



NEW JERSEY DEPARTMENT OF HEALTH

PUBLIC HEALTH & FOOD PROTECTION PROGRAM

Public Recreational Bathing Frequently Asked Questions

Revised March 2020

PLEASE EMAIL YOUR QUESTIONS TO
prb@doh.nj.gov

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CORONAVIRUS (COVID-19) PROCEDURES

Q: Should recreational bathing facilities, not located at gyms, be closed due to Governor Murphy's Executive Order 107 State of Emergency response to COVID-19?

A: Yes, the Governor's Executive Order 107 was enacted to support the State's mitigation strategy of social distancing. Recreational bathing facilities are considered locations where large numbers of individuals may gather in congregation when physical proximity to other individuals may be dangerous and individuals may encounter common surfaces.

Q: Are recreational bathing facilities that are impacted by Governor Murphy's Executive Order 107 State of Emergency response to COVID-19, required to conduct routine weekly testing?

A: No. During this public health emergency and until the Governor lifts the prohibitions identified under Executive Order 107, recreational bathing facilities **are not** required to conduct weekly routine microbiological samples as required pursuant N.J.A.C. 8:26-7.3(b) and N.J.A.C. 8:26-7.16. Once prohibitions are lifted by the Governor, recreational bathing facilities will need to conduct water sampling in line with the provisions outlined under N.J.A.C. 8:26.

Q: Are there any special handling procedures to be followed for hot tubs and spas which will be shut down and out of use impacted by Governor Murphy's Executive Order 107 response to COVID-19?

A: Yes. CDC has heard from partners about the need for guidance to shut down hot tubs/spas related to aquatic facility closures. The closure of hot tubs/spas could create conditions favorable to *Legionella* and other bacterial growth in these water systems. The recommendations below are adapted from the Model Aquatic Health Code.

Hot Tubs/Spas

1. Clean accessible surfaces, scrubbing away slime and biofilm
2. Apply a biocidal shock treatment
3. Drain and remove as much water from the system as possible
4. Remove filters
5. Leave filters to dry*
6. Keep the hot tub/spa as dry as possible, protecting it from external water sources (for example, hoses)

*Clean filters before reuse and replace filters or filter media as recommended by the manufacturer.

For more recommendations on preventing illness and injuries at public aquatic facilities, visit <https://www.cdc.gov/mahc/index.html>

For the latest information on COVID-19, visit <https://www.cdc.gov/coronavirus/2019-ncov/index.html>

SPECIALLY EXEMPT FACILITIES

Specially Exempt Facilities – General Requirements

Q: Is a facility that meets the definition of specially exempt allowed to have high-risk equipment and maintain their specially exempt status?

A: Yes. The statutory changes which went into effect January 2019 require that no specially exempt facility be deemed ineligible for an exemption from mandatory compliance with the first aid personnel and lifeguard requirements of N.J.A.C.8:26-5 et seq., as provided in this section, solely on the basis that the facility has a functional diving board, water slide, or similar recreational appurtenance.

Q: In a facility with more than one swimming pool, can one pool be specially exempt and one be a regular guarded pool?

A: No. The specially exempt definition applies to the entire facility not individual pools. If the facility meets the definition of a specially exempt facility the entire facility is exempt from the lifeguard requirements per N.J.A.C. 8:26-5.1 (a).

Q: Is specially exempt facility required to inform the local health authority about their status and what is the process of notification?

A: Please refer to the definition of the specially exempt facility. As per N.J.A.C. 8:26-5.1 (g), *a specially exempt facility shall inform the local health authority whether it is going to comply with the exempted provisions of this section* [lifeguard and first aid personnel]. According to N.J.A.C. 8:26-5.2 (f) the facility is required to complete and submit the aquatics facility plan to the local health authority.

Q: Do specially exempt facilities have to comply with the PRB requirements?

A: Yes. Specially exempt facilities are subject to all Public Recreational Bathing requirements except for the first aid personnel and lifeguard requirements, as stated in § 8:26-5.1 (a).

Q: Do specially exempt facilities have to have a trained pool operator (TPO) and a Pool Director?

A: Yes, as stated in § 8:26-5.1 (a) specially exempt facilities are ONLY exempt from mandatory compliance with the first aid and lifeguard requirements. A TPO is required at every pool as per § 8:26-5.2 (c). Starting January 16, 2019 a designated adult supervisor at pools larger than 2,000 square feet are also required to have a Pool Director training certificate as stated in § 8:26-5.2 (a)-2.

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Q: Do bathroom requirements apply to specially exempt facilities?

