said personnel are available, in reasonable proximity to the swimming pool, and can be easily contacted to enable them to render the necessary and appropriate assistance in a timely manner.] **The person shall also have training in spinal injury management.**

1. **First aid and CPR** retraining shall [only] be required [when] **prior to the expiration of** an individual's [current] certification [expires].

2. A sign shall be posted indicating the location of first aid supplies.

(c) The maintenance and mechanical operation of a swimming pool shall be under the supervision of a trained pool operator **(TPO)**.

1. The trained pool operator shall be available for mechanical and maintenance repairs and detection.

2. The trained pool operator shall have completed a pool operator course and shall have certification from a Department of Health [and Senior Services] approved organization [as] listed in [the] **N.J.A.C. 8:26 Appendix A**.

3. The trained pool operator shall visit the swimming pool at least once a week to review records and inspect the facility to ensure that it meets all regulatory requirements. Documentation of the visit shall be maintained onsite.

(d) Lifeguard requirements are as follows:

[(d)] **1. At least one lifeguard certified by an organization recognized by the Department of Health [and Senior Services as] listed in [the] N.J.A.C. 8:26 Appendix A shall be on duty [for] at swimming pools with less than 2,000 square feet of surface area and 60 or less [swimmers] bathers, at all times when the swimming pool is in use. The lifeguard(s) shall operate according to a zone of protection plan.**

2. At least two lifeguards certified by an organization recognized by the Department and listed in N.J.A.C. 8:26 Appendix A shall be on duty at swimming pools with greater than 2,000 square feet of surface area at all times when the swimming pool is in use. The lifeguards shall operate according to a zone of protection plan.

3. Additional lifeguards shall be required depending on bather load, bather activities, size, and configuration of the swimming pool, and amount of surface

area for shallow and deep water areas, emergencies, and **the** lifeguard's ability to see bathers.

4. All on-duty lifeguards shall be identified by distinguishing apparel or emblems.

5. Lifeguards who are assigned to swimming pool supervision shall not have duties that would distract or intrude upon their attention from proper observation of persons in the swimming pool area, or that prevent immediate assistance to persons in distress in the water.

6. Lifeguards who are on duty shall not perform any activities that distract them or intrude upon their attention from proper observation of persons in the swimming pool area or that prevent immediate assistance to persons in distress in the water.

i. Such activities shall include, but not be limited to, texting, using a cell phone or electronic device for any purpose, reading, personal conversations, or listening to music.

7. Each lifeguard shall be equipped with a whistle or other signaling device.

(e) Lifeguard platforms or stands shall be provided for swimming pools where water surface area is greater than 2,000 square feet, **or where there are diving areas, or where the depth of the water is greater than five feet.**

1. Lifeguard platforms or stands shall be elevated and located at the water's edge, so as to provide a clear unobstructed view of the swimming pool surface and bottom.

2. Aquatic recreation facilities may utilize an alternative method to provide a clear unobstructed view of the swimming pool surface and bottom.

(f) Each facility shall establish a written **standard operating procedure** aquatics [supervision] **facility** plan[. This plan] **that** shall be maintained [on-site] **onsite**. It shall be implemented by each facility, **shall take into account the number of bathers using the pool**, and shall contain information including, but not limited to:

1. -5. (No change.)
6. The location of first aid and rescue equipment; [and]
7. Staff emergency procedures[.];
- 8. The location of the emergency shutoff switch for suction outlets;**
- 9. Hours of operation;**
- 10. A schedule of operational activities, such as water testing and recordkeeping; and**
- 11. A zone of protection plan for the lifeguards.**

8:26-5.3 Emergency equipment for swimming pools

(a) [Swimming pools shall be provided] **The owner or operator shall provide the swimming pool** with the following readily accessible emergency equipment:

1. [Two] **One** or more assist poles or life hooks. **Telescoping poles and plastic hooks that snap on shall not be used;**
2. One or more rescue tubes for each lifeguard on duty;

i. For specially exempt facilities, at least [two] **one** ring or rescue buoy[s approved by the United States Coast Guard or Underwriter Laboratories].

3. A first aid kit [(see Appendix)] approved by the Department of Health [and Senior Services] (**See required contents in N.J.A.C. 8:26 Appendix B**). The kit shall be available at all times during bathing periods and shall be fully restocked within 24 hours of use;

4. A full spine board complete with ties, head restraints and/or straps that meet the design requirements [as specified at] of N.J.A.C. 8:40. **The board shall be kept poolside;**

5. An emergency care area for swimming pools capable of accommodating 500 or more patrons; [and]

6. A telephone, radio, signaling device, or other health authority approved means of communication, **which** shall be located near the lifeguard station for emergency use. [Commercial pay telephones shall be permitted for this purpose provided that coin deposit is not needed to access emergency assistance.] Emergency **telephone** numbers of the nearest rescue squad, [physician, ambulance,] police department, [hospital, clinic, or] **and** other appropriate entity, **and the address of the pool**, shall be posted in a weather-resistant display[.] adjacent to the [telephone] **lifeguard station**[.];

7. **One or more throw lines that can reach the other side of the pool;**
and

8. For swimming pools that have a lifeguard, an automated external defibrillator (AED).

8:26-5.4 Bather rules for swimming pools, wading pools, hot tubs and spas

(a) [Rules] **The owner or operator shall conspicuously post rules** governing admission, bathing, **hours of operation**, and conduct of patrons [shall be conspicuously posted and]. **The posting** shall include [at a minimum] the following [provisions verbatim] **language**:

1. -3. (No change.)

4. All children in diapers must wear [plastic pants with snug fitting elastic waist and leg bands] **diapers specially designed for immersion in water (such as swimmie diapers)**. Do not wash out soiled diapers in the bathing water.

5.-11. (No change.)

(b) Policies and procedures regarding water toys and floating devices shall be established to ensure a safe bathing environment **and shall be included in the Aquatics Facility Plan**.

8:26-5.5 Diving in swimming pools

(a) [Diving] **The owner or operator shall conspicuously post diving** rules [shall be conspicuously posted] in both words and symbols, in the swimming pool area.

1. Diving shall be prohibited in water depths **of** five feet or less.

2. Diving and non-diving areas shall be designated and posted with signs and symbols.

(b) Head-first diving entries during competitive swim meets and swim practices shall be permitted in less than five feet of water[, provided] **if** the following standards are met:

1. The water depth of the swimming pool at the bulkhead at pool side where **the** starting blocks are located shall be at least four feet;

2. – 5. (No change.)

8:26-5.6 Wading pool **and spray park** supervision

(a) [A responsible] **An individual supervisor**, knowledgeable and trained in a program developed by the designated adult supervisor, shall supervise the activities of the wading pool **or spray park, except for aquatic recreation facilities.**

(b) At least one individual currently certified in standard first aid and professional level adult, child, and infant CPR by a Department of Health [and Senior Services] approved organization [as] listed in [the] **N.J.A.C. 8:26 Appendix A** shall be readily accessible during wading pool **and spray park** use. If the individual is not stationed at the wading pool **or spray park**, the facility shall post a sign conspicuously placed at the wading pool **or spray park** stating how to reach this individual. The trained individual shall be able to render assistance in a safe and timely manner.

(c) The owner or operator shall post a sign that is easily readable with contrasting colors, and is prominently displayed, at the entrance or adjacent to the wading pool or spray park, that states:

“Parents or guardians are required to supervise their children at all times.” “No children are allowed in the wading pool (spray park) without adult supervision.”

(d) For aquatic recreation facilities that operate wading pools, all of the requirements of N.J.A.C. 8:26-5.2 shall apply.

8:26-5.7 Water slides

[(a) Supervision of the waterfront area of water slides shall be provided by a lifeguard as set forth at N.J.A.C. 8:26-5.2. At least one person shall supervise the activities of the water slide. Additional supervision of the water slide shall be required based on the size and configuration of the water slide and swimming pool entry area.]

(a) The owner or operator of the PRB facility shall ensure that a lifeguard meeting the requirements of N.J.A.C. 8:26-5.2 supervises the activities of the water slide at all times that it is open for use. If the lifeguard is supervising all of the activities of the waterfront, then the lifeguard shall have a clear view and rapid access to the water slide from his or her station. The local health authority may require additional supervision of the water slide after considering, at a minimum, the following factors:

- 1. Whether the water slide is higher than 15 feet;**
- 2. Whether a clear line of sight exists from the top of the water slide to the pool entry area at the bottom of the water slide;**
- 3. Whether there is a platform or other space at the top of the water slide that is large and strong enough to safely accommodate**

additional supervisory personnel and members of the public;

4. Whether supervisory personnel will be able to communicate quickly and clearly from one end of the water slide to the other to the extent necessary to ensure the safe use of the water slide by members of the public; and

5. Whether supervisory personnel will be able to quickly summon a lifeguard meeting the requirements of N.J.A.C. 8:26-5.2 to the water slide in the event of an emergency.

(b) A water slide shall not enter into less than three feet of water, **except for aquatic recreation facilities.**

(c) If the water slide enters into less than five feet of water, the end of the slide shall be no more than six inches above the surface of the water, **except for aquatic recreation facilities.**

(d) (No change.)

(e) The landing area in front of the water slide shall be used solely for water slide users entering the water.

1. The owner or operator of the PRB facility shall ensure that the water slide area and the landing area in front of the water slide are clearly delineated.

8:26-5.8 Hot tub and spa supervision

(a) (No change.)

(b) At least one person currently certified in standard first aid and professional level adult, child, and infant CPR by a Department of Health [and Senior Services] approved organization [as] listed in [the] **N.J.A.C. 8:26 Appendix A** shall be on the premises, available, and readily accessible when the hot tub or spa is in use. If the trained and qualified personnel are not stationed at the hot tub or spa, then the facility shall conspicuously post a sign indicating the location and method of access of such personnel. The qualified personnel shall be able to render assistance in a safe and timely manner.

1. **First aid and** CPR retraining shall [only] be required [when] **prior to the expiration of** an individual's [current] certification [expires].

2. **A sign shall be posted indicating the location of first aid supplies.**

(c) The maintenance and mechanical operation of a hot tub or spa shall be under the supervision of a trained pool operator. The trained pool operator shall be available for mechanical and maintenance repairs and detection. The trained pool operator shall have completed a pool operator course from a Department of Health [and Senior Services] approved organization [as] listed in [the] **N.J.A.C. 8:26 Appendix A**.

(d) A precautionary sign shall be posted adjacent to the entrance to the hot tub or spa and shall state the following:

"CAUTION"

"Pregnant women, elderly persons, those suffering from heart disease, diabetes, high or low blood pressure, or those using prescription medications should not enter this hot tub or spa without prior medical consultation and permission from their doctor."

"Unsupervised use by children under 16 years of age is prohibited."

"Do not use this hot tub or spa while under the influence of alcohol[, anticoagulants, antihistamines, vasoconstrictors, vasodilators, stimulants, hypnotics, narcotics, or tranquilizers] **or drugs.**"

"Do not use this hot tub or spa while alone."

"Shower before entering this hot tub or spa."

"There shall be a 15-minute time limit on time spent in the hot tub or spa. Long continuous exposures may result in nausea, dizziness, or fainting."

(e) A clock shall be located [next to] **where it is visible from** the hot tub or spa.

8:26-5.9 Emergency equipment for hot tubs or spas

A first aid kit approved by the Department of Health [and Senior Services] (**see required contents in N.J.A.C. 8:26 Appendix B**) shall be available at all times during bathing periods and shall be fully restocked within 24 hours of use.

8:26-5.10 Bathing beach supervision

(a) A bathing beach shall be under the supervision of a designated adult supervisor.

1. The name and telephone number of the designated adult supervisor shall be conspicuously posted.

2. The hours of operation shall [also] be conspicuously posted.

3. **The designated adult supervisor shall inspect the bathing beach at least once a week to identify hazards, review records, and make sure the bathing beach meets all regulatory requirements. Documentation of the**

inspection shall be maintained onsite. The designated adult supervisor shall use a checklist prepared by the Department.

(b) At least one person currently certified in standard first aid and professional level infant, child, and adult CPR by a Department of Health [and Senior Services] approved organization [as] listed in [the] **N.J.A.C. 8:26 Appendix A** shall be on the premises, available, and readily accessible when the bathing beach is in operation. If the trained and qualified personnel are not beach-side, then the facility shall conspicuously post a sign indicating the location and method of access of such personnel. The facility shall demonstrate to the health authority that said personnel are available[,] in reasonable proximity to the bathing beach. The qualified personnel shall be able to render assistance in a safe and timely manner.

1. **First aid and CPR** retraining shall [only] be required [when] **prior to the expiration of** an individual's [current] certification [expires].

2. **A sign shall be posted indicating the location of first aid supplies.**

(c) Lifeguard requirements are as follows:

[(c)] 1. At least one lifeguard for every 300 feet of [visible shoreline] **designated bathing area** shall be on duty at all times when [the] **an ocean or bay** bathing beach is in operation.

2. **At least two lifeguards for every 300 feet of designated bathing area shall be on duty at all times when any other bathing beach is in operation, except when the designated bathing area is less than 100 feet, when only one lifeguard is required.**

3. Additional lifeguards shall be required depending upon bather load, currents, tides, contour or slope of the beach, and any other condition(s) which may cause changes in water conditions.

