

STATE OF CONNECTICUT  
DEPARTMENT OF CONSUMER PROTECTION

**TO:** Legislative Regulation Review Committee  
Capitol Building, Hartford, Connecticut

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**FROM:** William M. Rubenstein, Commissioner of Consumer Protection

**DATE:** May 13, 2013

**SUBJECT:** Proposed Regulations Concerning Swimming Pool Builders and Contractors

**SUMMARY OF TESTIMONY**

The Department held a properly noticed public hearing on **January 14, 2013**. The administrative record was held open through the close of business on January 22, 2013 for written testimony.

**IN SUPPORT OF ADOPTION:**

Al Rizzo; Brian Diglio; Raymond Rescildo; and William Drakeley (oral comments).

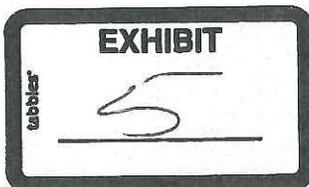
**OPPOSED TO ADOPTION:**

No verbal or written comments were submitted in opposition to the adoption of the proposed regulations.

**SUGGESTING MODIFICATIONS TO THE TEXT:**

The Northeast Spa and Pool Association suggested the following modifications to the published regulation text:

1. That the phrase "or equivalent education and experience to be determined by the Commissioner" was "vague and does not provide any guidance on what the Commissioner will rely upon to make that determination";
2. Within Section 20-417aa-1, they asked for the Department to further define the phrase "but not limited to"; and



3. Additions to the scope of work were suggested within Section 20-417aa-1. However, the Department believes that the current language correctly sets forth the scope of work for the SP-1 and SP-2 license categories.

For the reasons outlined in the "Speakers' Letter" sent to the interested parties after the hearing, the Department considered each of these suggestions, but decided that the existing statutory and proposed regulatory language is not in conflict, and provides for the public safety. The published language will therefore remain.

A copy of the official transcript of the public hearing is also being provided with this summary, together with copies of any written testimony. If the members of the Committee should have any questions, they may contact Attorney Jerry Padula of my office at 860-713-6087 or via e-mail at [Jerry.Padula@CT.gov](mailto:Jerry.Padula@CT.gov).

REGULATION HEARING  
SWIMMING POOL BUILDERS AND CONTRACTORS

JANUARY 14, 2013

PRESIDING OFFICER: JERRY PADULA

1 MR. PADULA: Good morning everyone.

2 MULTIPLE SPEAKERS: Good morning.

3 MR. PADULA: I'm Attorney Jerry Padula. I'm an attorney  
4 with the Department of Consumer Protection. And I've been  
5 chosen to be the presiding officer for today's public hearing.  
6 Today we are here on the matter of Swimming Pool Builders and  
7 Contractors. Today is Monday, January 14, 2013. The time is  
8 now 10:01 in the morning. We're here today in Room 119 of the  
9 State Office Building, which is located at 165 Capitol Avenue  
10 here in the Capital City of Hartford, Connecticut.

11 On December 11, 2012, the Department of Consumer  
12 Protection published a Notice of Intent to Amend Regulations in  
13 the *Connecticut Law Journal*. These regulations are being  
14 proposed in accordance with the authority granted in Connecticut  
15 General Statutes, sections 4-168a, 20-340, and 20-417aa(c).

16 I will now admit several exhibits into the administrative  
17 record. The first is the letter of Commissioner William M.  
18 Rubenstein appointing me to serve as the hearing officer for  
19 today's public hearing. We're gonna admit that into the record  
20 as Exhibit A. The full text of the proposed regulation, which  
21 has been made publicly available, that'll be marked as Exhibit  
22 B. We also have, for the record, a copy of the **Connecticut Law**  
23 **Journal Notice** from December 11, 2012, pages 1a and 2a. The Law  
24 Journal Notice will be marked as Exhibit C for the record.

25 We also have a **Fiscal Note**, which is prepared by the

1 agency. It's dated November 26, 2012. The **Fiscal Note** reflects  
2 whether or not there's any fiscal impact on the Department or  
3 the State of Connecticut by implementing the proposed  
4 regulation. That **Fiscal Note** will be marked as Exhibit D for  
5 the record.

6 We also prepared, as a Department, a Small Business Impact  
7 Statement Analysis and performed that analysis and notified the  
8 Department of Small Business Affairs at the Department of  
9 Economic Development of our intent to amend the regulations.  
10 And pursuant to Connecticut General Statutes, section 4-168a,  
11 when drafting these proposed regulations, the Department  
12 considered methods that would accomplish the objectives of the  
13 applicable statutes while minimizing the adverse impact on small  
14 businesses. And the agency specifically considered the five  
15 methods listed in subsection (b) of Connecticut General Statutes  
16 section 4-168a.