A: Yes. Specially exempt facilities are subject to all Public Recreational Bathing requirements except the first aid personnel and lifeguard requirements as stated in § 8:26-5.1 (a)

Q: Is there a depth restriction for pools at specially exempt facilities?

A: There is no depth restriction for pools at specially exempt facilities.



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Q: If one location of a chain health club were to lose their “specially exempt” status would that make all of our other locations in the state lose their “specially exempt” status?

A: No. Each “specially exempt” facility is considered a separate and distinct independent entity.

Specially Exempt Facilities – Lifeguards

Q: I run a specially exempt facility and I choose to provide a lifeguard, will I be affected by the new lifeguard requirements?

A: Specially exempt facilities are exempt from the lifeguard requirements. They will not be affected by the changes to the lifeguard requirements for as long as they maintain the special exempt status.

Q: I run a specially exempt facility, I choose to provide a lifeguard and my pool is larger than 2,000 sq ft, will I be affected by the new lifeguard requirements?

A: No. Specially exempt facilities are exempt from the lifeguard requirements under the new rule. Specially exempt facilities are required to post a sign as stated in § 8:26-5.1. In addition, specially exempt facilities are required to inform local health authority in writing about: whether or not the lifeguard will be provided AND whether or not they will maintain special exempt status

In other words, a specially exempt facility may provide lifeguard(s) if it chooses to do so.

Q: Can a special exempt facility only provide a lifeguard on days when there is a higher bather load?

A: Yes, provided that they maintain their special exempt status. Please refer to the answer to the first question above. Specially exempt facilities are exempt from the lifeguard requirements as per § 8:26-5.1 (a) but not prohibited from providing a lifeguard. The supervision policy has to be outlined in writing in the aquatics facility plan as per § 8:26-5.1 (g) b.

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In addition, it is acceptable but NOT REQUIRED for a specially exempt facility to post a sign which identifies when the lifeguard(s) is(are) present. In other words, the presence or absence of the lifeguard hours sign does not constitute a violation of the rule at specially exempt facilities that choose to provide lifeguard(s).

SUPERVISION REQUIREMENTS

Supervision Requirements – Pools Over 2,000 Square Feet

Q: Are there any exceptions to lifeguard requirements for pools that are over 2,000 square feet large?

A: The Department does not allow for leniency when it comes to supervision of the pools. However, the size of the swimming area that is open for use rather than the total pool area should be considered when determining the number of lifeguards. Also, the size of the pool is only one of the factors that should be considered when evaluating compliance with the pool supervision requirements.

Q: If there are multiple pools at the facility does each pool require a lifeguard?

A: Each pool is treated separately when evaluating compliance with the swimming pool supervision requirements, except specially exempt facilities that are not required to meet first aid personnel and lifeguard requirements.

Supervision Requirements – Other Criteria

Q: Can a local health authority require additional lifeguards based on other criteria in addition to the size and depth of the pool?

A: Yes. As per N.J.A.C. 8:26-5.2 (d) 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.*

Supervision Requirements – Platforms/Stands

Q: If the pool is greater than 2,000 square feet and requires an additional lifeguard – does it also require an additional platform/stand?

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A: Yes, an additional guard stand would be required. As per N.J.A.C. 8:26-5.2 (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.*

Q: Is there a change to the required height for the lifeguard stands?

A: There is no specific height requirement for lifeguard stands or platforms. The height of the stand is determined by the ability of the lifeguard to have an unobstructed view of the bottom of the pool while on the stand.

Q: What are the requirements for placement of the lifeguard stands?

A: Swimming pool:

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.

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.

Bathing beach:

Lifeguard stations shall be located within 30 feet of the shoreline.

Lifeguards shall be isolated from the beach crowds on elevated stands.

These stands shall be high enough so as to give the lifeguards a complete and unobstructed view of the bathing area.

Supervision Requirements – Zone of Protection

Q: What is the definition of zone of protection?

A: Zone of protection is the area of responsibility of an individual lifeguard while supervising bathers. Recognized certification agencies provide training on determining the zone of protection. The local health authority will assess the adequacy of lifeguard supervision according to zone of protection. Zone of protection is deemed adequate when the zones assigned to lifeguards overlap.

Q: Does the zone of protection include the deck area or just the pool?

A: Zone of protection only includes the swimming area.

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Supervision Requirements – Prohibited Activities

Q: What activities lifeguards are allowed to perform while on duty?

A: According to the Statutory change of January 2019, lifeguards who are on duty at a swimming pool shall not have duties or perform any activities that would 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; except that nothing in this subsection shall be construed to prevent any lifeguard from performing minor administrative tasks, such as checking pool passes, or from performing any routine testing required by the Department of Health by regulation, including, but not limited to, testing disinfectant levels and measuring the pH of the water during operational hours, provided that the lifeguard can perform these tasks and tests without causing an imminent, significant risk to bather safety.