4. All on-duty lifeguards shall be identified by distinguishing apparel or emblems.

5. Lifeguards who are assigned to supervision of the bathing beach shall not have duties that would distract or intrude upon their attention from proper observation of persons in the water and beach area, or that prevent immediate assistance to persons in distress in the water.

6. Lifeguards who are on duty shall not perform any activities that distract them or intrude upon their attention from proper observation of persons in the water and beach area, or that prevent immediate assistance to persons in distress in the water, such as texting, looking at a cell phone screen, or listening to music.

7. Each lifeguard shall be equipped with a whistle or other signaling device.

[1.] **8. [A] For ocean and bay waters, a lifeguard training program certified by [the United States Lifesaving Association] a Department of Health approved organization listed in N.J.A.C. 8:26 Appendix A shall be established by the owner or operator [for ocean and tidal waters].**

(d) Each bathing beach shall establish a written **standard operating procedure** aquatics [supervision] **facility** plan. It shall be implemented and maintained by each

facility [on-site] **onsite, shall take into account the number of bathers using the beach**, and shall contain information including, but not limited to:

1. A map of the bathing beach, **which shall show all known hazards;**
2. -5. (No change.)
6. The location of first aid and rescue equipment; [and]
7. Staff emergency procedures[.];
- 8. Hours of operation; and**
- 9. A schedule of operational activities, such as recordkeeping, but**

not limited to, recordkeeping.

(e) Lifeguard stand requirements are as follows:

[(e)] **1.** Lifeguard stations shall be located within 30 feet of the shoreline.

2. Lifeguards shall be isolated from the beach crowds on elevated [slats or] stands.

3. These [slats or] stands shall be high **enough**, so as to give the lifeguards a complete and unobstructed view of the bathing area.

4. There shall be at least one lifeguard on each stand.

(f) Hazard safety requirements are as follows:

[(f)] **1.** Swimming areas shall be maintained in a clean and safe condition, free from rocks, holes, and hidden dangers.

2. Any known hazard in the vicinity shall be properly safeguarded and marked as such.

(g) [Each] **The** bathing beach shall be designated by buoys, flags, or other methods approved by the health authority.

8:26-5.11 Bather rules for bathing beaches

Bather rules and policies shall be provided **and signs posted** as specified in the [regulations] **rules** governing swimming pools at N.J.A.C. 8:26-5.4(a)3, 4, 5, 6, 7, 9, 10, and 11, and 5.4(b).

8:26-5.12 Lifesaving equipment for bathing beaches

(a) Lifesaving equipment shall be [provided] **immediately accessible** in case of an emergency. The equipment shall include, at a minimum:

1. One reach pole measuring at least 12 feet with blunt ends[. The reach pole] shall be provided at bathing beaches where docks [or similar protruding structures] are located in the bathing area[.];

2. One [ring buoy 18 inches in diameter attached to a 60-foot length $\frac{1}{4}$ -inch rope shall be provided at each lifeguard station. A] rescue tube, **rescue can**, or torpedo buoy, [or similar device] with sufficient line attached [may also be used] **shall be provided at each lifeguard station**;

[3. A 600 foot $\frac{1}{4}$ -inch poly rope with brass swivel snap hooks shall be provided at each lifeguard station at ocean bathing beaches]

3. An automated external defibrillator (AED) shall be provided if the bathing beach is capable of accommodating 500 swimmers and bathers, or if a lifeguard is present;

4. A [paddle rescue device] **surfboard, rowboat, or similar means of conveyance** capable of supporting two adults;

5. A first aid kit [(see Appendix) approved by the Department of Health and Senior Services] **meeting the requirements contained in N.J.A.C. 8:26 Appendix B** shall be available at all times during bathing periods and shall be fully restocked within 24 hours of use;

6. (No change.)

7. [Every] **An emergency care room if the** bathing beach **is** capable of accommodating 500 swimmers and bathers [shall have an emergency care room]; and

8. A telephone or other means of communication approved by the health authority, **which** shall be located near the lifeguard station for emergency use. Emergency **telephone** numbers for the nearest rescue squad, [physician, ambulance,] police department, [hospital, clinic, or] **and** other appropriate entity, **and the address of the bathing beach**, shall be posted in a weather-resistant display adjacent to the [telephone or communication device] **lifeguard station**.

8:26-5.13 Diving stands and boards for bathing beaches

(a) Diving stands and boards for bathing beaches shall conform to the diving rules at N.J.A.C. 8:26-5.5 governing swimming pools. **Diving shall be prohibited at bathing beaches in water depths of less than eight feet.**

(b) [Fixed platforms] **Platforms** for bathing beaches are permitted if they are constructed with a visible one-foot air space below the platform **or designed to prevent entanglement or trapping of the bathers**. [There shall be little underwater

construction consistent with the strength requirements of the platform. All braces and struts shall be designed to prevent entanglement or trapping of the bathers.]

1. [Fixed platforms shall be permitted for] **For** bay or tidal waters, [provided] there [is] **shall be** a visible one-foot air space below the platform at the flood high tide mark.

2. The minimum water depth surrounding a [fixed] platform [or float] without a diving board or similar device shall be eight feet for an outward distance of 12 feet from the platform.

3. Dock platforms where diving is prohibited do not have to meet the requirement of eight feet of minimum water depth for an outward distance of 12 feet from the platform. Dock platforms are mainly used for supervision and walking above a swimming area.

[3.] **4.** Where a [fixed] platform [or float] has a diving board or other device three or more feet above the water, the water depth at the end of the board shall be at least 12 feet for a distance of 12 feet beyond the end of the board, and in all cases the minimum depths shall extend nine feet to each side of the board or platform.

8:26-5.14 Waterfront restrictions for bathing beaches

Waterfront restrictions for bathing beaches shall be posted and shall include the following [verbatim] **language**:

"No motorized vehicles, except emergency and maintenance vehicles, shall be permitted in the bathing area during its use."

"No boating, water skiing, sailboating, windsurfing, scuba diving, **use of personal watercraft**, or surfboarding shall be permitted in the swimming and bathing area while in use."

["Rope drops shall not be permitted except those licensed and inspected by the Department of Community Affairs pursuant to N.J.S.A. 5:3-31 through 55"]

8:26-5.15 Aquatic recreation facility supervision

All provisions of this subchapter and N.J.A.C. 5:14A-12, Water Amusement Rides, administered by the Department of Community Affairs, shall apply to aquatic recreation facilities, except that the phrase "and 60 or less bathers" in N.J.A.C. 8:26-5.2(d)1 shall not apply to wave pools.

SUBCHAPTER 6. GENERAL SANITATION, [AND] MAINTENANCE, AND OPERATIONS

8:26-6.1 General provisions

(a) A swimming pool, **wading pool**, hot tub, spa, **aquatic recreation facility**, or bathing beach shall be maintained in a clean, sanitary, and safe condition. [The health authority may require a public recreational bathing place to correct or eliminate any specific condition not described in these rules, but which it deems necessary for proper sanitation, safety, or fire protection.]

(b) Dressing rooms and [sanitary facilities] **bathrooms** shall be provided at all public recreational bathing [places unless dressing rooms and sanitary facilities are

provided in close proximity to the swimming pool, wading pool, hot tub, or spa and are of adequate capacity and number. Bathing beaches constructed prior to November 4, 1986 shall be exempt from this requirement] **facilities.**

1. Public recreational bathing facilities constructed prior to November 4, 1986, shall not be required to provide dressing rooms.

i. Bathrooms at these facilities may be portable.

2. Dressing rooms and bathrooms shall meet the requirements of the Uniform Construction Code – Plumbing, N.J.A.C. 5:23, incorporated herein by reference, at time of construction or alteration.

(c) For public recreational bathing facilities constructed prior to September 7, 2010, except aquatic recreation facilities:

1. Dressing rooms and bathrooms shall be provided within 50 feet of the swimming pool, wading pool, hot tub, or spa, and at the entrance to the bathing beach in an area that is serviceable.

2. At least one bathroom shall be provided. It may be portable.

3. For existing condominium associations where all residences are within 100 feet of the swimming pool, a separate dressing room and bathroom near the pool is not required.

(d) Dressing rooms and bathrooms at aquatic recreation facilities shall comply with the Uniform Construction Code, N.J.A.C. 5:23, incorporated herein by reference, at time of construction or alteration.

(e) The requirements for dressing rooms and bathrooms at swimming pools, wading pools, hot tubs, spas, or aquatic recreation facilities constructed

prior to enactment of the Uniform Construction Code – Plumbing, may be increased, modified, or waived by the health authority for reasons, such as number of bathers using the pool, nearness of bathrooms to required distance, or other good cause.

8:26-6.2 Dressing rooms and [bathhouses] **bathrooms**

(a) Dressing rooms and [bathhouses] **bathrooms** shall conform to the requirements of the [New Jersey] Uniform Construction Code, N.J.A.C. 5:23, **incorporated herein by reference, at time of construction or alteration.**

(b) [Separate dressing rooms and sanitary facilities shall be provided for each sex.] Line of sight shall be broken at the entrances and exits of the **bathrooms and** dressing rooms. [The room shall be well lit, drained, ventilated, and constructed from impervious materials.]

[(c) Floors shall have a slip-resistant surface that shall be relatively smooth and readily cleanable. The floors shall be sloped at least one-quarter inch per foot toward the floor drains to ensure drainage.

(d) Walls and partitions of the dressing room area, screen partitions, shower partitions, toilet partitions, and dressing room booths shall be constructed of durable material which is not subject to water damage. A waterway shall be provided between the bottom of the partitions and the floor to permit thorough cleaning of the walls and floor area with hoses and brooms.]

8:26-6.3 Showers

[(a)] Showers shall conform to the requirements of the [New Jersey] Uniform Construction Code - **Plumbing**, N.J.A.C. 5:23, **incorporated herein by reference, at time of construction or alteration.**

[(b)] Shower stall floors which are located adjacent to walkways shall be lower than the level of the walkways.

(c) The cross-sectional area of the floor drains in shower rooms and stalls shall be at least twice the cross-sectional area of the outlet pipe to which it is connected.

(d) Wood slats or wood flooring material and slopes which are conducive to slipping, tripping, or falling shall not be used.]

8:26-6.4 [Water closets and lavatories] **Bathrooms**

(a) [Water closets and lavatories] **Bathrooms** shall conform to the requirements of the [New Jersey] Uniform Construction Code - **Plumbing**, N.J.A.C. 5:23, **incorporated herein by reference, at time of construction or alteration.**

[(b)] Water closets shall be enclosed with noncorrosive partitions. There shall be sufficient space between the floor and the bottom of the partition to permit washing of the floor.]

[(c)] **(b)** Fixtures shall conform to the following requirements:

1. Toilet tissue holders[,] **shall be** supplied with an adequate supply of toilet tissues[,] **and** shall be provided at each toilet.

2. Suitable receptacles shall be provided **in each bathroom** for [paper towels and] waste materials. Such receptacles in [toilet rooms] **bathrooms** for women shall be covered.

3. **Either paper towels or air hand-driers shall be provided in each bathroom. Paper towel holders, if used, shall be supplied with an adequate supply of paper towels. Air hand-driers, if used, shall be maintained in working order.** Common towels shall not be permitted.

4. Soap dispensers [for providing either liquid or powdered soap] shall be provided [at each lavatory] **in each bathroom and shall be supplied with an adequate supply of soap.** The soap dispenser shall be made of all metal or all plastic materials. Glass shall not be permitted in [these units] **soap dispensers.**

5. [Unbreakable] **Shatter-resistant** mirrors shall be provided **in each bathroom.**

6. **Portable bathrooms shall comply with (b)1 and 4 above. A hand-sanitizer dispenser may be used in lieu of a soap dispenser for portable bathrooms.**

8:26-6.5 Wastewater disposal

(a) The wastewater disposal system shall be of adequate size to serve the facility including the [bathhouse] **bathroom**, locker room, and related accommodations.

(b) - (d) (No change.)

(e) **The owner shall obtain approval from the local health authority and/or the Department of Environmental Protection, as applicable, for disposal of**

wastewater. All wastewater shall be disposed of by one of the following approved methods:

1. [Sanitary sewer:] The discharge of any wastewater into a sanitary sewer shall [have the approval of] **be approved by** the appropriate sewer authority or the municipality that owns and/or operates the treatment system.

2. [Natural waters:] The discharge of any wastewater into the natural waters of the State shall not be allowed without a **New Jersey Pollutant Discharge Elimination System (NJPDES)** permit issued by the State Department of Environmental Protection, Division of Water Quality, [Bureau] **Office** of [Standard Permitting] **Permit Management**, PO Box 029, Trenton, New Jersey 08625-0029.

i. A wastewater treatment plant that discharges treated effluent into the waters of this State shall be designed and constructed pursuant to the NJPDES rules, N.J.A.C. 7:14A.

ii. A wastewater treatment plant shall not be approved where a public sanitary sewer system, as set forth in N.J.A.C. 7:9A-1.6(e), is available, but inconsistent with the Water Quality Management Planning rules, N.J.A.C. 7:15, or as specified by local ordinance.

3. [Subsurface sewage disposal facilities:] The location, **design**, and construction of a subsurface sewage disposal system shall conform to the requirements of Standards for [the Construction of] Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A, the New Jersey Water Pollution

Control Act [Regulations] **rules**, N.J.A.C. 7:14, and local laws, ordinances, and regulations.

i. Septage shall be disposed of pursuant to the Statewide Sludge Management Plan and the NJPDES rules, N.J.A.C. 7:14A.