17 And the **Small Business Impact Statement**, which is also  
18 referred to within the Law Journal notice, we marked as Exhibit  
19 E for the record.

20 And finally, we did receive one submission, which was sent  
21 to the Department and the Commissioner by e-mail. It is from  
22 the Northeast Spa & Pool Association dated January 9, 2013. And  
23 we're gonna mark that letter as Exhibit F.

24 And any other documents that you wish to submit today will  
25 be marked as exhibits during the course of the hearing.

1 And we do have a speaker sign-in sheet that was going  
2 around the table. Oh.

3 MR. RIZZO: I think they interpreted that everybody could  
4 sign it.

5 MR. PADULA: Yeah. That's fine. And if people wanna  
6 speak, they can ...

7 MR. RIZZO: There are 4 of us, us 4 here who signed to  
8 speak.

9 MR. PADULA: Okay.

10 MR. RIZZO: The rest were pool builders [inaudible 37]  
11 from throughout Connecticut.

12 MR. PADULA: So if people wanna just observe, they could  
13 just pass on, on public comments.

14 MR. RIZZO: We wanted the record to reflect, everybody  
15 that's in the room that I know is for passage of the regulations  
16 and licensing.

17 MR. PADULA: Oh, okay. Well, with that, why don't we  
18 begin with the first person on the list, which is Mr. Rizzo.

19 MR. RIZZO: Oh. We're gonna be doing it a little  
20 different.

21 MR. PADULA: Okay.

22 MR. RIZZO: [Inaudible 39].

23 MR. PADULA: Okay. [Inaudible] microphone here  
24 [inaudible] everyone.

25 MR. DIGLIO: Okay. Thank you. Uh, hello. My name is

1 Brian Diglio. I am the president of Blue Wave Pool Service and  
2 Supplies in Hamden, Connecticut. I am also the educational  
3 chairman for the Connecticut Spa and Pool Association. I am in  
4 favor of the building license for the following reasons, which  
5 I'd like to share with you. I wanna talk a little bit about  
6 what the license has meant for us on the service sector. We now  
7 have people in the industry or new hires that are coming into  
8 the industry that are now seeking educational courses so that  
9 they may work towards the requirements of the licensing exam.  
10 As a matter of fact, on the way up here, I received a phone  
11 call. Sometimes I'm the person that they contact to find out.  
12 So there's a lot of companies right now that are calling to find  
13 out about this. This has especially held true now that the  
14 expanded language for enforcement has been added. We see a lot  
15 more inquiries on where to go for the education, how they go for  
16 the education. Everybody wants to get in the loop now to do  
17 things the right way. Some of the classes that we do have that  
18 are out there through the APSP--Association of Pool and Spa  
19 Professionals--are the Certified Maintenance Technician course  
20 and the Certified Service Technician course. And now [inaudible  
21 51] the pool builders, we have the Certified Building  
22 Professional course. With this licensing, the continuing  
23 education is a key factor. Unfortunately, there's always a  
24 certain percentage of people that will not do things unless it  
25 is mandatory. Getting the industry members to attend is a very

1 important part of our licensing, and this is where the  
2 continuing education ties in and will tie in also with the  
3 builders license. The continuing education programs that are  
4 provided by the Northeast Spa & Pool Association will now help  
5 the builders and service companies keep up to date with the  
6 latest codes and products. Our, Paulette Pitrak, our deputy  
7 executive director for Northeast Spa & Pool Association, has  
8 done an awesome job. I know Richard, he was working with her  
9 for the curriculums, and I've helped her out with the faxings  
10 [58] to put, to put everything together for these courses. And  
11 I can honestly tell you that the first year that we had the  
12 licensing when we had to sit with the plumbers, it seemed weird  
13 to me and struck me weird that nobody asked any questions during  
14 these courses, and it was like you went to the continuing  
15 education and they knew if you asked questions it would just  
16 make the class longer. Not the case with what the Northeast Spa  
17 & Pool Association and their courses. When we get together for  
18 this continuing education, it's actually a sharing of, a meeting  
19 of the minds. There's a lot of good information that gets  
20 passed along as well [63] as with the codes and updates. I've  
21 seen it where actually when class is over that small groups form  
22 and there's even more sharing of information. And without the  
23 continuing education, this would not be possible. One of the  
24 other things, CONSPA has an affiliation with OSHA, and NESPA has  
25 an affiliation with CNA for risk management. So we actually are

1 able to, to get people from OSHA to come in to these classes to  
2 help us out with the risk management factor and the workman  
3 safety classes.. So I'd like to thank the DCP for working with  
4 our association to make our industry more professional. Bottom  
5 of the line [69] will mean a safer pool for the consumer. Thank  
6 you very much.

