

## DISTRICT DEPARTMENT OF THE ENVIRONMENT

NOTICE OF EMERGENCY RULEMAKING

The Director of the District Department of the Environment, in accordance with the authority set forth in the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.01 *et seq.*), sections 5 and 21 of the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code §§ 8-103.04 and 8-103.20), and Mayor's Order 2006-61, dated June 14, 2006, hereby gives notice of an emergency rulemaking action to amend the ban on swimming set forth in Chapter 11 (Water Quality Standards) of Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking action is necessary to preserve the public safety of persons who will be swimming in the Potomac River during the 2009 Dextro Energy Triathlon ITU World Championship Series, on June 21, 2009, and the Nation's Triathlon, on September 13, 2009, to prevent threats to their health, safety and welfare as a result of their being exposed to contaminants or conditions outside the District's standards and criteria for Class A waters set forth in 21 DCMR § 1104.

This emergency rulemaking was executed by the Director on May 19, 2009, and became effective immediately on that date. The emergency rulemaking will expire 120 days from the date of effectiveness.

**Chapter 11 of Title 21, DCMR is amended as follows:****Section 1158.5 is amended to read as follows:**

1158.5 Except as provided in § 1158.6, primary contact recreation shall be prohibited in the Potomac and Anacostia Rivers and Rock Creek until such time as the standards in § 1104.8 for Class A beneficial use are consistently maintained.

**New sections 1158.6 to 1158.10 are added to read as follows:**

1158.6 The Director may allow two (2) single-day special swimming events between the dates of June 1, and September 30, 2009 in the Potomac River, if a study by the special event organizer of samples collected during a thirty (30) day period prior to each event shows that the numeric criteria for Class A listed in § 1104.8 are being attained. The study shall be conducted as follows:

- (a) At least seven (7) business days prior to collecting samples, the special event organizer shall submit a quality assurance project plan meeting the requirements of 21 DCMR §§ 1901 and 1902 to the Department for review and approval.
- (b) Samples shall be collected and analyzed according to 40 CFR Part 136.

Samples shall be collected by a contractor or contract laboratory with a least two (2) years of experience in the proper collection, handling, and storage of the samples.

- (c) The laboratory conducting the sample analysis shall be capable of providing complete environmental analytical services, consistent with EPA protocols according to a Laboratory Quality Management Plan.
- (d) The study and report of the sample analysis shall be submitted to the Department at least forty-eight (48) hours before the event. The study shall also include:
  - (1) An assessment of whether the water quality criteria for Class A has been attained; and
  - (2) An evaluation of any relevant factors, including prior rainfall and other environmental conditions, that may affect the water quality.

1158.7 The Director shall deny permission to swim in the Potomac River if the results of the study indicate:

- (a) The water quality standards are not being attained;
- (b) An emergency health hazard caused by any dangerous contaminant or condition has occurred; or
- (c) There may be health risks from a known pollution source, such as combined sewer overflow, failing sewer infrastructure, wastewater treatment discharge, or other source.

1158.8 At least ten (10) business days before the event, the special event organizer shall submit to the Director a Certificate of Insurance, or other proof of coverage, signed by an authorized representative of the insurer, as well as any other document the Director shall require, to evidence insurance coverage for the event. The Director, in his sole discretion, shall determine whether the insurance coverage provided by the special event organizer is satisfactory. The event shall not be authorized unless the Certificate of Insurance or other proof of coverage is submitted to the Director in the time required by this subsection.

1158.9 The Director shall be given notice in the event the insurance coverage required by § 1158.8 is substantially changed, canceled, or not renewed prior to the event. The special event organizer shall use all reasonable efforts to notify the Director as soon as possible after the coverage change, cancellation, or non-renewal, but in no event later than two hours before the event begins. Upon receiving notice of a coverage change, cancellation, or non-renewal, the Director may rescind authorization for the event.

1158.10 The special event organizer shall pay a fee of three hundred dollars (\$300) per event for the costs the Department incurs in determining whether it will allow swimming in accordance with §§ 1158.6 and 1158.7, and in determining whether insurance coverage is satisfactory for each event, in accordance with § 1158.8.