8:26-6.6 Solid waste disposal

(a) Solid waste shall be disposed of pursuant to the [solid waste management] **Solid Waste** rules, **found** at N.J.A.C. 7:26, promulgated by the Department of Environmental Protection, and [any] other applicable rules and regulations.

[(b) All garbage and rubbish shall be stored in durable, fly-tight, water-tight containers equipped with a tight fitting lid.]

[(c)] **(b)** There shall be [a sufficient number of] **enough** containers to hold all of the garbage and rubbish which accumulates between periods of removal from the premises.

[(d)] **(c)** Bulk storage facilities shall be sized [adequately] for the storage of all garbage and rubbish.

[(e)] **(d)** (No change in text.)

[(f)] **(e)** All garbage and rubbish shall be disposed of [at least twice a week and] **frequently enough and** in such a manner as to prevent a public health nuisance.

8:26-6.7 Potable water supply

The potable water supply shall be of adequate quantity, of a safe[,] **and** sanitary quality, and from a water system which is constructed, protected, operated, and maintained pursuant to the New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et

seq., [its attendant rules at] N.J.A.C. 7:10, and local laws, ordinances, and regulations.

[Copies of these documents can be obtained by writing to the Department of Environmental Protection, Bureau of Potable Water, PO Box 029, Trenton, New Jersey 08625-0029.]

8:26-6.8 Drinking water [fountains] **facilities**

Drinking water [fountains] **facilities** shall conform to the requirements of the [New Jersey] Uniform Construction Code, N.J.A.C. 5:23, **incorporated herein by reference, at time of construction or alteration.**

8:26-6.9 Food service

All food service [and milk supplies] **suppliers** shall conform to the requirements of **Sanitation in Retail Food Establishments**, N.J.A.C. 8:24.

8:26-6.10 Plumbing

The installation[, maintenance, repair, and control] of plumbing shall conform to the requirements of the New Jersey Uniform Construction Code, N.J.A.C. 5:23, **incorporated herein by reference.**

8:26-6.11 Insect, rodent, and weed control

(a) The application of pesticides shall conform to the provisions of the New Jersey Pesticide Control [Regulations] **Code**, N.J.A.C. 7:30.

(b) Effective control measures shall be used to minimize and/or eliminate the presence of rodents, flies, roaches, and other vermin on the premises. The public recreational bathing [place] **facility** shall be kept in such condition as to prevent the harborage or breeding of vermin.

(c) – (d) (No change.)

8:26-6.12 Recreational equipment

(a) [Recreational] **The owner or operator shall inspect recreational equipment, including playground devices, [shall be inspected for defects] at least once per week during the **use** season.**

(b) [A] **The owner or operator shall maintain a** written record of these inspections [shall be maintained] for a minimum of one year.

(c) [Recreational] **The owner or operator shall maintain recreational equipment [shall be maintained] in safe operating condition at all times.**

8:26-6.13 Operational requirements for swimming pools and wading pools

(a) **All surfaces shall be smooth and easily cleaned and free of cracks.**

(b) **The color, pattern, or finish of the pool interior shall not obscure the presence of objects or surfaces within the pool.**

(c) **There shall be no protrusions, extensions, means of entanglement, or other obstruction in the swimming area of the swimming pool which can cause entrapment or injury of bathers.**

(d) The maximum user load of a swimming pool shall conform to the requirements of the Uniform Construction Code, N.J.A.C. 5:23, incorporated herein by reference.

(e) The surface skimming system shall be maintained in good working order and have proper water flow levels at all times.

(f) The drainage system shall remove pool splash water, deck water, and rain water and prevent it from re-entering the pool.

(g) Yard drains shall prevent the accumulation or puddling of water in the general area of the deck and related improvements.

(h) Underwater illumination shall permit the deepest portion of the swimming pool floor to be clearly visible from the swimming pool's edge.

(i) Diving stands, boards, slides, and floats shall be maintained according to the requirements of the Uniform Construction Code, N.J.A.C. 5:23, incorporated herein by reference.

(j) Diving equipment used by the general public shall not be more than 10 feet above the water level, and shall have slip-resistant surfaces.

(k) The owner or operator shall ensure that the circulation system meets the requirements as follows:

1. The pumps, piping, return inlets and suction outlets, filters, and other necessary equipment in the circulation system shall be maintained to ensure the complete circulation of water throughout all parts of the swimming pool.

2. The circulation system shall be operated, so as to turn over the entire swimming pool water capacity at least once every six hours and the wading pool water capacity at least once every hour. Pumps shall be operated 24 hours a day and seven days a week.

i. The facility owner may install an energy efficient two-speed pump to save energy when the pool is closed at night. If such a pump is installed, the turnover rates do not have to be met during the night when the pool is closed. The facility's TPO shall determine when the pump shall be brought up to full speed prior to the facility's opening.

3. Swimming pool water clarity shall be maintained so that the deepest portion of the swimming pool floor is clearly visible from the swimming pool's edge.

4. The pump and component parts of the circulation system, including filters, shall be operated in a safe manner that is not hazardous to the operator and maintenance personnel.

5. Mechanical seals shall be corrosion resistant and shall be maintained in good repair.

6. Direction of water flow and pump rotation shall be clearly indicated on pumps and on all visible piping.

7. Strainers shall be provided on all filter systems, shall be removable, and shall be located upstream of the circulation pump(s) to

remove solids, debris, hair, and lint. Water entering the pump shall first pass through the removable strainer.

8. Filters shall be cleaned and maintained pursuant to the manufacturer's instructions, so that the circulation system can provide the required water clarity.

(l) The swimming pool or wading pool shall be closed if the suction outlet covers are missing, broken, or secured in such a way that they can be removed without the use of tools, or if the main drain cover is missing, broken, or loose, and shall remain closed until it is properly repaired or replaced. The swimming pool or wading pool shall be inspected daily to ensure that the suction outlet and drain covers are firmly attached and in sound condition.

(m) The owner or operator shall ensure that the disinfection of all pools is in compliance with the Uniform Construction Code, N.J.A.C. 5:23, incorporated herein by reference.

1. Swimming pool and wading pool water shall be continuously disinfected by a disinfecting agent which gives off an easily measured residual.

2. The disinfecting agent shall be subject to simple and accurate field testing procedures.

3. Disinfecting agents and apparatus shall be acceptable if:

i. They are registered for said use by the United States Environmental Protection Agency and the Department of Environmental Protection; and

ii. They have been demonstrated to provide a satisfactory residual effect that shall be easily measured and equally as effective in conditions of use as the chlorine concentrations specified in N.J.A.C. 8:26-7.8.

4. Chemical controller systems shall comply with the following use requirements, in addition to the installation requirements of N.J.A.C. 8:26-3.22(d):

i. A preventive maintenance plan shall be written and maintained onsite, and be provided to the health authority upon request.

(1) The plan shall ensure the accuracy of the controller and its sensors.

(2) The plan shall be in accordance with the manufacturer's recommendations.

(3) The plan shall show how the pool operator can ensure that the acid, base, chlorine, or bromine feeders turn on or off to maintain proper levels and residuals.

ii. A chart detailing the specific oxidation-reduction potential with its chlorine or bromine residual equivalent for each individual pool shall be readily available onsite.

iii. The operator shall ensure on a daily basis that readouts on the oxidation-reduction potential and pH readings coincide with the manual test and are documented.

iv. All recordkeeping required by N.J.A.C. 8:26-6.13(m)4 shall be maintained onsite.

v. If the chemical controller system is being used in place of the two-hour testing requirement of N.J.A.C. 8:26-7.7(a), then the owner or operator shall:

(1) Test the pool manually at least twice a day with a DPD or equivalent test kit, when it opens and when it closes, each day the pool is open, and document these tests; and

(2) Ensure that the data collected by the chemical controller system has the capacity to be downloaded, stored, and printed upon the request of the health authority.

5. Electrolytic chlorine generators, when used for producing chlorine for disinfection, shall conform to the following:

i. Electrolytic chlorine generators shall ensure an adequate feed to meet the chlorine residual specified in N.J.A.C. 8:26-7.8.

ii. A sodium chloride test kit shall be provided to monitor the salt concentration of the swimming pool or wading pool water.

6. Bromination, when used for disinfection, shall conform to the following:

i. A bromine test kit shall be available to monitor the bromine concentration of the swimming pool or wading pool water.

ii. Brominator equipment rooms shall be constructed and ventilated.

(n) The depth of water shall be plainly and conspicuously marked in feet and inches. Meters may be used in addition to feet. The following abbreviations may be used: ft., in, and m. The depth markings shall be on the vertical swimming pool wall at or above the water surface and on the top of the coping or edge of the deck or on the walkway next to the swimming pool.

(o) All equipment, fixtures, and the circulation system shall be maintained in good working order and shall not cause any safety issues for bathers.

8:26-6.14 Operational requirements for hot tubs and spas

(a) All surfaces shall be smooth and easily cleaned and free of cracks.

(b) The color, pattern, or finish of the hot tub or spa interior shall not obscure the presence of objects or surfaces within the hot tub or spa.

(c) There shall not be any obstructions in the hot tub or spa that can cause the user to become entrapped or injured. Types of entrapment can include, but are not limited to, wedge or pinch-type openings, and rigid non-moving cantilevered protrusions.

(d) The maximum user load of a hot tub or spa shall conform to the requirements of the Uniform Construction Code, N.J.A.C. 5:23, incorporated herein by reference, and the manufacturer's recommendations.

(e) The surface skimming system shall be maintained in good working order and have proper water flow levels at all times.

(f) The drainage system shall remove hot tub or spa splash water, deck water, and rain water and prevent it from re-entering the hot tub or spa.

(g) Yard drains shall prevent the accumulation or puddling of water in the general area of the deck and related improvements.

(h) Underwater illumination shall permit the deepest portion of the hot tub's or spa's floor to be clearly visible from the hot tub's or spa's edge.

(i) Pump shut off switches shall be accessible, located within sight of the hot tub or spa, and be prominently marked.

(j) Circulation system:

1. The pumps, piping, return inlets and suction outlets, filters, and other necessary equipment in the circulation system shall be maintained to ensure the complete circulation of water throughout all parts of the hot tub or spa.

2. The circulation system shall be operated, so as to turn over the entire hot tub or spa water capacity at least once every 30 minutes. Pumps shall be operated 24 hours a day and seven days a week.

i. When the facility is not open, the turnover can be every six hours if a multiple-speed pump is utilized.

3. Hot tub or spa water clarity shall be maintained so that the deepest portion of the hot tub or spa floor is clearly visible from the hot tub's or spa's edge.

4. The pump and component parts of the circulation system, including filters, shall be operated in a safe manner that is not hazardous to the operator and maintenance personnel.

5. Mechanical seals shall be corrosion resistant and shall be maintained in good repair.

6. Direction of water flow and pump rotation shall be clearly indicated on pumps and on all visible piping.

7. Strainers shall be provided on all filter systems, shall be removable, and shall be located upstream of the circulation pump(s) to remove solids, debris, hair, and lint. Water entering the pump shall first pass through the removable strainer.

8. Filters shall be cleaned and maintained pursuant to the manufacturer's instructions, so that the circulation system can provide the required water clarity.

(k) The hot tub or spa shall be closed if the suction outlet covers are missing, broken, or secured in such a way that they can be removed without the use of tools, or if the main drain cover is missing, broken, or loose, and shall remain closed until it is properly repaired or replaced. The hot tub or spa shall be inspected daily to ensure that the suction outlet and drain covers are firmly attached and in sound condition.

(l) The owner or operator shall ensure that the disinfection of the hot tub or spa is in compliance with the Uniform Construction Code, N.J.A.C. 5:23, incorporated herein by reference.

1. Hot tub or spa water shall be continuously disinfected by a disinfecting agent which gives off an easily measured residual.

2. The disinfecting agent shall be subject to simple and accurate field testing procedures.

3. Disinfecting agents and apparatus shall be acceptable if:

i. They have been registered for said use by the United States Environmental Protection Agency and the Department of Environmental Protection; and

ii. They have been demonstrated to provide a satisfactory residual effect which shall be easily measured and equally as effective in conditions of use as the chlorine concentrations specified in N.J.A.C. 8:26-7.12.

4. An appropriate test kit specific for the disinfecting agent shall be used to monitor and document the concentration of the disinfecting agent in the hot tub or spa water.

5. Chemical controller systems shall comply with the following use requirements, in addition to the installation requirements of N.J.A.C. 8:26-3.22(d):

i. A preventive maintenance plan shall be written and maintained onsite, and be provided to the health authority upon request.

(1) The plan shall ensure the accuracy of the controller and its sensors.

(2) The plan shall be in accordance with the manufacturer's recommendations.

(3) The plan shall show how the pool operator can ensure that the acid, base, chlorine, or bromine feeders turn on or off to maintain proper levels and residuals.

ii. A chart detailing the specific oxidation-reduction potential with its chlorine or bromine residual equivalent for each individual pool shall be readily available onsite.

iii. The operator shall ensure on a daily basis that readouts on the oxidation-reduction potential and pH readings coincide with the manual test and are documented.

iv. All other recordkeeping required by this chapter shall be maintained onsite.