7 MR. PADULA: Thank you, Mr. Diglio. Next person on our  
8 list is Bill Drakeley. If you'd like to speak.

9 MR. RECILDO: [Inaudible]. My name is Raymond Recildo.  
10 I'm managing member at Certified Pool & Spa Service in  
11 Southington. I would like to speak on the regulations  
12 pertaining to the building license under SB1 and SB2 licenses.

13 MR. RIZZO: Excuse me a second. [Inaudible 74].

14 MR. RECILDO: [Inaudible].

15 MR. RIZZO: [Inaudible].

16 MR. PADULA: [Inaudible] the speaker sign-in sheet if you  
17 wanted to speak.

18 MR. RECILDO: I'm on it.

19 MR. PADULA: Oh. Okay. Well, go ahead and sign.

20 MR. RIZZO: [Inaudible] sitting down. You gotta get some  
21 chairs.

22 MR. RECILDO: Back to where I was. The prerequisites in  
23 continuing education for these businesses [77] are nothing but  
24 beneficial to the business operator and employee and ultimately  
25 the end consumer. Through the prerequisite education, job site

1 safety is there for the construction of the swimming pool. And  
2 when a modern swimming pool is completed, it's really [inaudible  
3 80] utilities from chemicals, high-pressure systems, electricity  
4 and water, and fossil fuels for heating. You really have to  
5 have a man who can handle these. And being a personal license,  
6 it will pre-qualify those men. So you could send them out into  
7 the field with confidence. And from the business perspective as  
8 an owner operator, I feel that gives me the confidence to create  
9 a job and hire someone who I know who has become a licensee  
10 through the State of Connecticut. Ultimately, I think the  
11 license will only protect [inaudible 65] bathers in Connecticut  
12 and those visiting our facilities equipped with swimming pools.  
13 I see nothing but protection for the Connecticut business owner  
14 or swimmer. That's all.

15 MR. PADULA: Thank you, Mr., Mr. Recildo. The next person  
16 on the list, uh, Mike Giannamore?

17 MR. GIANNAMORE: [Inaudible 88].

18 MR. PADULA: Okay. You're up next.

19 MR. DRAKELEY: Uh, Bill Drakeley. I'm the owner of  
20 Drakeley Industries and Drakeley Pool Company in Bethlehem,  
21 Connecticut. I wanna talk, uh, for the record, just give a few  
22 comments regarding someone who is a contractor, employer,  
23 taxpayer, uh, typically I would, I would be a non-regulatory  
24 type of person [inaudible 92] any new legislation from the state  
25 or any other imposing legislation just increases my fees, which

1 overall increases my or decreases my bottom line I would  
2 normally be against; however, I work for, I do work inside of  
3 the American Concrete Institute and also the American Concrete  
4 Association. These are 2 national committees, groups, code  
5 writers that do technical writing for structural concrete,  
6 structural building, and anything that the general public uses  
7 that has to do with certain building materials. I can tell you  
8 firsthand from being a member of these committees and being a  
9 member of some of these technical writing committees that the  
10 pool industry in itself is looked upon unfavorably by the  
11 engineering and architectural community across the country. We  
12 have the worst reputation when it comes to quality of  
13 contractors, capable contractors, and contractors with the  
14 ability to understand what is right and what is wrong. So the  
15 legislation, you would think, well someone would maybe oppose it  
16 being restricting in competition. I think it has a, as a  
17 conservative contractor, I think it does the opposite. I think  
18 it gives a sense of credibility to the contractors in the pool  
19 industry that we've never had before. The pool industry is 60  
20 years old, and to be the bottom of the barrel is embarrassing.  
21 Nationwide. This type of legislation that Mr. Rizzo first put  
22 forward a number of years ago, and pursuing education that both  
23 [inaudible 109] have talked about gives us a sense of elevated  
24 credibility that now increase our ability to get work. If we  
25 have a raised bar of credibility and ability to do something, we

1 are now more accepted by different communities and different  
2 industries, which means better business for the entire group.  
3 So to conclude my statement, I think that this type of  
4 legislation is a necessary legislation to allow people a) to do  
5 better work and b) to become more successful in their business  
6 because of that sense of credibility. Thank you.