Public recreational bathing facilities **shall** describe in writing under the Supervision section of their Aquatics Facility Plan the list of all duties, responsibilities and tasks to be performed by lifeguards.

In addition, a written procedure must be established listing what measures the facility is taking to ensure that minor administrative tasks, duties or activities allowed to be performed by the lifeguards do not 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.

Supervision Requirements – Signage At Wading Pools

Q: Should a wading pool located at a DCA licensed aquatic recreation facility post a sign as per 5.6 regarding parent supervision of children?

A: YES. In addition, aquatic recreation facilities must comply with all the supervision requirements found at § 8:26-5.2 Swimming Pool Supervision.

STAFF TRAINING REQUIREMENTS

Staff Training Requirements – TPO vs CPO

Q: What is the difference between TPO and CPO?

A: Certified Trained Pool Operator (CPO) is a proprietary name, whereas Trained Pool Operator (TPO) is a generic term. CPO is considered a “brand” name and could not be included in the rule. CPO is one example of Trained Pool Operator training certificates recognized by the Department.

The list of recognized certification agencies is found in Appendix A of the New Jersey Public Recreational Bathing Code.

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Staff Training Requirements – TPO Training Programs

Q: Who is responsible for approving Trained Pool Operator training programs?

A: New Jersey Department of Health Public Health and Food Protection program only approves Certification Agencies. The list of recognized training agencies is found in Appendix A of the New Jersey Public Recreational Bathing Code. Agencies shall notify the Department at prb@doh.nj.gov when updating the training curriculum.

Staff Training Requirements – Lifeguard Training

Q: Can ocean and tidal USLA lifeguards perform lifeguard duties at non-USLA facilities within New Jersey?



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A: No. The USLA publishes recommended standards and guidelines for the certification of **lifeguarding agencies** which offer water rescue services both nationally and within New Jersey. Essentially, this means that individuals themselves are not certified, but instead the entire lifeguarding agency (Ex: Alliance Beach Patrol, NJ) as a whole is certified and must comply with the policies and procedures of the certifying agency.

In New Jersey, any individual that holds appropriate and valid credentials may be employed as a pool or freshwater lifeguard and perform such lifeguarding duties. Therefore, lifeguards who only maintain their certification under the auspice of a USLA certified lifeguarding agency may **ONLY** perform duties of lifeguarding under such certified agency of which they are affiliated. This does not preclude an individual from maintaining an individual lifeguard certificate in addition to performing duties under the auspice of a USLA certified agency.

Q: Do the latest revisions to the NJ Public Recreational Bathing Code require ALL lifeguards (including pool lifeguards) to meet the NJ Division of Parks and Forestry physical evaluation for open water lifeguards?



NEW

A: No. N.J.A.C. § 8:26 Public Recreational Bathing Code does not detail the specific course requirements for the training of lifeguards. The regulation does require for a lifeguard serving at a swimming pool or lake to hold a lifeguarding certificate from an organization, determined by the Department, to meet American Red Cross training standards. The list of recognized certification agencies is available at <https://www.nj.gov/health/ceohs/documents/phss/RecCertList.pdf>

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Staff Training Requirements– Pool Director Certificate



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Q: What is an acceptable Pool Director training course?

A: List of approved Pool Director Courses is found in New Jersey Department of Health CURRENT RECOGNIZED CERTIFICATIONS document. The document is available at the following link:

<https://www.nj.gov/health/ceohs/documents/phss/RecCertList.pdf>



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Q: Who within the facility should be certified as the pool director?

A: Pursuant N.J.A.C. 8:26-5.2 the designated adult supervisor shall possess the pool director certification. The designated adult supervisor should be knowledgeable of N.J.A.C. 8:26 and shall be responsible for all phases of the facility's operations. An individual who only intermittently checks pool system operations and lacks intimate knowledge of the goings on at the pool facility (Ex: facility staff, facility operations including food service, events, policies and procedures etc.) should not be designated as the facilities only pool director.



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Q: How will COVID-19 impact N.J.A.C 8:26-5.2(a) 2 the requirement that adult supervisors possess the pool director training certificate?

A: The pool director course requirement, which went into effect December 2019, **will not** be postponed or waived. Enforcement action is at the discretion of the local health authorities (LHA) who **should not** close a facility based solely on the facility lacking a credentialed pool director until such time that this Public Health Emergency is over, and prohibitions are lifted by the Governor.