6. Electrolytic chlorine generators, when used for producing chlorine for disinfection, shall conform to the following:

i. Electrolytic chlorine generators shall ensure an adequate feed to meet the chlorine residual specified in N.J.A.C. 8:26-7.12.

ii. A sodium chloride test kit shall be provided to monitor the salt concentration of the hot tub or spa water.

7. Bromination, when used for disinfection, shall conform to the following:

i. A bromine test kit shall be available to monitor the bromine concentration of the hot tub or spa water; and

ii. Brominator equipment rooms shall be constructed and ventilated.

(m) The depth of water shall be plainly and conspicuously marked in feet and inches. Meters may be used in addition to feet. The following abbreviations may be used: ft., in, and m. The depth markings shall be on the vertical hot tub or spa wall at or above the water surface and on the top of the coping or edge of the deck or on the walkway next to the hot tub or spa.

(n) All equipment, fixtures, and the circulation system shall be maintained in good working order and shall not cause any safety issues for bathers.

8:26-6.15 Operational requirements for aquatic recreation facilities

The provisions of N.J.A.C. 8:26-6.13 and 6.14, and the operations provisions of N.J.A.C. 5:14A-12, Water Amusement Rides, administered by the Department of Community Affairs, shall apply to aquatic recreation facilities.

8:26-6.16 General sanitation and maintenance

(a) Dressing room, shower, and bathroom requirements are as follows:

1. Walls and partitions of the dressing room and bathroom area, screen partitions, shower partitions, toilet partitions, and dressing room booths shall be constructed of durable material that is not subject to water damage.

2. Dressing rooms, showers, and bathrooms shall be maintained, cleaned, and disinfected at a minimum on a daily basis, and more frequently, as necessary.

3. Wood slats or wood flooring material that is conducive to slipping, tripping, or falling shall not be used in showers.

4. Toilets shall be enclosed with non-corrosive partitions. Partitions shall be maintained in good condition.

(b) A bathing beach owner or operator shall keep the bathing beach area free from solid waste such as garbage, medical waste, plastic, glass, metal, organic waste material, oil, grease, and other materials that may cause health or safety hazards. If present, said material shall be disposed of in a timely manner, so as to prevent health or safety hazards to swimmers, bathers, and beach users.

1. All garbage and other solid waste shall be stored in durable, fly-tight, water-tight containers equipped with a tight fitting lid.

(c) The maintenance, repair, and control of plumbing shall conform to the requirements of the Uniform Construction Code, N.J.A.C. 5:23, incorporated herein by reference.

SUBCHAPTER 7. SAMPLING AND WATER QUALITY CRITERIA

8:26-7.1 Water source for swimming pools, wading pools, hot tubs, spas, or aquatic recreation facilities

(a) Fresh water for swimming pool, wading pool, hot tub, [or] spa, or aquatic recreation facility use shall be obtained from a potable water source[,] approved by the [New Jersey] Department of Environmental Protection (NJDEP), the [New Jersey] Department of Health [and Senior Services], or the local health authority.

(b) Any source other than a potable water supply shall meet the following requirements:

1. For the water used to initially fill the swimming pool, wading pool, hot tub, spa, or aquatic recreation facility, the alternative water source shall be tested prior to use, shall be free of coliform bacteria and contain an adequate level of free chlorine (minimum level of one ppm), and shall meet the definition for potable water.

2. For the water used to replace water in the swimming pool, wading pool, hot tub, spa, or aquatic recreation facility, a fresh water source that is free of coliform bacteria and contains an adequate level of free chlorine (minimum level of one ppm) shall be used.

[(b)] (c) [Salt] Natural salt water for use in salt water pools shall be obtained from a source which meets the water quality criteria for a salt water bathing beach [as] set forth at N.J.A.C. 8:26-7.18 and 7.19.

8:26-7.2 Microbiological sampling for public recreational bathing [places] **facilities**

(a) All microbial analyses for public recreational bathing [places] **facilities** shall be performed by a laboratory certified **for wastewater testing** by the [New Jersey] Department of Environmental Protection, pursuant to the Regulations Governing the Certification of Laboratories and Environmental Measurements, N.J.A.C. 7:18, **which shall use NJDEP Sanctioned Analytical Methods (DSAMs).**

(b) DSAMs approved by the United States Environmental Protection Agency (USEPA) for non-potable water testing in accordance with 40 CFR 136.3 –

Tables 1A and 1H, and 40 CFR 141.74(a) (surface water regulations for heterotrophic plate count bacteria), incorporated herein by reference.

(c) Information concerning laboratory certification may be obtained from the New Jersey Department of Environmental Protection, Office of Quality Assurance, PO Box 424, Trenton, New Jersey 08625-0424.

(d) All analyses shall be conducted in accordance with the standards set forth at N.J.A.C. 7:18 and the methodologies set forth at N.J.A.C. 7:18-2.22.

8:26-7.3 Sample collection for swimming pools, wading pools, hot tubs, [and] spas, **and aquatic recreation facilities**

(a) Water samples shall be collected [only] **prior to opening for the season and** when the swimming pool, wading pool, hot tub, [or] spa, **or aquatic recreation facility** is in use and during periods of maximum user load. The hour of the day and the day of the week of sample collection shall be varied to obtain, over a period of time, a representative sampling of the sanitary quality of the swimming pool, wading pool, hot tub, [or] spa, **or aquatic recreation facility**.

(b) Sampling shall be done at least once every week during periods of maximum [use] **user** load.

1. (No change.)

(c) (No change.)

(d) The following sampling technique shall be used:

1. The sample shall be taken at least 18 inches below the water surface in the vicinity of groups of bathers[;]. **If the water depth is less than 18 inches,**

the sample shall be taken at one half the level of the water depth in the sampling area. For spray areas, the sample shall be taken at the source of the water;

2. – 3. (No change.)

4. The sterile container shall be plunged [vertically] into the water **in a forward-sweeping manner** while making sure that the dechlorinating agent is not washed out;

5. – 8. (No change.)

8:26-7.4 [Disposition] **Processing** of water samples from public recreational bathing [places] **facilities**

(a) The [sample(s)] **samples** taken from swimming pools, wading pools, hot tubs, [and] spas, **and aquatic recreation facilities** shall be taken to a certified laboratory within [30] **eight** hours of collection for processing.

(b) Samples taken from bathing beaches shall be taken to a certified laboratory [within six hours of collection for processing] **in time for the sample to be put into an incubator or water bath within eight hours of sample collection.**

(c) The sample(s) shall be refrigerated immediately upon collection or kept in an ice chest and held [between 34 degrees and 39] **at less than 50** degrees Fahrenheit **(10 degrees Celcius)** while being transported. **Samples shall not be frozen.**

(d) Information documenting the sampling time, sampling date, location of sample collection, sampler's identification and desired analysis(es) shall accompany the sample.

8:26-7.5 Microbiological water quality standards for swimming pools, [and] wading pools, **and aquatic recreation facilities**

(a) **A** Heterotrophic plate count shall be performed in accordance with [the procedures set forth in Method 9215B pour plate method, found in the 19th edition of "Standard Methods for the Examination of Water and Wastewater," American Public Health Association, incorporated herein by reference, as amended and supplemented] **DSAM procedures approved by the NJDEP in accordance with the authority codified at N.J.A.C. 7:18**. The number of colony forming units (CFU) shall not exceed 200 colonies per one milliliter sample.

(b) Total coliform [densities:] **density requirements are as follows:**

1. The multiple-tube fermentation technique for total coliform densities shall be conducted in accordance with [the procedures set forth in Method 9221A, B, C found in the 19th edition of "Standard Methods for the Examination of Water and Wastewater," American Public Health Association, incorporated herein by reference, as amended and supplemented] **DSAM procedures approved by the NJDEP in accordance with the authority codified at N.J.A.C. 7:18**. None of the 10 standard 10 milliliter portions **or the single 100 ml portion** shall show the presence of the coliform group.

2. The membrane filtration technique for total coliform densities shall be conducted in accordance with [the procedures set forth in Method 9222A, B, C found in the 19th edition of "Standard Methods for the Examination of Water and Wastewater," American Public Health Association, incorporated

herein by reference, as amended and supplemented] **DSAM procedures approved by the NJDEP in accordance with the authority codified at N.J.A.C. 7:18.** The number of coliform organisms shall be less than one colony per 100 milliliter sample.

8:26-7.6 Samples not meeting standards

(a) A certified laboratory, having determined that a sample[(s)] does not meet the microbiological standards set forth at N.J.A.C. 8:26-7.5, 7.11, [and] **or 7.18**, shall notify the **local and State** health [authority] **authorities** and the swimming pool, wading pool, hot tub, spa, **aquatic recreation facility**, or bathing beach operator by [telephone on the same day that] **a method specified by the local health authority, within one hour of** an unsatisfactory sample result [was] **being** obtained.

1. The swimming pool, wading pool, hot tub, spa, **aquatic recreation facility**, or bathing beach shall be resampled.

2. The certified laboratory [must] **shall** provide a written report **to the local health authority and the client** within [five] **one** business day[s] after obtaining an unsatisfactory sample result.

(b) Upon notification of an unsatisfactory sample result, the health authority [or its authorized agent] shall require the swimming pool, wading pool, hot tub, spa, **aquatic recreation facility**, or bathing beach operator to have additional sample(s) taken **within 24 hours** and analyzed.

[1.] **(c)** Health authorities participating in the Cooperative Coastal Monitoring Program (CCMP) for bathing beaches shall immediately notify the Department of Health

[and Senior Services] and the Department of Environmental Protection when an unsatisfactory sample has been obtained.

[i.] **1.** When resampling the [Cooperative Coastal Monitoring Program (]CCMP[)] ocean stations, the health authority shall resample the station that first exceeded the standard and bracket locations to either side of that location.

[ii.] **2.** When resampling the [Cooperative Coastal Monitoring Program (]CCMP[)] bay stations[,] **and all natural bathing waters**, the health authority shall resample the station that first exceeded the standard and bracket locations at the outer limits of the bathing area.

[iii.] **3.** (No change in text.)

4. Primary station bracket samples shall not exceed 150 feet to either side of the original sample station.

i. Primary station sample brackets shall not exceed the outer limits of the designated bathing area.

ii. If subsequent samples are necessary due to additional exceedance of standards, bracket samples shall not exceed 150 feet to either side of the sample station(s) that exceeded the standard.

iii. If subsequent samples exceed the standard and are beyond the outer limits of the designated bathing beach area, the additional designated bathing area(s) shall be subject to N.J.A.C. 8:26-8.5(c).

5. If any of the three samples do not meet the microbiological standards set forth at N.J.A.C. 8:26-7.5, 7.11, or 7.18, then the entire resample does not meet such standards.

8:26-7.7 Chemical and physical water quality analyses for swimming pools, [and] wading pools, **and aquatic recreation facilities**

(a) A swimming pool or wading pool shall be monitored for disinfectant level and pH every two hours during operating hours[. This monitoring], **which** shall be performed in conjunction with each microbial sample.

1. Automatic chemical controller systems which sample for disinfectant level and pH on a more frequent basis and meet the requirements of N.J.A.C. 8:26-6.13(m) may substitute for the two-hour testing requirement in (a) above.

2. These results shall be recorded on the document that accompanies the sample [slip] and shall be incorporated into the permanent microbial test record.

(b) [When testing] **Testing** for free chlorine and combined chlorine[, Method 4500 C1 F, DPD ferrous titrimetric method or Method 4500 C1 G, DPD colorimetric (using a color comparator),] **shall be conducted** as set forth in the [19th] **22nd** edition of "Standard Methods for the Examination of Water and Wastewater," American Public Health Association, incorporated herein by reference, as amended and supplemented [shall be used].

(c) [When testing] **Testing** for pH[, Method 4500 H+B, electrometric,] **shall be conducted** as set forth in the [19th] **22nd** edition of "Standard Methods for the Examination of Water and Wastewater," American Public Health Association,

incorporated herein by reference, as amended and supplemented, or phenol red indicator shall be used.

(d) If color comparators are used for measuring either disinfectant residuals or pH using the methods specified in (b) and (c) above, the color comparators shall be available for inspection by the health authority at the pool during periods of pool use **and shall cover the entire regulatory range for either concentration (disinfectant residuals) or standard pH units. Color comparators designed for pool testing which utilize phenol red are also approved for use.**

(e) A bound log **or other form of documentation approved by the health authority** shall be maintained on the premises by the swimming pool operator.

1. This log shall contain the time and date of the chemical tests performed, results of those tests, and the initials of the person who performed the testing. The log shall also contain bather load, water clarity, water temperature, and weather conditions.

2. This log shall be available at all times for review by the health authority.

8:26-7.8 Chemical water quality standards for swimming pools, [and] wading pools, **and aquatic recreation facilities**

(a) Free chlorine, combined chlorine, bromine, and pH values shall be continuously maintained within the [following] ranges[:] **specified in N.J.A.C. 8:26**

Appendix C.

<u>Minimum</u>	<u>Ideal</u>	Maximum	
		Indoor	Outdoor

			<u>Pools</u>	<u>Pools</u>
Free chlorine residual				
parts per million (ppm)	1.0	1.0-1.5	3.0	4.0
Combined chlorine (ppm)	None	None	0.2†	0.2†
Bromine (ppm)	2.0	2.0-4.0	4.0	4.0
pH	7.2	7.4-7.6	7.8	7.8]

[†] Remedial action shall be taken if combined chlorine exceeds 0.2 as it will result in reduced chlorine [efficacy] **efficiency**.