7 MR. RIZZO: [Inaudible 115] Connecticut [inaudible]  
8 instead of the poor quality of work. [Inaudible].

9 MR. DRAKELEY: Sorry.

10 MR. PADULA: The next person going on down the list would  
11 be Patrick McDougall.

12 MR. McDOUGALL: I'll pass.

13 MR. PADULA: Okay. Ray already spoke. Patrick Murphy?

14 MR. MURPHY: I'll pass. Thank you.

15 MR. PADULA: Okay. Then we have Ron Darvan.

16 MR. DARVAN: I'll pass.

17 MR. PADULA: Okay. Bob Russell?

18 MR. RUSSELL: I'll pass [119].

19 MR. PADULA: Rich Hurlburt is [inaudible].

20 MR. HURLBURT: I have a lot to say, but [inaudible].

21 MR. RIZZO: It'll wait.

22 MR. PADULA: Okay. Then we have Ed Barber.

23 MR. BARBER: I'm gonna pass also.

24 MR. RIZZO: That's good [124].

25 MR. PADULA: All right. Now we'll go back to Al.

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1 MR. RIZZO: I'm the clean-up man. We'll get outta here  
2 early today, huh? Good morning. I'm Al Rizzo. I own the Rizzo  
3 Pool Company, and I'm here in my capacity as chairman of the  
4 Government Relations Committee from Connecticut Spa and Pool  
5 Association--CONSPA. C-O-N-S-P-A. CONSPA started in the early  
6 60s--most of you weren't born at that time--and it's evolved  
7 into a charter corporation in 1968. I've been in it since it  
8 started. I was one of the founding fathers of it. There were  
9 15 of us that put it together. And it had, and there was no  
10 Department of Consumer Protection in those days. It had one  
11 thought in mind when we formed was to protect the consumer. We  
12 had what we called, in the old days, suede shoe operators. I  
13 don't know how many of you people remember those [inaudible 129]  
14 going out there selling pools for 600 bucks. They eventually  
15 got a contract for \$5000 or \$10,000. We called it bait and  
16 switch advertising. That was our first premise to, to form, and  
17 in forming at that time, without having the Department of  
18 Consumer Protection, the only places we could go was the trade  
19 journals, all the news, print, radio, television, so forth, and  
20 Better Business Bureau, which doesn't have [133] a lot of  
21 output. At that time, it was still something to be, something,  
22 something we could go to. And we did form [inaudible] rules of  
23 advertising. We tried to follow federal guidelines. It took us  
24 about 10 years to straighten out the mess in the newspapers, and  
25 you'll notice, at least in the *Hartford Times* in the old days.

1 and the *Courant* today, you very seldom notice pricing [inaudible  
2 137]. And every so often somebody goes off and does it, but  
3 very seldom. And one of the things we said is we would price  
4 the product out. That's, that helped stop bait and switch  
5 advertising in those days.

6 Anyways. I'd like to thank Commissioner Bernstein,  
7 Rubenstein for having us here this morning and giving us the  
8 time to speak. I gotta give some special thanks to Rich  
9 Hurlburt ... where was I? Gary Berner. Gary's here. And of  
10 course, Mr. Malloy.

11 MR. MALONEY: Not Malloy but Maloney.

12 MR. RIZZO: I get it mixed up with the governor.

13 MR. MALONEY: You know, well the governor laughs when,  
14 whenever I show up ...

15 MR. RIZZO: Yeah.

16 MR. MALONEY: Because he says everybody calls me Maloney.  
17 So ... it works both ways I guess.

18 [?. . .]: You're one heartbeat [145] away.

19 MR. RIZZO: But all 3 of those gentleman have been very  
20 helpful. Every time I call, they get back to me and they were  
21 answering questions. I know I've been a pain in the neck, but  
22 hopefully that'll be resolved quickly so you won't go on with it  
23 [147]. But I think we should all realize, and I think most of  
24 us do, that an accident occurs in swimming pools is particularly  
25 painful, particularly when it's a fatality. And then worse off

1 when it's a child. Working with the Department of Consumer  
2 Products Safety Commission, Federal Government, in their  
3 Statistical Department, I was able to get some of the results of  
4 where we are and where we started from. The CPSC started about  
5 25, 30 years ago as a small group, and most of the associations  
6 that had problems within their associations like child drowning  
7 and so forth, joined with them in giving our national  
8 association [inaudible 155]. And the figures, I'm trying to get  
9 some statistical figures. I finally, in going through, they  
10 haven't done a fantastic job, but they've done the best job  
11 that, I think as an association, we can do. In 2005, there were  
12 approximately 2 million in-ground pools in the United States.  
13 Every year since then, we've built approximately 16,000 more in-  
14 ground pools. We're not talking above ground now. We're  
15 talking in ground. So we're up to almost 16,000 and 2 million.  
16 Probably 60,000 to 80,000 pools. When you have an in-ground  
17 pool, I'm sure you hear of'm getting buried now and then and so  
18 forth, but I haven't done one in 20 years that I can remember.  
19 So I'm sure there's somebody doing them, but it is nice to  
20 [inaudible 163] where above grounds, they come and go.  
21 [Inaudible] 4 or 5 years, you take'm down. Don't put'm up again  
22 if the kids are already gone off to college, that sort of thing.  
23 So apparently they don't feel that they need to do a good job at  
24 getting, but I think they did a pretty good job with what we got  
25 here for total figures.