A full list of currently recognized firms who offer the course is located at

<https://www.nj.gov/health/ceohs/documents/phss/RecCertList.pdf>



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Q: Should a facility who has reduced the sq. ft. of the pool area, using mechanical means (i.e. ropes) to less than 2,000 sq. ft. in efforts to allow for only one lifeguard to monitor the swimming area, be required to maintain an adult pool supervisor who is a credentialed pool director?

A: Yes. The pool director certification is required for all facilities that maintain pools larger than 2,000 sq. ft.

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Q: If there are multiple pools, each less than 2,000 sq. ft., but whose sum of surface area is greater than 2,000 sq. ft., should such a facility be required to provide an adult supervisor with pool director training?

A: Yes. In a setting where there are multiple pools with a total surface area of greater than 2000 sq. ft. our intent is to require a pool director certification. Keep in mind that the certification training is designed to provide awareness and knowledge of the goings on of the **entire** pool facility.

The function of the pool director is essentially a manager who will need to understand and implement appropriate systems within the pool facility to ensure that lifeguard coverage is adequate when required, pool chemistry and analysis is conducted, food activities are adequate, and timely corrective actions are taken when appropriate so that the facility remains in compliance with the provisions of 8:26 and overall public health is protected.

Q: What is the difference between the TPO and Pool Director training? Can the same person hold both certificates?

A: A pool director is expected to have a basic understanding of pool management and supervision requirements. TPO course may or may not include the pool director training module. TPO focuses on maintenance and mechanical operations whereas pool director oversees the whole operation of the pool as a manager.

Q: Does the pool director need to be on site at all times?

A: No. The intent of the rule is to have an individual trained in management of the pool but does not necessarily require them to be on site at all times.

Q: Should there be a pool director at a “specially exempt” pool?

A: Yes, if the pool is larger than 2,000 square feet.

WATER SAMPLING

Water Sampling – Microbiological Sampling

Q: What are the changes to microbiological water sampling requirements?

A: The sample holding time has been shortened from 30 hours to 8 hours for the required bacteriological analysis for pools, whirlpools, and aquatic facilities.

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For all public recreational bathing facilities, the laboratory must notify the local health authority of a bacterial exceedance within one hour. Specifically, the laboratories are expected to initiate the notification process within one hour. The final report must be sent to the health authority and the client within one business day of the completed analyses.

In the event of a bacterial exceedance the bathing facility shall have a resample collected within twenty-four hours.

Q: Who collects and transports samples to the lab?

A: Any individual who is trained to collect samples can collect and transport samples to the lab.

Q: Are pool samples required to be placed into an incubator within eight hours or just received at the certified lab within 8 hours?

A: Pool samples are required to be placed in an incubator within 8 hours.

Water Sampling – Sample Hold Time

Q: Can you please clarify the hold time for micro samples for pools/spas/lakes from time of collection to time of analysis under the new regulation? Some laboratories continue to operate under old requirements.

A: The newly required hold time of 8 hours is enforceable starting from the day the updated NJAC 8:26 Public Recreational rule went in effect. Laboratories that are not compliant with the new requirements will be investigated on case by case basis. For more information please contact the Department at prb@doh.nj.gov.

Q: Can you provide any background on the changes to sample holding time? There is a concern about feasibility and cost of getting the sample to the lab in 8 hours.

A: The new requirement is consistent with the current Department-sanctioned analytical methods (DSAMs) administered by the New Jersey Department of Environmental Protection. The reduction of sample plating time from 30 hours to 8 hours is based on the Federal laboratory standards for water sampling.

Q: Is it required to submit the results of water sampling prior to the opening of a pool? If so, how far in advance a sample need to be submitted for testing?

A: Yes. According to § 8:26-7.3, a pool sample has to be collected prior to opening for the season. The intent of this rule requirement is to collect a representative sample within a reasonable time period before the opening. Contact your local health authority for additional guidance.

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Water Sampling – Swimming Lake Requirements

Q: What are the new swimming lake water testing requirements?

A: The required analysis for natural lake bathing waters has been changed from Fecal Coliform to E. coli.

OPERATIONAL REQUIREMENTS

Operational Requirements – Turnover Rates

Q: Are all pools expected to come in compliance with the 6-hour turnover rate?

Q: Are all existing pools expected to meet the new construction/operational requirements as soon as the new rule became effective?

A: Seasonal and year-round swimming pools in existence on January 1, 2018 are not required to take any steps to comply with any new requirements concerning swimming pool circulation systems established by the DOH by regulation on or after January 1, 2018 until such time as alterations are made to any part of that swimming pool's circulation system. "Alteration" means any modification or relocation of any structure or equipment, or change of water flow patterns in an existing swimming pool, such that the design, configuration, or operating characteristics of the circulation system are different from the original design, configuration, or operating characteristics of the circulation system. The term does not include normal maintenance, repair, or replacement of equipment with the same or a newer model.