(b) (No change.)

(c) If stabilized chlorines are used as **outdoor** pool water disinfectants, the cyanuric acid levels shall be maintained within the following ranges:

	Minimum	Ideal	Maximum
Cyanuric Acid (ppm)	10	30-50	100

(d) Outdoor pools using cyanuric acid shall test the pool water at least once per week with a kit covering the expected range (0-100 ppm).

[1.] **(e)** Stabilized chlorines shall be prohibited in indoor pools.

8:26-7.9 Physical water quality standards for swimming pools, [and] wading pools, **and aquatic recreation facilities**

(a) – (b) (No change.)

8:26-7.10 Salt water swimming and wading pools utilizing ocean and/or bay water

(a) Salt water pools utilizing ocean and/or bay water typically having a total dissolved solids level between 18,000 and 35,000 parts per million shall be regulated as follows:

1. (No change.)

2. Flow through pools shall be treated as recreational bathing water and shall meet the microbiological and physical standards for recreational **bathing** waters when sampled at the time and point where the water is discharged.

3. (No change.)

(b) (No change.)

8:26-7.11 Microbiological water quality standards for hot tubs and spas

(a) **A** Heterotrophic plate count shall be performed in accordance with [the procedures set forth in Method 9215B pour plate method, found in the 19th edition of "Standard Methods for the Examination of Water and Wastewater," American Public Health Association, incorporated herein by reference, as amended and supplemented] **DSAM procedures approved by the NJDEP in accordance with the authority codified at N.J.A.C. 7:18**. The number of colony forming units (CFU) shall not exceed 200 colonies per one milliliter sample.

(b) *Pseudomonas aeruginosa* **requirements are as follows:**

1. The membrane filtration technique for *Pseudomonas aeruginosa* shall be conducted in accordance with [the procedures set forth in Method 9213E found in the 19th edition of "Standard Methods for the Examination of Water and Wastewater," American Public Health Association, incorporated herein by reference, as amended and supplemented] **DSAM procedures approved by the NJDEP in accordance with the authority codified at N.J.A.C. 7:18**. The number of *Pseudomonas aeruginosa* organisms shall be less than one colony per 100 milliliter sample.

2. The multiple-tube fermentation technique for *Pseudomonas aeruginosa* shall be conducted in accordance with the procedures [set forth in Method 9213F found in the 19th edition of "Standard Methods for the Examination of Water and Wastewater," American Public Health Association,] **codified at 40 CFR Part 131**, incorporated herein by reference[, as amended and supplemented].
Pseudomonas aeruginosa organisms shall not be present in more than one of all ten standard 10 milliliter portions. *Pseudomonas aeruginosa* shall not be present in any of the confirmed five portions.

8:26-7.12 Chemical water quality standards for hot tubs and spas

(a) Hot tubs and spas shall be monitored [at] every two hours for disinfectant levels and pH pursuant to the methodologies set forth at N.J.A.C. 8:26-7.7.

(b) A bound log shall be maintained as specified in N.J.A.C. 8:26-[7.8(e)]**7.7(e)**.

(c) [The following disinfectant levels and chemical values] **Free chlorine, combined chlorine, bromine, and pH values** shall be continuously maintained within the [following] ranges **specified in N.J.A.C. 8:26 Appendix D.**

	[Minimum	Ideal	Maximum
Free Chlorine residual parts per million (ppm)	2.0	3.0-5.0	10.0
Combined Chlorine (ppm)	None	None	0.2 [†]
Bromine (ppm)	2.0	3.0-5.0	10.0
pH	7.2	7.4-7.6	7.8]

[[†]] Remedial action shall be taken if combined chlorine residuals exceed 0.2 ppm as it will result in reduced disinfectant [efficacy] **efficiency.**

(d) (No change.)

(e) If stabilized chlorines are used as disinfectants in **outdoor** hot tubs and spas, the cyanuric acid level shall be maintained within the following range:

Minimum	Ideal	Maximum
----------------	--------------	----------------

Cyanuric Acid (ppm)	10	30-50	100
---------------------	----	-------	-----

(f) Outdoor hot tubs or spas using cyanuric acid shall test the hot tub or spa water at least once per week with a kit covering the expected range (0-100 ppm).

[1.] **(g)** (No change in text.)

8:26-7.13 Algae in hot tubs and spas

All hot tubs and spas shall be maintained to eliminate the presences of algae.

8:26-7.15 Pre-operational assessment for bathing beaches

(a) Before a bathing beach opens each year, **the owner or operator shall conduct** a pre-operational assessment [shall be conducted] of the bathing beach and the surrounding areas **using the Checklist for Public Recreational Bathing Facilities, found at N.J.A.C. 8:26 Appendix E, incorporated herein by reference.**

This assessment [shall be conducted by the owner or operator and] shall include:

1. (No change.)
2. A field investigation of the bathing and surrounding areas to identify physical hazards and sources of potential contamination. During this investigation all changes to the bathing and surrounding areas shall be documented and evaluated; [and]
3. A sampling of waters in the bathing area and in areas of suspected sources of contamination[.]; **and**

4. All of the items listed on the Department's Checklist for Public Recreational Bathing Facilities.

(b) Records of the pre-operational assessment, **including the Checklist for Public Recreational Bathing Facilities, found at N.J.A.C. 8:26 Appendix E, incorporated herein by reference**, shall be **submitted to the health authority and maintained as part of the permanent file.**

(c) (No change.)

(d) The health authority shall prepare a list of monitoring stations to be included in the Cooperative Coastal Monitoring Program (CCMP).

1. This list shall be submitted to the Department of Environmental Protection (DEP) prior to May 1 of each year.

2. The DEP shall approve or disapprove the stations within 14 days after receiving the proposed list, based upon the extent to which the DEP expects them to meet the criteria listed above.

8:26-7.16 Sample collection at bathing beaches

(a) Bathing beach water, with the exception of ocean and bay waters, shall be sampled one week prior to the opening of the bathing beach and at one week intervals during the bathing season. Sample(s) shall be obtained during periods of maximum user load from depths used for bathing. [Subject to the approval of the health authority, sampling frequency may be biweekly based on three months of consecutive satisfactory samples from the previous year.]

[1.] **(b)** Ocean and bay waters [shall be sampled in accordance with] **covered by** the Cooperative Coastal Monitoring Program (CCMP) administered by the [DEP] **NJDEP shall be sampled in accordance with CCMP requirements and N.J.A.C. 8:26-7.18.**

1. The health authority shall perform this sampling from May through September. The [DEP] **NJDEP** shall set the exact beginning and end of the minimum sampling season after consulting with the health authority.

2. The health authority shall:

i. Sample all ocean **and bay** stations on Monday[s], unless Monday is a holiday, in which case the sampling shall be performed the next day;

and

[ii. Sample all bay stations on Monday or Tuesday; and]

[iii.] **ii.** [Sample all stations one day after the above listed days if] **If** severe oceanographic and/or meteorological conditions unreasonably threaten the safety of sampling personnel or the integrity of the sample, **sample all stations on the first safe day.**

[2.] **(c)** The samples from all [other] waters not participating in the Cooperative Coastal Monitoring Program (CCMP) shall be obtained during various hours of the day and week over a period of time to obtain representative samples of the sanitary quality of the natural waters.

[3.] **(d)** (No change in text.)

[(b)] **(e)** For ocean and bay bathing beaches that are not participating in the CCMP, the following number of samples shall be taken:

1. One sample shall be taken for the first 300 linear feet of bathing [beach front. Oceans participating in the Cooperative Coastal Monitoring Program (CCMP) are exempt from this requirement] **beachfront.**

[1.] **2.** Additional samples shall be required as follows:

i. **If the bathing beachfront is 300 linear feet to 500 linear [feet-two] feet long, two samples shall be taken.**

ii. [In excess of] **If the bathing beachfront is longer than 500 linear [feet-three] feet, three samples shall be taken.**

iii. **In addition to the above, the criteria for bracket sample stations shall also be subject to N.J.A.C. 8:26-7.6(c)4 and 5.**

8:26-7.17 Sampling techniques for bathing beaches

(a) [Water] **The water** sampling techniques [for bathing beaches are those] set forth at N.J.A.C. 8:26-7.3(d) [and, for natural bathing waters, techniques shall also include the following] **and below shall be used for bathing beaches:**

1. Water samples shall be taken in an area with a stabilized water depth between the sampler's lower thighs and chest with the optimum depth being at the sampler's waist. **For deep water or shallow bays where this type of sample collection is not practicable or presents a potential safety concern for the sampler, the health authority shall determine the stabilized water depth. In all cases the sampler must meet the requirements of (a)2 to 4 below.**

2. [The] **A wide-mouth** sample container shall be placed approximately eight to [12] **18** inches below the water surface with the lid and stopper still attached.

3. With the collector's arms extended to the front, the container shall be held near its base and downward at a 45-degree angle. The cap shall be removed and the container filled in one slow sweeping motion (downward or horizontally, not upward). The mouth of the container shall be kept ahead of the collector's hand and the container recapped while it is still submerged. The cap shall remain submerged during the sample collection and care shall be taken not to touch the inner surfaces of the cap.

i. In the event that samples need to be taken during cold water conditions **or in other appropriate situations**, reach assist poles shall be used to obtain the samples. In this situation, the cap may be removed prior to submersion as long as the container is pointed downward upon entry into the water.

4. [If a] **A one-inch** head space [in the container is needed] **is required for all microbiological samples collected. After capping the sample container and mixing the sample (approximately 25 times at a one-foot arc),** the [collector] **sampler** can carefully pour out a small amount of the sample and recap the sampling container **to obtain the required head space.**

(b) (No change).

(a) Microbiological water quality standards for pond, lake, stream, river and tidal fresh water bathing beaches shall be determined on the basis of [fecal coliform] **Escherichia coli (E. coli)** densities, sanitary survey results, and/or epidemiological evidence.

(b) [Fecal coliform] **Escherichia coli** count standards [shall be] **are** as follows:

1. [The multiple-tube fermentation technique] **Testing** for [fecal coliforms] **Escherichia coli** shall be conducted in accordance with [the procedures set forth in Method 9222D Fecal Coliform Membrane Filter Procedure or Method 9221E.2. Fecal Coliform MPN Procedure (A-1 medium) found in the 19th edition of “Standard Methods for the Examination of Water and Wastewater.” American Public Health Association, incorporated herein by reference, as amended and supplemented] **DSAM procedures approved by the NJDEP in accordance with the authority codified at N.J.A.C. 7:18.**

2. The estimated [fecal coliform] **Escherichia coli** concentrations shall not exceed [200 fecal coliform] **320 colony forming units of Escherichia coli** per 100 milliliters.

(c) (No change.)

(d) Enterococcus count standards shall be as follows:

1. The test method for enterococci in water shall be conducted in accordance with [procedures set forth by the USEPA] **DSAM procedures approved by the NJDEP in accordance with the authority codified at N.J.A.C. 7:18.** The estimated enterococcus concentration shall not exceed 104 enterococci per 100 milliliters of sample.

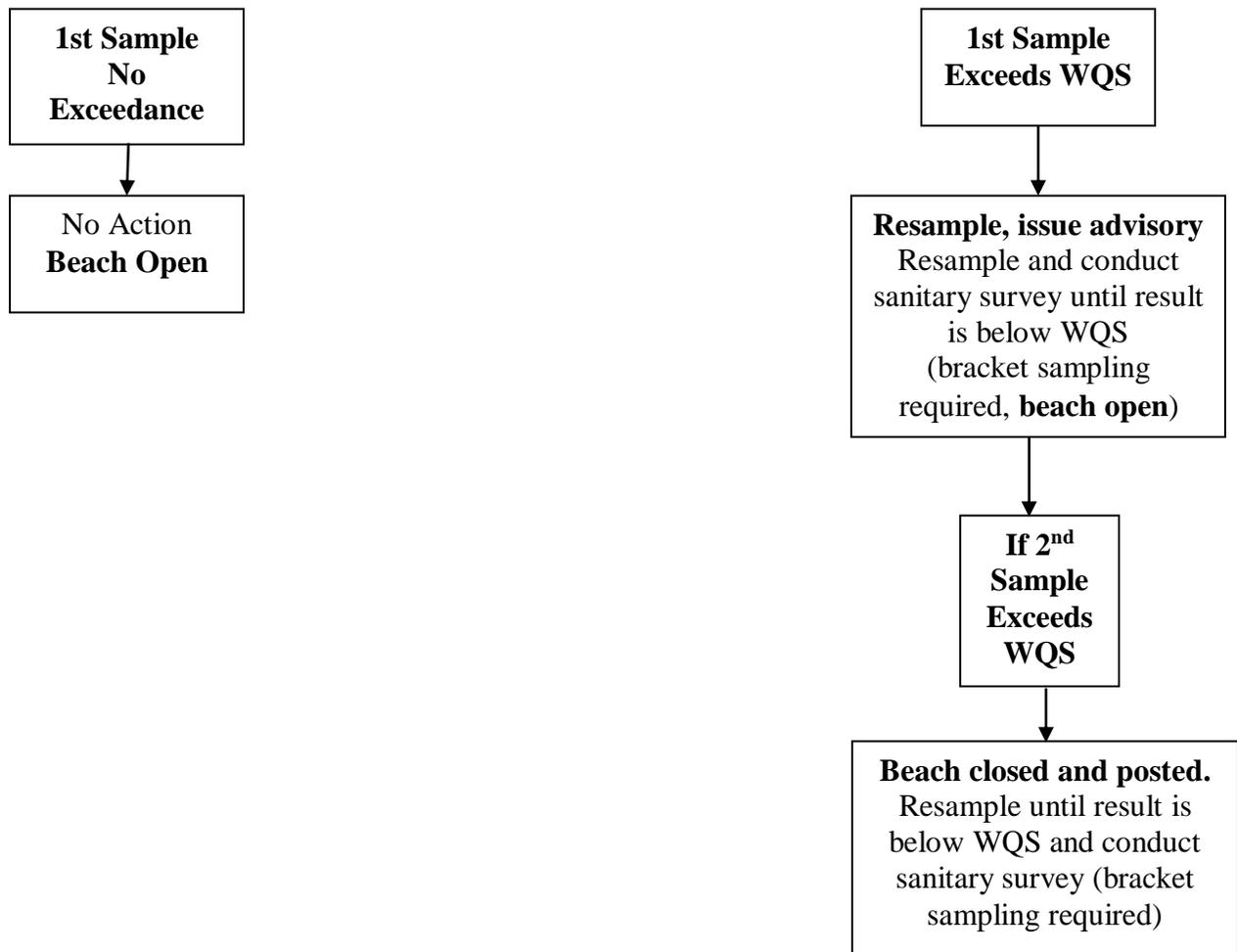
[(e) All analyses shall be conducted in accordance with the standards set forth at N.J.A.C. 7:18 and in accordance with the methodologies set forth at N.J.A.C. 7:18-2.22.]