1           What I wanna look at when I look at these figures is what  
2 was the accident ratio and what was the, the fatality. Around,  
3 between, it was a, it varied [inaudible 168] here and there, but  
4 from, at 2005, it was approximately 5200 accidents occurred that  
5 went to the hospital to the emergency ward. Out of that, there  
6 were 390 fatalities. In this fatality range, 75% were children  
7 5 years old or younger, and every one of 'm has been, most of  
8 them, I guess every one of 'm, I mean something like 90% were  
9 because of improper supervision. It had nothing to do with the  
10 pools. We did come along in the 80s and 90s and they started  
11 finding out we were having a problem called suction entrapment.  
12 And once we studied it within the industry, the building  
13 council, our local association, and our Washington association,  
14 discovered ways that if we split up the suction, points of  
15 suction so it was divided so you couldn't plug one hole without  
16 the other, still sucking, you wouldn't get a vacuum. We had to  
17 decide on where the [inaudible 179] should be. We had to decide  
18 on the velocity going through it. All this was done not by any  
19 government agency but by our association. And then presented to  
20 the government agencies for acceptance. It's what we do. And  
21 it's been accepted and since 2003, it's been law in the State of  
22 Connecticut that you follow these recommendations that were  
23 made. It's in the code now. And since 2005, I haven't heard--  
24 maybe even before that--but since 2005, I haven't heard of any  
25 entrapment taking place in any of the new pools built in our

1 state because of those code changes we made. So our association  
2 works all the time, all the time to [inaudible 187] to do what  
3 we can and works diligently to promote safe swim, safe diving.  
4 And we developed all the standards that we build by now today.

5 There's not much more we can do, but we still look at where can  
6 we, how do we alert the wife not to run in the house and answer  
7 the phone or the husband not to, I just gotta go to the john a  
8 minute, and run and run back and in the meantime his child has  
9 fell in the pool, and 18 [192], 2 years old. It's a silent  
10 death. They go under water, the child, and [193] nobody knows  
11 about it till they see'm floating.

12 When I started comparing the figures, what took place, and  
13 the point I was trying to make here is that in 2005 we had  
14 approximately 5200 accidents relating to 390 deaths. I checked  
15 the years after, and it has not grown. It's varied 50 to 60  
16 here or there, the deaths have varied 4 or 5 one way or the  
17 other. And what that tells you as we add more pools every year,  
18 you still got the first 2 million we're gonna start with plus  
19 another 70 or 80 thousand we're adding to it over the course of  
20 several years. So we're growing. If you track that line,  
21 you're growing with pools in the ground. But you're, as you  
22 track it, the, the death rate, the fatality and the accident  
23 rate, it stays level. So percentage wise, it becomes less and  
24 less and less of the pools that are there.

25 That, that, that leads me to teach or to believe that our

1 teaching, the definition of education and the consumers that  
2 definitely track between that and our educational program, the  
3 licensing. Suction entrapment is almost nonexistent since 19,  
4 since 2003. The accident occurred in Cromwell several weeks ago  
5 was due, and thank God there was no deaths, were due to  
6 untrained, uneducated, unlicensed employees. Nobody got a  
7 citation, and that's my, one of my real big [inaudible 209]  
8 today. I called up, well I'm gonna go on a little further, I'm  
9 gonna tell you what I did about it. Most, I already talked  
10 about the children, the whole northeast region and probably  
11 [Inaudible 212] can tell us more about the country, but I know  
12 the whole northeast region and parts of New York are divided  
13 differently. They don't go by state, they go by county. Parts,  
14 but some of the counties are gonna demand, are demanding license  
15 now. Massachusetts is trying to follow our program and learn  
16 what we produced already, and they wanna do license along the  
17 same lines. And I've been talking to Mr. Callahan up there  
18 trying to advise him on the way to approach it, and I told him  
19 to come and talk to me [inaudible 217]. So this license that  
20 we've gone for for, we're so far ahead of the game in service  
21 because we started our first service license in 1999. And we've  
22 had changes in our regulations along the way, but since 1999,  
23 what occurred in Cromwell should never have occurred. That's  
24 against the law. You don't run a major facility with unlicensed  
25 personnel. You don't do new plumbings and install new bathrooms

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1 in a hotel or motel if you don't have a licensed plumber on  
2 staff or hire one. You don't do electrical wiring of a new air  
3 condition unit in a room if it isn't done by a master  
4 electrician. The same reason we have to have same facilities.