**Section 1199.1 is amended as follows:**

**The following definitions are amended to read as follows:**

**Department** – the District Department of the Environment.

**Director** – the Director of the District Department of the Environment.

**The following definitions are added:**

**Event organization** – the 2009 Dextro Energy Triathlon ITU World Championship Series or the 2009 Nation’s Triathlon.

**Special event organizer** – the principal organizer for an event organization.

## DEPARTMENT OF HEALTH

**NOTICE OF EMERGENCY RULEMAKING**

The Director of the Department of Health, pursuant to the authority set forth in section 7 of the AIDS Health-Care Response Act of 1986, effective June 10, 1986 (D.C. Law 6-121; D.C. Official Code § 7-1606), 42 U.S.C.S. § 300ff-22, and Mayor's Order 2000-55, dated April 12, 2000, hereby gives notice of the adoption of the following amendment to Chapter 20 of Title 29 of the District of Columbia Municipal Regulations on an emergency basis. The Director adopted the emergency rule on May 4, 2009, and it became effective immediately. Emergency action was necessary because the H1N1 virus is suspected in several influenza cases discovered in the Washington DC region. The emergency rule will expire August 31, 2009, one hundred twenty (120) days from the date of adoption.

These rules will temporarily add a new subsection 2000.2 to Title 29 DCMR to add Tamiflu (oseltamivir phosphate) to the list of eligible drugs available under the AIDS Drug Assistance Program to respond to the emerging threat to persons with HIV or AIDS from the influenza virus known as H1N1.

**Section 2000 of Title 29 (Public Welfare) (May 1987) of the District of Columbia Municipal Regulations is amended by adding a new subsection 2000.2 to read as follows:**

2000.2            Tamiflu (Oseltamivir Phosphate) is added to the list of drugs available under the AIDS Drug Assistance Program.

**OFFICE OF TAX AND REVENUE**

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**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

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The Office of Tax and Revenue (OTR), pursuant to the authority set forth in the D.C. Official Code § 47-885, as amended by Section 155 of the District of Columbia Appropriations Act 2001, approved November 22, 2000 (114 Stat. 2476; Pub. L. 106-522) and the Office of the Chief Financial Officer, Financial Management and Control Order No. 00-5, effective June 7, 2000, hereby gives notice of the adoption on an emergency basis of amendments to section 331.4 of Chapter 3 to Title 9 of the District of Columbia Municipal Regulations (DCMR) and section 332.5 of Chapter 3 of Title 9 DCMR.

With respect to 9 DCMR 331.4, OTR is recommending enforcement of the ten percent (10%) penalty for the failure to file or timely file the income-expense form. For the Tax Year 2009 filing, an additional grace period is required in order to properly administer the application of the penalty so that taxpayers are not unduly burdened. This amendment to the regulation is immediately required so that the penalty may be properly waived for those taxpayers who merit the waiver due to reasonable cause. Additionally, the amendment to 9 DCMR § 332.5 is a conforming amendment in furtherance of the final rulemaking in the 56 *D.C. Register*, 1487 (Feb. 13, 2009).

The emergency regulation was adopted and became effective on May 14, 2009. The emergency regulation shall expire within 120 days from its effective date or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

OTR also gives notice of its intent to take final rulemaking action to adopt these regulations in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

**Amendments**

1. Section 331.4 of Chapter 3 of Title 9 DCMR is amended by adding immediately before the period the phrase “; provided that the request for waiver of penalty concerning the income-expense form due on April 1, 2008 may be submitted to the Deputy Chief Financial Officer through April 1, 2009”.
2. Section 332.5 of Chapter 3 of Title 9 DCMR is amended by striking the phrase “March 15th” and inserting the phrase “April 1st”.

Comments on this proposed rulemaking should be submitted in writing to Aaishah Hashmi, Assistant General Counsel, General Counsel Office, Office of Tax and Revenue, 941 North Capitol Street, N.E., 8th Floor, Washington, DC 20002, not later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of this rule and related information may be obtained by writing to the person at the address stated herein.