(e) Bathing beach sample results shall not exceed the chart below and shall follow the disposition chart:

Indicator	GM (cfu/100 mL)	WQS (cfu/100 mL)
Enterococci – marine	30	104
E. coli – fresh	100	320

Note: GM- Geometric mean, Cfu- colony forming units, WQS- Water Quality Standard

Exceed 30-day rolling Geometric mean	Sanitary survey required and submitted. All fields on form are mandatory
--------------------------------------	--



8:26-7.19 Chemical water quality standards for bathing beaches

(a) Chemical water quality standards for [natural waters] **bathing beaches** shall be monitored by the bathing beach operator **at the discretion of the health authority.**

(b) Chemicals used to control aquatic vegetation shall not cause bathers to suffer from toxic reactions or skin or membrane irritations. These chemicals shall be applied in accordance with **the New Jersey Pesticide Control Code, N.J.A.C. [8:26-6.11(a)]**

7:30.

8:26-7.20 Physical water quality standards for bathing beaches

(a) Physical water quality standards for [natural waters] **bathing beaches** shall be monitored by the bathing beach operator.

(b) Visual observations and/or physical determinations shall indicate that the natural water is free from [deposits] **garbage, medical waste, plastic, paper, glass, wood, metal, organic waste material,** aquatic vegetation, **algal** growths, oils, greases, **phytoplankton,** or other [substances which] **materials that** may cause health or safety hazards.

(c) If adverse environmental conditions occur such as when a storm causes rip currents to develop off of the bathing beach, the bathing beach owner or operator shall take the following action:

1. Post a sign at each beach entrance and both ends of the beach that states as follows:

“The storm has caused rip currents to develop. Do not go in the water while this dangerous condition exists.”

2. The internationally recognized “No swimming” pictogram shall be included on the sign. The sign shall be on metal, plastic, laminated paper, or heavy paper stock.

SUBCHAPTER 8. ENFORCEMENT PROCEDURES

8:26-8.1 [Legal authority] **General provisions**

(a) All public swimming pools, wading pools, hot tubs, spas, [or] aquatic recreation facilities, and bathing beaches shall be operated in compliance with the provisions of this chapter and Title 26, Revised Statutes of New Jersey.

(b) The health authority may require a public recreational bathing facility to correct or eliminate any specific condition not described in these rules, but which it deems necessary for proper sanitation, safety, or fire protection.

(c) For purposes of uniform enforcement, the Department may issue statements clarifying the meaning and purpose of portions of this chapter, which shall be followed by the local health authority.

8:26-8.2 Inspection of public swimming pools, wading pools, hot tubs, spas, **aquatic recreation facilities**, or bathing beaches

(a) The health authority shall review the Checklist for Public Recreational Bathing Facilities submitted by the facility’s trained pool operator to determine if the swimming pool, wading pool, hot tub, spa, or aquatic recreation facility needs

to be inspected before opening. Approval to open may be based on the Checklist for Public Recreational Bathing Facilities for existing facilities.

(b) The health authority shall inspect every bathing beach prior to opening.

1. This inspection can be an onsite inspection or;

2. A review of the Checklist for Public Recreational Bathing Facilities submitted by the facility's trained pool operator or beach operator.

3. All new and/or altered facilities preoperational inspection shall receive an onsite inspection in addition to the review of the Checklist for Public Recreational Bathing Facilities submitted by the facility.

(c) The health authority shall inspect every seasonal swimming pool, wading pool, hot tub, spa, aquatic recreation facility, or bathing beach [as often as the health authority deems necessary] at least once during the season after opening.

(d) The health authority shall inspect every year-round swimming pool, wading pool, hot tub, spa, or aquatic recreation facility at least two times during the year.

(e) The health authority shall inspect new swimming pools, wading pools, hot tubs, spas, aquatic recreation facilities, and bathing beaches prior to opening.

[(b)] (f) The facility operator shall permit access to the health authority and Department of Health [and Senior Services] representatives to all parts of the establishment.

8:26-8.3 Report of inspections; notification of closures; evaluation placard

(a) Inspection findings shall be recorded on an inspection report form [approved by the Department of Health and Senior Services], **which shall be provided to Department staff upon demand.**

(b) The inspection report [form] shall identify [in a narrative form] any violations of this chapter and shall reference the section of the chapter being violated.

(c) The health authority shall [immediately] notify via telephone or fax **or e-mail, according to the time limits specified in N.J.A.C. 8:26-8.8**, the Department of Environmental Protection, Department of Health [and Senior Services], and adjacent local health authorities when it [anticipates closing] **makes the decision to close** a bathing beach.

(d) For swimming pools, wading pools, hot tubs, spas, and aquatic recreation facilities, the local health authority shall notify the Department of Health at the end of the season of all closures during the season.

1. For closures related to construction, severe weather, flooding, water contamination, or other health emergencies, notification shall be made within 24 hours.

(e) Based on the inspection, the health authority shall issue an evaluation of Satisfactory, Conditionally Satisfactory, or Unsatisfactory compliance with this chapter.

1. “Satisfactory” means the facility is operating in substantial compliance with this chapter, and personnel have demonstrated they are aware of and are practicing the safety principles outlined in this chapter.

2. “Conditionally Satisfactory” means the facility is not operating in substantial compliance with this chapter, and there are one or more violations of this chapter.

i. Upon a finding of this condition, a reinspection shall be scheduled.

ii. The reinspection shall be conducted at an unannounced time.

iii. During the reinspection, a full inspection may be conducted by the health authority rather than just the violation(s), at its discretion.

iv. The health authority shall perform the reinspection within a reasonable time period, which shall be determined by the nature of the violation.

3. “Unsatisfactory” means the facility is not operating in compliance with this chapter, and one or more of the violations constitutes gross unsanitary or unsafe conditions, which pose an imminent health or safety hazard.

i. Upon a finding of this condition, the health authority shall immediately ask the owner or operator to cease operation and keep the facility closed until a reinspection shows that the violations have been corrected.

ii. If the facility is not closed voluntarily, the health authority shall take legal action to close the facility and keep it closed until a reinspection shows that the violations have been corrected.

(f) Upon conclusion of the inspection, the health authority shall issue a placard containing an evaluation listed in (e) above and shall leave the evaluation placard and inspection report with the owner or operator of the facility.

(g) The owner or operator of the facility shall immediately post the evaluation placard near the public entrance to the facility in a conspicuous place where the public can easily view the placard.

8:26-8.4 Public availability of inspection reports

Any reports made and maintained pursuant to this chapter shall be available to members of the public [and the Department of Environmental Protection upon request] in accordance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

8:26-8.5 Criteria for closure of a public recreational bathing [places] facility

(a) The approval, license, or permit to operate a swimming pool, wading pool, hot tub, spa, **aquatic recreation facility**, or bathing beach may be suspended at any time, when in the opinion of the health authority [or its authorized agent], such action is necessary to abate a present or threatened [menace] **hazard** to public health.

(b) The health authority shall order the owner or operator of a swimming pool, hot tub, spa, **aquatic recreation facility**, or bathing beach to physically [sequester] **close off** the bathing area and to prohibit any bathing until the violation is abated.

(c) The following shall be grounds for closure **and stoppage of bathing and swimming activities**:

1. Poorly maintained equipment, structures, **or** areas, [or enclosures,] or lack of equipment, structures, **or** areas, [or enclosures,] which jeopardize the health or safety of the users and/or operators;

2. Lack of required supervisory personnel and/or required lifeguards **at the public recreational bathing facility during normal operating hours**;

3. Failure to meet specific water quality standard(s); [or]

4. Underwater hazards that have not been identified; or

[4.] **5.** (No change in text.)

(d) [In the event that] **If** remedial action is not taken immediately, the health authority [may] **shall** issue an order requiring the facility to be closed in order to protect the public health or safety.

1. A closure order may be issued verbally, but shall be followed up by [a] written confirmation within 24 hours. Such order shall be sent by certified mail, return receipt requested, **priority mail, e-mail, fax**, or [shall] be hand delivered.

2. The order shall give the alleged violator an opportunity to be heard by the health authority within 15 days of notification of the order[, while the].

3. The order shall remain[s] in effect during the appeal.

8:26-8.6 Closure **and reopening** of swimming pools and wading pools

(a) Whenever a swimming pool or wading pool water sample exceeds the microbiological water **quality** standards [as] set forth at N.J.A.C. 8:26-7.5 [and 7.11],

the certified laboratory and the [swimming pool or wading] pool **owner or operator** [, or the facility management] shall notify the health authority by telephone, [or] fax, [on the same day that] **or other method specified by the health authority, within one hour of the unsatisfactory microbiological sample result [was] being obtained.** The [water] **owner or operator** shall [be resampled immediately] **resample the water after remediation and within 24 hours of notification.**

(b) If the resample exceeds the microbiological water **quality** standards [as] set forth at N.J.A.C. 8:26-7.5 [and 7.11], the pool shall be immediately closed [and]. **The certified laboratory and the pool owner or operator shall immediately notify the health authority by telephone, fax, or other method specified by the health authority, of the unsatisfactory microbiological sample and that the pool is closed. The pool** shall not be reopened until a satisfactory microbiological water sample is obtained.

(c) A [written] copy of all laboratory analyses shall be transmitted to the health authority within [five] **one** business day[s] of completion of the analyses.

(d) The swimming pool or wading pool shall [not be in operation for bathing] **close immediately** if the disinfectant residual is [below or above that] **not within the range** set forth at N.J.A.C. 8:26-7.8 or if the **chemical or physical** water quality is not in conformance with N.J.A.C. 8:26-[7.7]**7.8 and 7.9.**

8:26-8.7 Closure **and reopening** of hot tubs or spas

(a) Whenever a hot tub or spa water sample exceeds the microbiological water **quality** standards set forth at N.J.A.C. 8:26-7.11, the certified laboratory and the hot tub

or spa **owner or** operator shall notify the health authority by telephone, [or] fax, [on the same day that] **or other method specified by the health authority, within one hour of** the unsatisfactory microbiological sample result [was] **being** obtained.

1. The hot tub or spa shall be **immediately** closed, drained, disinfected, refilled, and resampled.

(b) (No change.)

(c) If the results of the resampling [are unsatisfactory] **exceed the microbiological water quality standards set forth at N.J.A.C. 8:26-7.11**, the [certified laboratory and the] hot tub or spa **owner or** operator shall immediately **close the hot tub or spa and** notify the health authority **within one hour**.

1. The hot tub or spa shall [then] again be [closed,] drained, disinfected, refilled, and resampled.

2. The hot tub or spa shall not be reopened until a [satisfactory] sample [result is obtained] **meets the standards of N.J.A.C. 8:26-7.11** and the health authority gives its approval.

(d) A [written] copy of all laboratory analyses shall be transmitted to the health authority within [five] **one** business day[s] of completion of the analyses.

(e) The hot tub or spa shall [not be operated for bathing] **close immediately** if the disinfectant residual **or pH** is not within the range [as] set forth at N.J.A.C. 8:26-7.12.

8:26-8.8 Closure **and reopening** of bathing beaches

(a) When a bathing beach water sample exceeds the microbiological water **quality** standards set forth at N.J.A.C. 8:26-7.18, the following actions shall be taken:

1. The certified laboratory and bathing beach **owner or** operator shall notify the health authority by telephone, [or] fax, [on the same day] **or other method specified by the health authority, within one hour, but not later than 2:00 P.M.**, that the unsatisfactory microbiological sample result was obtained.