5 We have to have, we have to have the same enforcement and the  
6 same respect out of the building inspectors and the police  
7 department.

8 I wanna finish off on my conversation with the [inaudible  
9 227] with the officer. I talked to him on the phone. I asked  
10 the chief who he was, and he nicely gave me his name and was I  
11 able to call him. And I asked him what he did. He said I  
12 showed up there. He said the fumes were ghastly, he said. And  
13 the fire department was there already, and they were unloading  
14 equipment to evacuate the air. Everybody was moved out of the  
15 hotel, and OSHA was on its way. I just filled out a report and  
16 left. I said you didn't issue a citation? He said no. He  
17 didn't even know there was a rule or a law that says that in  
18 order to take care of that commercial pool or any pool that you  
19 have to be licensed. So he said to me, he said well what about  
20 my own pool? He says I don't, I'm not gonna hire somebody to  
21 take care of my own pool. I said you don't have to. In this  
22 country, anything you do in your home is your business. But I  
23 said the minute you cross the line and go do your neighbor's,  
24 you have, you're gonna be arrested. You should be arrested.  
25 Because now you're violating a law. And he actually, we were on

1 the phone for 20 minutes or more, and questioned me all about  
2 pools and everything. And at the end he said I'm glad I know  
3 about it. I wish my chiefs knew about it and gave him some  
4 [inaudible 240] on it. We as an association now are gonna  
5 notify, I have a list of every chief of police in Connecticut,  
6 and we're gonna no--that's one of the groups of people to  
7 notify. And once this meeting stops and we get our final  
8 rulings on everything, letters are going out to Board of Health,  
9 each one in each town, the Park and Rec Departments. We're  
10 gonna try to notify. In fact, we got CNA Insurance to agree  
11 now, I think we got'm to agree, not to insure somebody that's  
12 not licensed properly to either build pools or to service them.  
13 So if we can get the insurance companies that either they won't  
14 insure'm or they'll charge'm three times as much to do so, I  
15 think that's gonna be a step in the right direction. And all  
16 these little things are gonna add up.

17       Regarding the regulations, I have a couple of small  
18 comments, and I don't know whether I should ask them now or ask  
19 them afterward. I'd just like to get into the record that we  
20 have a--and maybe Richard or one of you guys will [inaudible  
21 252] afterward. I guess I and Larry had problems with, I  
22 started getting this trying to be a lawyer. That's a  
23 [inaudible], huh? Regulations section 1(b)7, and it says,  
24 paragraph at about the middle says, below it states or  
25 equivalent education and experience to be determined. We're

1 discussing that in open letter to you, but there are 2 places  
2 that appears. It appears in the Biller's License for  
3 grandfather, and it appears under Section 4 after 2013. And in  
4 some place I think, I just wanted, responded also in the  
5 regulations for the service. [Inaudible 211] service?

6 [?. . .]: [Inaudible].

7 MR. RIZZO: Did you say something about it was in the  
8 service too?

9 [?. . .]: The equivalents?

10 MR. RIZZO: Yeah. Is that in with that wording?

11 [?. . .]: Yeah.

12 MR. RIZZO: So I think what we'd like to do as an  
13 association and anybody on an individual basis is try to sit and  
14 find out if we could be helpful in determining what equivalents  
15 are. And that was one of the points. And I said that in the  
16 builder's license one of my points, piece [267] was that if we  
17 went from grandfathering into 2014 what would be needed, and  
18 they said well 5 years' experience and taking the test. I  
19 thought about that long and hard. I don't think anybody learns  
20 how to build a pool or run a pool-building business in 5 years  
21 unless you're a genius, and you wouldn't be in this business if  
22 you were. My son is a doctor. So I think that if we kind of  
23 look at that, I would like to change the 5 years to 7 years if  
24 it's possible.

25 There's another section in the, that we've added on to the

1 service remodeling [276] maintenance. We, we've made sure our  
2 tile and coping got in there so that nobody could change the  
3 elevation of the pool and that tile and coping would be as it  
4 should be, particularly in commercial pools.

5 One of the things that got left out and what brought it to  
6 mind was this Cromwell thing, was although it says we're  
7 responsible for maintaining the pool, it didn't pinpoint water  
8 testing and sanitizing. And I'm not sure why that was left out  
9 ever, but you, you know, you kinda go around things and you  
10 think they're covered, and when it comes down to actual, I'd  
11 have to show that, that, the officer, look, it says right here,  
12 he tested the water. You gotta have a license because they  
13 don't know what the hell they're doing. These guys coulda  
14 killed themselves besides everybody else around. I could tell  
15 you horror stories of people mixing chemicals. I betcha every  
16 one of you has got a guy in a pool business, Beauty Pools in  
17 Buffalo, his son, 18 years old, did the same stupid thing.  
18 Flash burned, he was legally blind until he got to be about 40  
19 years old and they were able to do an operation where he could  
20 see with thick glasses on. And he's since had--this was 10  
21 years ago--he had one of the eyes removed already. And this all  
22 led from that flash burning that took place because of improper  
23 mixing of chemicals. 'Cause it'll flare up that fast and it'll  
24 blow that fast. And I've heard, and once I got to know him  
25 better, and he was in a massive [294] pool dealership, I