However, although the statute does not allow the Department of Health to enforce the circulation system requirements, it is the Department of Community Affairs Uniform Construction Code that set these requirements, and not Department of Health. Department of Health adopted and referenced the requirements of the Uniform Construction Code.

Also note that none of the above impacts the requirements of the Federal Virginia Graeme Baker Pool and Spa Safety Act (VGBA) signed into law on December 19, 2007.

Operational Requirements – Bonding and Grounding

Q: Do we need a full bonding inspection done every year?

A: All seasonal pools shall provide the bonding and grounding certification to the local health authority annually before opening. The bonding and grounding certification at all pools has to be in compliance with the requirements of the NJUCC code. Generally, an electrical safety inspection is performed every year by the local electric subcode official. A full bonding and grounding inspection is done by a licensed electrician every 5 years. The inspection schedule is determined by the Department of Community Affairs which administers the NJUCC.

EMERGENCY EQUIPMENT

Emergency Equipment – First Aid Kits

Q: Do first aid kits requirements apply per facility or per each swimming pool?

A: First aid kits requirements apply to an entire facility. As per 5.3 (a), *The owner or operator shall provide the swimming pool with the following readily accessible emergency equipment: (...) 3. A first aid kit approved by the Department of Health (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.*

Q: What are the changes to First Aid kits contents?

A: The First Aid supplies requirements are found in NJAC 8:26 - Appendix B. The changes to the First Aid kits are based on the current First Aid kit requirements found in the NJAC 8:25 Youth Camp Standards. First aid kit quantities are based on the size of the bathing/swimming area instead of number of bathers.

Emergency Equipment – AED requirements

Q: What are the new automated external defibrillator (AED) requirements?

A: AED is now a requirement at the public recreational bathing facilities that provide a lifeguard and at bathing beaches where there are 500 or more swimmers.

Q: Where AED has to be located?

A: AED shall be located in plain sight and be easily accessible to provide rescue within 90 seconds as per current EMS recommendations.

Q: In a situation where there are two or more pools in the same facility, is each of them required to have an AED?

A: It depends on the configuration, number and distance between the pools. AED unit shall be readily accessible in case of an emergency. It should be located so as the assistance is provided in under 3 minutes. In addition, AED has to be located near an acceptable communication device.

Q: Is an AED required at a special exempt facility that provides a lifeguard(s)?

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- A:** No, an AED is not mandatory/required at special exempt facility, however, the Department recommends that an AED is provided at ALL public recreational bathing facilities. Whether or not AED is present at a special exempt facility is not a violation of the rule.

ADMINISTRATION & ENFORCEMENT

Administration – Approvals by The Local Health Authority

Q: What is the approval process for the newly constructed pools?

- A:** All newly constructed public recreational bathing facilities have to provide application and supporting documents as per NJUCC to BOTH local code officials and local health authority AT THE SAME TIME. The intent of the rule was to ensure simultaneous review of plans and applications prior to approval to construct. Please note that the approval should not be issued until BOTH the local code officials AND local health authority complete their review.

Enforcement Procedures – Inspections

Q: Is it mandatory to submit the Checklist for Public Recreational Bathing Facilities 21 days prior to opening of a seasonal pool?

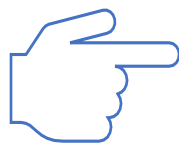
- A:** A seasonal swimming pool **have the option** to submit to the health authority the DOH Checklist for Public Recreational Bathing Facilities prior to opening, which the health authority may review in lieu of an onsite inspection. However, any new swimming pool will be required to complete an onsite inspection prior to opening for the first time.

Q: Are there any changes to routine inspection frequency?

- A:** Seasonal swimming pools are required to be inspected by the health authority prior to opening, and year-round swimming pools are subject to inspection twice per year. “Health authority” includes the Department of Health (DOH) and a municipal, county, or regional board of health.

Enforcement Procedures – Penalties

Q: What types and amounts of fines are associated with violations of the N.J.A.C. 8:26 Public Recreational Bathing regulation?



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- A:** The enforcement of the regulation and the associated fines/penalties assessed are the direct responsibility of the local health authority (LHA) where the public recreational bathing facility is physically located. The local health authority may enforce fines pursuant to N.J.S.A. 26:1A-10 whereby each violation of any provision of the State Sanitary Code shall constitute a separate offense and shall be punishable by a penalty of not less than \$50 nor more than \$1,000.00.