2. Health authorities participating in the **Cooperative Coastal Monitoring Program (CCMP)** shall [immediately] **then** notify the Department of Health [and Senior Services] and the Department of Environmental Protection **of the unsatisfactory microbiological sample result within 30 minutes.**

3. **Health authorities not participating in the CCMP shall also notify the Department of an unsatisfactory microbiological sample result within 24 hours.**

4. **Resampling of the bathing beach water shall be conducted within 24 hours.**

i. Sampling points for resamples shall be clustered around the areas from which the unsatisfactory sample was obtained and shall be approved by the health authority **as specified at N.J.A.C. 8:26-7.6(b).**

ii.-iii. (No change.)

[2.] **5.** A sanitary survey of the area shall be conducted by the health authority and the **owner or** operator of the bathing beach. This sanitary survey shall be designed to identify the source(s) of pollution. This survey shall include a survey of nearby point **and non-point** sources of pollution.

6. Within two hours of receiving notice that a bathing beach water sample exceeds the microbiological water quality standards set forth at N.J.A.C. 8:26-7.18, the bathing beach owner or operator shall take the following action:

i. Post a sign at all beach entrances and both ends of the beach saying:

ADVISORY

A water sample collected from this beach within the past 24 hours indicates bacteria levels over the recreational bathing standard.

Beaches remain open and additional samples have been collected. Resample results will be available tomorrow.

You may view all test results online at www.njbeaches.org or by calling the health department at _____

Bacteria levels change with the weather, tides, and currents. They are usually highest near storm water pipes, especially during and after rainfall.

You can reduce your risk of illness avoiding contact with water in or near storm water pipes.

(1) The sign shall include the date of posting and the telephone number of the local health authority.

(2) The sign shall be on metal, plastic, laminated paper, or heavy paper stock.

ii. Post a notice of the exceedance on the owner or operator's website, and link to the Department of Environmental Protection's Cooperative Coastal Monitoring Program's (CCMP) website, if applicable.

[3.] **7. If the result of the microbiological water quality resample [is unsatisfactory] does not meet the microbiological water quality standards set forth at N.J.A.C. 8:26-7.18, or if the sanitary survey discloses any condition which may present an imminent hazard to public health or safety, the bathing beach shall immediately be closed for swimming and bathing.**

i. The local health authority shall [immediately] notify, within 30 minutes, the Department of Health [and Senior Services] and the [DEP] Department of Environmental Protection of closings of [recreational] bathing [areas] beaches which are monitored in the CCMP.

ii. For non-CCMP monitored bathing beaches, the local health authority shall notify the Department of Health of a beach closing within 24 hours.

iii. Within one hour of receiving the results of the resample, the bathing beach owner or operator shall take the following actions:

(1) Post a sign at all beach entrances and both ends of the beach saying:

ADVISORY

A water sample collected from this beach within the past 24 hours indicates bacteria levels exceeding the recreational bathing water quality standard.

Beaches are CLOSED for swimming and bathing activities and additional samples have been collected. Resample results will be available tomorrow.

If the resample is below recreational bathing water quality standard, the advisory will be removed. If the resample is above the water quality bacteria standard the beach will remain CLOSED.

You may view all test results online at www.njbeaches.org or by calling the health department at _____

Bacteria levels change with the weather, tides, and currents. They are usually highest near storm water pipes, especially during and after rainfall.

You can reduce your risk of illness avoiding contact with water in or near storm water pipes.

(A) The internationally recognized “No swimming” pictogram shall be included on the sign.

(B) The sign shall include the date of posting and the telephone number of the local health authority.

(C) The sign shall be on metal, plastic, laminated paper, or heavy paper stock.

(2) Post a notice of the beach closing on the owner or operator's website, and link to the Department of Environmental Protection's CCMP website, if applicable.

[4.] **8.** If the [overall] microbiological water quality [data indicates] **sampling results indicate** that an area exceeds the bathing **beach** [water] microbiological **water** quality standards as a consequence of certain environmental conditions **(such as rainfall)**, that bathing [area] **beach** shall be kept closed for a [period] **certain amount** of time **as specified by the health authority** following those environmental conditions [as indicated by past] **to enable the water quality to improve.**

i. **Past** sampling data **can be used to determine how long the bathing beach should be kept closed.**

ii. [Further, if] **If** environmental conditions, such as heavy rainfall, cause sewage and/or stormwater infrastructure failures, such as [surcharging] **effluent discharging from** manholes, [then] bathing [areas] **beaches** having the potential to be affected shall be closed or sampled at the discretion of the health authority.

iii. **For bathing beaches that have been closed more than 50 percent of the time over the course of a year after an environmental event, such as rainfall, the bathing beach owner or operator shall take the following action:**

(1) Post a permanent sign at all beach entrances and both ends of the beach saying:

“Warning! Rainfall causes the water quality at the beach to exceed microbiological water quality standards. Water contact may cause illness. No swimming or bathing is allowed for ____ hours after the rain has stopped to enable the rainfall-caused water pollution to dissipate.”

(A) The internationally recognized “No swimming” pictogram shall be included on the sign.

(B) The sign shall include the date of posting and the telephone number of the local health authority.

(C) The sign shall be on metal, plastic, laminated paper, or heavy paper stock.

(D) The number of hours posted on the sign prohibiting swimming or bathing shall be determined by testing experience indicating the length of time typically needed for rainfall-caused water pollution to dissipate.

(2) Post a notice of the beach closing on the owner or operator’s website, and link to the Department of Environmental Protection’s CCMP website, if applicable.

[5.] **9.** A bathing beach shall not be [opened] **re-opened** until the sanitary survey and[, if necessary,] appropriate sampling[,] shows **that** the [microbiological] water quality [to be acceptable] **meets the microbiological water quality standards set forth at N.J.A.C. 8:26-7.18, and physical water quality standards set forth at N.J.A.C. 8:26-7.20.**

i. If a prior sanitary survey has identified the source of the pollution, a new sanitary survey does not have to be conducted.

ii. The local health authority shall [immediately] notify, **within one hour**, the Department of Health [and Senior Services] and the [DEP] **Department of Environmental Protection** when a bathing beach [which is monitored by the Cooperative Coastal Monitoring Program (CCMP)] has been reopened.

8:26-8.9 Recordkeeping

(a) Accurate and complete records shall be maintained and kept on the premises and shall be **immediately** available upon request [of the authorized agent or] **by** the health authority. Such records shall be kept for a minimum of [one] **three years**, except those records related to deaths, [all] injuries to the head, neck and spinal cord, and any injury rendering a person unconscious **which** shall be kept for 10 years, and shall include:

1. -4. (No change.)

5. Accidents requiring external emergency services[, including]. **The record shall include** the [patient's] **victim's** name, [time,] **the date and time of accident**, description of occurrence, [treatment,] action taken **in response to the accident**, and name of person on duty supervising the facility;

6. Deaths and/or drownings. The record shall include the name of the person, the date[,] and **time of the accident**, a description of the occurrence, **and action taken in response to the accident**; [and]

7. Inspection logs of recreational equipment[.];

8. **Notifications to health authorities of water quality samples that did not meet microbiological, chemical, or physical water quality standards, and of public recreational bathing area closings and reopenings;**

9. **Non-microbiological water contamination events;**

10. **Floatable debris wash-up events; and**

11. **Checklist for Public Recreational Bathing Facilities, found at N.J.A.C. 8:26 Appendix E, incorporated herein by reference.**

12. **Requirements found at N.J.A.C. 8:26 Appendices C and D.**

(b) The geometric mean shall be calculated as follows:

1. **The Department of Environmental Protection calculates the geometric mean of the microbiological water quality for recreational bathing beaches that are sampled as part of the CCMP.**

2. **For bathing beaches that are not part of the CCMP program, the local health authority shall calculate the 30-day rolling geometric mean of the microbiological water quality samples taken during the season.**

i. **The geometric mean shall be calculated using the method codified at 40 CFR Part 131, incorporated herein by reference.**

ii. **The geometric mean shall be transmitted electronically, in a format specified by the Department, to the Department and the Department of Environmental Protection, and the Department weekly at the end of the first 30-day period and weekly thereafter until the end of the season.**

3. If the geometric mean indicates there is a chronic water quality problem at the bathing beach (defined as a geometric mean for ocean and bay waters of greater than 30 colony forming units (CFU) of enterococcus), or the bathing beach is closed after every rainfall, the local health authority shall conduct a sanitary survey to determine the source of the pollution.

4. If the geometric mean indicates there is a chronic water quality problem at the bathing beach (defined as a geometric mean for fresh water of greater than 100 colony forming units (CFU) of Escherichia coli), or the bathing beach is closed after every rainfall, the local health authority shall conduct a sanitary survey to determine the source of the pollution.

8:26-8.10 [Deaths and/or] **Reporting of deaths and** serious injuries

(a) All deaths, [all] injuries to the head, neck and spinal cord, and any injury rendering a person unconscious, shall be reported **by the public recreational bathing facility owner or operator** to the health authority within 24 hours of its occurrence.

(b) The local health authority shall [report] **notify the Department of** such deaths and/or injuries [to the Department of Health and Senior Services] within [30 days] **24 hours of being notified by the facility of** the incident.

(c) **After being notified by the owner or operator of a death and/or serious injury listed at (a) above, the local health authority shall immediately conduct an investigation of the incident and complete the Fatal/Serious Accident Report (CB-2), found at N.J.A.C. 8:26 Appendix F, incorporated herein by reference.**

1. The Fatal/Serious Accident Report (CB-2) form is available on the Department's website at <http://www.state.nj.us/health/forms/cb-2.dot>.

2. The local health authority shall submit the CB-2 to the Department within five days of being notified by the facility of the incident. Submission shall be via:

i. In person delivery to the Department; or

ii. A mailing service that allows for tracking of the package to be delivered.

8:26-8.11 Penalties

Any person who violates any provision of this chapter or who refuses to comply with a lawful order or directive of the health authority[,] shall be liable for penalties set forth at N.J.S.A. 26:1A-10 and penalties under all other applicable laws, and/or [an] injunctive action as provided by law.

(Agency Note: The text of proposed new N.J.A.C. 8:26 Appendices A through F follow without boldface symbolizing proposed new text; those portions in bold are intended to be so permanently.)

APPENDIX A

Recognized Certifications:

Cardiopulmonary Resuscitation (CPR) Certification

American Heart Association

American Red Cross

American Safety and Health Institute

Emergency Care and Safety Institute

EMS Safety Services, Inc.

National Safety Council

First Aid Certification

American Heart Association

American Red Cross

American Safety and Health Institute

Emergency Care and Safety Institute

EMS Safety Services, Inc.

National Safety Council

Lifeguarding Certification for

Swimming Pools and Lake Bathing

American Red Cross

Boy Scouts of America (BSA)

International Lifeguard Training program

International Life Saving Federation (ILSA)

Lifeguard-Pro

National Aquatics Safety Company (NASCO)

Starfish Aquatics Institute

Young Men's Christian Association (YMCA)

Lifeguarding Certification for Ocean and Tidal Waters

North Shore Lifesaving Association (NSLA)

Ocean Lifesaving Association (OLA)

South Jersey Lifeguard Chiefs Association (SJLCA)

Triton Water Rescue (TWR) (triathlon specialization)

United States Lifesaving Association (USLA)

Trained Pool Operators (TPO) Certification

American Swimming Pool and Spa Association (ASPSA)

Aquatics Training Institute (ATI)

Association of Pool and Spa Professionals (APSP)

AquaSafe Pool Management, Inc. (ASPM)

National Pool and Spa Institute (NSPI)

National Recreation and Park Association (NRPA)

National Swimming Pool Foundation (NSPF)

North Shore Lifesaving Association (NSLA)

Starfish Aquatics Institute

Young Men's Christian Association (YMCA)

APPENDIX B

First Aid Supplies at Public Recreational Bathing Facilities

Description of Required Items	Quantities Required		
	<2,000 Ft ² of Bathing and Swimming Water Area	2,000 to 5,000 Ft ² of Bathing and Swimming Water Area	>5,000 Ft ² of Bathing and Swimming Water Area
Adhesive compress strips (band aid type)	25	50	100
Sterile gauze dressings (sponge 2"x 2")	10	15	25
Sterile gauze dressings (sponge 2"x 3")	10	15	25
Sterile gauze dressings (sponge 4"x 4")	10	15	25
Sterile gauze roller bandage (1" wide)	4	8	15
Sterile gauze roller bandage (3" wide)	4	8	15
Sterile eye dressing pads (box)	1	1	1
Triangle bandages	2	4	6
Waterproof tape (1"x 5 yards)	1	1	1
Bandage scissors	1	1	1
Tweezers	1	1	1
Blanket	1	1	1

Instant cold pack	5	5	5
Disposable protective face shield	1	1	1
Disposable protective gown	2	4	6
Disposable Gloves (box)	1	1	1
Pocket resuscitation mask	2	4	6
Liquid hand soap or hand sanitizer	1	1	1
First Aid Treatment Policies and Procedures	1	1	1

APPENDIX C

Chemical water quality standards for swimming pools, wading pools, and aquatic recreation facilities