1 understand, you know, once you've had something happen to you,  
2 you find out who, it's not uncommon, other people have had it  
3 happen. And you can listen to the horror stories in this trade  
4 about improper mixing of chemicals within the ones that we have  
5 and the teaching [inaudible 296] happen in my company, and thank  
6 God, and hopefully it doesn't happen to any of our trained  
7 personnel because you don't mix chemicals with, you know, I  
8 mean, it's a rule they should start teaching right from the  
9 beginning, right? So we'd like to see that in there.

10 And last, those 2 words [inaudible 301]. My quick, my  
11 last question, which is the one I started alluding to is why  
12 doesn't a police officer have the right to issue a citation if  
13 it's a law. If we're breaking a law, shouldn't I be able to say  
14 to a police officer, there's a guy building a pool, there's no  
15 fence over it. There hasn't been a fence around that excavation  
16 for 3 days. Any little kid could kill himself falling into it  
17 or somebody stumbling around at nighttime. Why are we just  
18 patting him on the back and saying okay buddy, you know, you  
19 should know better, get it done and let it go at that? Why  
20 aren't they, why aren't they being given. Why isn't the men  
21 that worked in Cromwell or at least their bosses, the  
22 perpetrators of this, why aren't they being given citations?  
23 Thank you.

24 MR. PADULA: Thank you. All right, so anything else  
25 anyone would like to say?

1 MR. RESCILDO: I'd like to make a point on Mr. Rizzo's  
2 point about tile and cope ...

3 MR. PADULA: Could you please identify yourself also for  
4 the record?

5 MR. RESCILDO: Ray Rescildo, managing member of Certified  
6 Pool.

7 MR. PADULA: Thank you, sir.

8 MR. RESCILDO: Mr. Rizzo commented on the depth markings  
9 of tile and coping and the placement of tile and coping. I'd  
10 like to say that is still applicable to a vinyl lined pool and  
11 the replacement of the vinyl as the depth can be changed and the  
12 markings removed at that same time. I think it's equally  
13 important across all types of structures. That would be the  
14 replacement of vinyl liner.

15 MR. RIZZO: I'd like to speak just quickly. That's part  
16 of what I was saying. Al Rizzo: In Springfield, Massachusetts,  
17 we built a Holiday Inn, I don't know, 50,000 years ago, and  
18 somebody came in and alls we did was put the shell in. And  
19 somebody came in and changed the coping line so the coping top  
20 of the pool was now 3" higher than, or lower or something, with  
21 the deck. So some drunk jumps the fence at nighttime, goes  
22 running over naked with his girlfriend dives into the shallow  
23 end becomes a quadriplegic, it took me \$30,000 to get out of the  
24 claim because my name was on it from the beginning. That was  
25 [inaudible 324] on top of it all. It's just a matter of

1 changing it. If you left it alone, there'd be no claim there  
2 whatsoever. But it was easier to take the coping off, I guess,  
3 and build up instead of chipping down and cleaning it off.  
4 That's what should've done. You should never change the  
5 elevation of a pool if it's built correctly. And a half inch in  
6 a court of law can make a difference. And if you dive in and  
7 you hit your chin, it only takes that half inch to break their  
8 neck. If that half inch or more of water was in there, you  
9 might've been saved, Rizzo, so you're in trouble, right? So, I  
10 mean those are the things that we, I think we have to be very  
11 careful about. Ron, thanks for bringing that up.

12 MR. RESCILDO: You're welcome.

13 MR. PADULA: Thank you.

14 MR. RUSSELL: Bob Russell, Vice President Columbia  
15 Company. I was making a point about suction entrapment how  
16 there's been no accidents. I just thought you might insert in  
17 there in pools that were built to code.

18 MR. RIZZO: That's what I said. I thought I said, I  
19 thought I said with a new pool built in 2005 on, I gave'm 2  
20 years.

21 MR. RUSSELL: So to make sure we're clear on that, no  
22 pools that were built to code, there hasn't been an entrapment  
23 incident since that time, that's ...

24 MR. RIZZO: I mean, if anything, [inaudible 340] if  
25 anything that we did that, uh, in this industry in the last 30

1 years that made a difference, a really big difference, it was  
2 the changing the suction and, and suction entrapment. And  
3 understanding even better and the velocity of water for hair  
4 entrapment and that sort of thing.