	Minimum	Ideal	Maximum	
			Indoor Pools	Outdoor Pools
Free chlorine residual (parts per million (ppm))	1.0	2.0-4.0	10.0	10.0
Combined chlorine (ppm)	None	None	0.2	0.2
Bromine (ppm)	2.0	4.0-6.0	10.0	10.0
pH	7.2	7.4-7.6	7.8	7.8

APPENDIX D

Chemical water quality standards for hot tubs and spas

	Minimum	Ideal	Maximum
Free chlorine residual (parts per million (ppm))	2.0	3.0-5.0	10.0
Combined chlorine (ppm)	None	None	0.2
Bromine (ppm)	2.0	4.0-6.0	10.0
pH	7.2	7.4-7.6	7.8

APPENDIX E

(insert from separate document)

APPENDIX F

(insert from separate document)

**New Jersey Department of Health
Public Health and Food Protection Program**

**CHECKLIST FOR
PUBLIC RECREATIONAL BATHING FACILITIES**

Municipality	Local Health Authority	Date
Name of Public Recreational Bathing Facility		
Dates of Operation	Type of PRB Facility	
PRB Facility Location	Phone Number	Special Exempt <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Both
Owners Name and Address		Phone Number
Certified Laboratory	Phone Number	Date of Last Sample
Trained Pool Operator	Email Address	Phone Number

Codes: X-Compliant P-Pending N/A-Not Applicable

PAPERWORK

TPO Certification No. and Exp. Date	Log Book
Lifeguard Certifications Current	Bonding and Grounding (5-year cert.)
Pro CPR Certifications Current	Bonding and Grounding (Town)
Aquatics Facility Plan	CB-20 completed and submitted
Water Sample(s) Results	MSDS sheets for all chemicals
Sanitary Surveys (N.J.A.C. 8:26-7.15)	Physical Hazards inspection

GENERAL LAYOUT

Emergency Phone Numbers	No Lifeguard on Duty Sign
Pool/Natural Waters Rules Sign	Adult Supervision Sign
No Diving Signs	Special Exempt Signs
Caution Chemical Sign	Spa Clock
No Smoking Sign (Chem. Room)	Spa Rules
Depth Markings	Diving Rules
Entrance(s) Secure	Cliff Jumps < 15'
Floats and Fixed Platforms Permitted with LHA Approval	Equipment for continuous disinfect all types pool water and meet N.J.A.C. 8:26-3.22
Diving stands, boards, ladders, stairs, all equipment maintained	Pool chemicals stored, handled and used per manufacturer's instructions
Water slides conform to CPSC and approved by LHA and/or NJDCA	Anti-entrapment drain covers installed, all documentation on site
Rope drops, cliff jumping, and aquatic play equipment meet N.J.A.C. 5:14A-12	Pool Floor (Clean and Visible)
Surface area (Pool sq')	Turnover Rate(s) (Pool)
Volume (Pool)	Pump Maximum Flow Rate(Pool)

**CHECKLIST FOR PUBLIC RECREATIONAL BATHING FACILITIES
(Continued)**

Name of Public Recreational Bathing Facility			
Codes: X-Compliant P-Pending N/A-Not Applicable			
EQUIPMENT			
Facility Phone		Vacuum Equipment	
Guard (Uniform/Whistle)		Skimmer Net	
DPD Test Kit		# of Returns	
First Aid Kit		Sight glass	
Rescue Tube(s)/LG		Entrapment Issues	
Backboard		Spa Requirements	
Straps		Wading Pool Requirements	
Head Immobilizer		Circulation System	
Shepherd Hooks		Flow Meters	
Reaching Poles/Assist		Continual Disinfection Device	
Safety Rope and Floats		Secure Fencing	
Ring Buoys		Self Close/Self Latching Gates	
Thermometer		Diving Boards	
Goggles and Gloves		Water Clarity	
Emergency numbers posted		Lifeguard platforms or stands	
Paddle Rescue Device		Emergency care room (500+)	
GENERAL SANITATION AND MAINTENANCE			
Bathrooms (Cleaned and Stocked)		Only unbreakable mirrors provided	
Separate BR facilities (each sex)		Sanitary sewage and filter backwash waters handled properly	
Sanitary facilities maintained and constructed of impervious materials		Solid waste stored in watertight containers with tight-fitting lids	
Floors have slip-resistant surface		Potable water supply source and of safe and sanitary quality	
Suitable receptacles provided for paper towels and waste materials		All buildings rodent and insect proofed	
Soap dispenser provided, hot and cold water		Premises maintained to prevent the breeding and harborage of vermin	
CHEMICALS / DISINFECTANTS (POOLS)			
Free Chlorine (10 ppm max)		pH (7.2 – 7.8)	
Total Chlorine (ppm)		Total Alkalinity (60 – 180 ppm)	
Combined Chlorine ($\leq .2$)		Calcium Hardness (ppm)	
Other Disinfectant		Cyanuric Acid (10 - 100ppm) Outdoor	

**CHECKLIST FOR PUBLIC RECREATIONAL BATHING FACILITIES
(Continued)**

Name of Public Recreational Bathing Facility			
Codes: X-Compliant P-Pending N/A-Not Applicable			
SUPERVISION			
Operations supervised by an adult		Aquatics Facility plan executed	
Standard first aid and Pro CPR		All lifeguards identifiable	
Pools have TPO,TPO onsite weekly		Lifeguards equipped with a whistle	
Adequate number of Lifeguards		Emergency Drills documented	
BATHING WATER QUALITY			
Pool water approved water source		Pool chemistry monitored (2 hrs)	
Water samples collected weekly		Deaths/serious injuries reported	
1 st sample failed warning signs		2 nd sample failure closure signs	
COMMENTS			

I verify that the statements made in this form are true and accurate and this Public Recreational Bathing facility meets the requirements of N.J.A.C. 8:26 et seq. I understand that all the information provided, if falsified, can be used against me in court, by the authorities.

Signature of Owner/TPO	Title or Position
------------------------	-------------------

**FATAL/SERIOUS
 ACCIDENT REPORT**

CONFIDENTIAL	
FOR STATE USE ONLY	
Case Number <p style="text-align: center; font-size: 1.2em;">7</p>	Date
County	

1. Date of Incident ____ / ____ / ____ <i>Month Day Year</i>	2. Time of Incident ____ : ____ <input type="checkbox"/> AM <input type="checkbox"/> PM	3. Date of Report ____ / ____ / ____ <i>Month Day Year</i>
--	--	--

4. Activity of Victim (Check ALL that apply)

1 <input type="checkbox"/> Swimming (SW) 2 <input type="checkbox"/> Bathing (Hot Tub) (BH) 3 <input type="checkbox"/> Wading (WD) 4 <input type="checkbox"/> Surfing (SF) 5 <input type="checkbox"/> Skiing (SK) 6 <input type="checkbox"/> SCUBA/Snorkeling (SC) 7 <input type="checkbox"/> Playing by Water (PW) 8 <input type="checkbox"/> Diving (DV)	9 <input type="checkbox"/> Using Swimming Accessories, Inflatable (SI) 10 <input type="checkbox"/> Using Swimming Accessories, Other (SO) 11 <input type="checkbox"/> Fell into Water (FW) 12 <input type="checkbox"/> Fell Elsewhere (FE) 13 <input type="checkbox"/> Attempting Rescue, Lifeguard (LG) 14 <input type="checkbox"/> Attempting Rescue, Other (AR) 15 <input type="checkbox"/> Boating (BT) 16 <input type="checkbox"/> Other (OT) _____
--	---

VICTIM INFORMATION

5. Victim Number VICTIM #		6. Age of Victim	
7. Sex 1 <input type="checkbox"/> Male 2 <input type="checkbox"/> Female	8. Race 1 <input type="checkbox"/> White 3 <input type="checkbox"/> Hispanic 2 <input type="checkbox"/> Black 4 <input type="checkbox"/> Other	9. Height ____ Feet ____ Inches	10. Weight ____ Pounds

11. Physical Condition/Limitations

1 <input type="checkbox"/> Intoxicated/Alcohol Consumed a. Tested? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No 3 <input type="checkbox"/> Unknown b. Time Done? ____ : ____ <input type="checkbox"/> AM <input type="checkbox"/> PM c. Blood Level? _____ 2 <input type="checkbox"/> Drugs or Narcotics Used a. Tested? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No 3 <input type="checkbox"/> Unknown b. Time Done? ____ : ____ <input type="checkbox"/> AM <input type="checkbox"/> PM c. Blood Level? _____	3 <input type="checkbox"/> Heart Disease 4 <input type="checkbox"/> Epilepsy 5 <input type="checkbox"/> Deafness 6 <input type="checkbox"/> Blindness 7 <input type="checkbox"/> Extreme Overweight 8 <input type="checkbox"/> Other _____
---	---

EXACT LOCATION

12. Name of Facility or Body of Water	13. County
14. Street Address	
15. City, State, Zip Code	16. Site (Landmarks, Guard Tower Numbers, etc.)

17. Body of Water

1 <input type="checkbox"/> Ocean	4 <input type="checkbox"/> Pond/Pit	7 <input type="checkbox"/> Swimming and Wading Pool
2 <input type="checkbox"/> Bay	5 <input type="checkbox"/> Ditch/Canal	8 <input type="checkbox"/> Hot Tub/Spa
3 <input type="checkbox"/> Lake	6 <input type="checkbox"/> River/Creek/Stream	9 <input type="checkbox"/> Other _____

**FATAL/SERIOUS ACCIDENT REPORT
(Continued)**

INCIDENT INFORMATION	
18. Was there immersion by the victim into water involved? 1 <input type="checkbox"/> Yes, Entry Voluntary 2 <input type="checkbox"/> Yes, Entry Involuntary 3 <input type="checkbox"/> Yes, Unknown Whether Voluntary or Involuntary 4 <input type="checkbox"/> Incident Did Not Involve Immersion	a. If yes, what was the victim's swimming ability? 1 <input type="checkbox"/> Good 2 <input type="checkbox"/> Fair 3 <input type="checkbox"/> Poor 4 <input type="checkbox"/> Unknown b. What was the victim's attire? 1 <input type="checkbox"/> Street Clothes 3 <input type="checkbox"/> No Clothing Worn 2 <input type="checkbox"/> Swimming Clothes 4 <input type="checkbox"/> Other c. Was a personal flotation device worn? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No d. What was the water depth? <div style="text-align: right; margin-right: 100px;"> _____ Feet Inches </div>
19. What were the Weather/Water conditions? (FOR ALL RECREATIONAL BATHING FACILITIES) a. Air Temperature: _____ Degrees Fahrenheit b. Water Temperature: _____ Degrees Fahrenheit c. Did Water/Weather conditions contribute? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No (FOR POOLS AND HOT TUBS ONLY) d. Was Water Cloudy? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No (FOR BATHING BEACHES ONLY) e. Wind: 1 <input type="checkbox"/> None 2 <input type="checkbox"/> Light 3 <input type="checkbox"/> Moderate 4 <input type="checkbox"/> Strong f. Wind Direction: 1 <input type="checkbox"/> From Shore 2 <input type="checkbox"/> From Water 3 <input type="checkbox"/> Along Shore g. Ripptide current involved (ocean only) 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No h. Longshore current? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No	
20. Was it a public recreational bathing place? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No	a. If Yes, was the facility licensed/approved? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No
21. Did the incident occur in a guarded area? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No	22. Were other people around? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No
23. Was the facility open for public use at the time? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No	a. If yes, was a lifeguard on duty? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No
24. Was there any violation of NJAC 8:26 "Public Recreational Bathing" regulation that may have contributed to the incident? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No If yes, list citation numbers and describe: _____	
MEDICAL ATTENTION	
25. What kind of incident occurred at the scene? 1 <input type="checkbox"/> Drowning 3 <input type="checkbox"/> Suspected Neck Injury and Central Nervous System Trauma 2 <input type="checkbox"/> Near Drowning 4 <input type="checkbox"/> Other: _____	
26. Was the victim unconscious at any time? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No	
27. Was medical attention given? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No	a. If Yes, by whom?
28. Was CPR administered? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No	a. If yes, by whom?
29. Were emergency medical services called? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No	a. If yes, type of provider? 1 <input type="checkbox"/> Doctor 2 <input type="checkbox"/> Ambulance 3 <input type="checkbox"/> Other:

**FATAL/SERIOUS ACCIDENT REPORT
(Continued)**

30. What was the outcome of medical attention? 1 <input type="checkbox"/> Treated at Scene and Released 2 <input type="checkbox"/> Victim Transferred to Medical Care 3 <input type="checkbox"/> Victim Refused Medical Care 4 <input type="checkbox"/> Dead at Scene 5 <input type="checkbox"/> Other	a. If the victim was transferred to medical care, give name of facility:
	b. Was the victim admitted to a hospital? 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No 3 <input type="checkbox"/> Unknown

31. Did the victim die as a result of this accident?
 1 Yes 2 No 3 Unknown

32. Was the local health department notified by the owner/operator?
 1 Yes 2 No

a. If Yes, when? _____

b. If Yes, by whom? _____

c. If No, how did the local health department become aware? _____

DESCRIPTION OF INCIDENT

Describe incident, including all pertinent information. Elaborate as necessary. Also describe any measures that might prevent a future incident of this nature. Use additional continuation sheets if necessary.

Name of Health Official Completing Form (Print)	Title
---	-------

Signature	Date
-----------	------

Distribution: Original - NJDOH
 Copy - Local Health Department