5 MR. PADULA: Okay. Is there anything else anyone would  
6 like to add?

7 MR. RIZZO: Thank you for those comments.

8 MR. PADULA: Well, with that, I will be holding the record  
9 open for a week in case anyone wants, wants to submit any  
10 additional written comments. So far the only written comment is  
11 the one from Northeast Spa & Pool Association. It's not  
12 necessary because you do have the transcript, but if anyone  
13 knows anyone else that would like to submit something, what I'll  
14 do is leave the record open for a week, and that'll be through  
15 the end, the close of business on Tuesday, January 22, 2013. So  
16 a week from tomorrow. And again, any of those comments could be  
17 directed directly to the Commissioner, William M. Rubenstein.  
18 And the address is Room 103, State Office Building, 165 Capitol  
19 Avenue. And that's 06106. That's the same address that was in  
20 the *Law Journal* notice. At this point, the Agency will be  
21 reviewing all of the comments that were given today and, of  
22 course, all of the written comments that are gonna be sent into  
23 the record and marked, and we'll be deciding whether any changes  
24 need to be made to the regulations as printed in the *Law*  
25 *Journal*. After making the final draft, we will then forward the

1 regulations and all the attached documentation to the Attorney  
2 General's office. The AG will review the entire file, the whole  
3 file for legal sufficiency. At that point, if it's approved,  
4 the regulations will then go to the Legislature and they're  
5 actually put for a vote before the Regulation Review Committee.  
6 And if they're approved by the Reg Review Committee, these regs  
7 will become effective upon filing with the Secretary of State's  
8 Office.

9 MR. RIZZO: How long's that take?

10 MR. PADULA: It, as far as a timeline, to lay it out  
11 generally, it depends how many changes we need to make to the  
12 regulation, etc. I'd say, if we finish the regulation in the  
13 next couple of weeks, we could send it to the Attorney General,  
14 and the Attorney General has up to 30 days to review the entire  
15 file. And then once we get that back from the Attorney General  
16 with their signature on it, we file it with the Reg Review  
17 Committee, and it appears on the following month's agenda. So  
18 if we get it to the Reg Review Committee in, sometime in March,  
19 for example, it'll appear on the either April or May agenda.

20 [?. . .]: Does it automatically become approved outside  
21 of that 30-day review period with the Attorney General, say they  
22 don't get to it then it automatically ...

23 MR. PADULA: Basically what happens is we will, we usually  
24 wait for the Attorney General signature on the, on the form. So  
25 technically it's approved after 30 days, but we like to get the,

1 the official signature on the certification page. Because once  
2 it gets to the Reg Review Committee, they like to see if AG has  
3 actually approved it, not just approved it by default. So we  
4 usually go the extra step to get the signature even if it's  
5 beyond the 30 days we wanna get the signature. And usually we  
6 do have a signature. That's the timeframe we're looking at.

7 [?. . .]: Okay.

8 MR. RIZZO: [Inaudible 391] have to put up with us. We  
9 have a closing date at the end of this year.

10 MR. PADULA: There's built-in time kind of deadlines that  
11 we can't change, so ...

12 MR. RIZZO: No. I know.

13 MR. PADULA: Yeah.

14 MR. RIZZO: I'm just teasing. Because we're, will we have  
15 it by June the very latest?

16 MR. PADULA: I would say June is reasonable.

17 MR. RIZZO: We got 6 months a year [inaudible 395].

18 MR. PADULA: I think June is a reasonable date. So that's  
19 basically the order of how everything proceeds. And with that,  
20 I thank everyone for attending and providing all your comments  
21 to the Department. I'll note now that the time is 10:37, and  
22 this public hearing is now adjourned. Thank you all.

23 MULTIPLE SPEAKERS: Thank you.

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CERTIFICATE

I, Karen Johnson, do hereby certify that the foregoing transcription is a true and accurate record to the best of my ability of the Regulation Hearing on Swimming Pool Builders and Contractors on Monday, January 14, 2013.

IN WITNESS WHEREOF, I sign my name this 22<sup>nd</sup> day of January 2013.

\_\_\_\_\_  
Karen Johnson

\_\_\_\_\_  
January 22, 2013

1 CERTIFICATE

2

3 I, Karen Johnson, do hereby certify that the foregoing  
4 transcription is a true and accurate record to the best of my  
5 ability of the Regulation Hearing on Swimming Pool Builders and  
6 Contractors on Monday, January 14, 2013.

7

8 IN WITNESS WHEREOF, I sign my name this 22<sup>nd</sup> day of  
9 January 2013.

10

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12 Karen Johnson

13 Karen Johnson

January 22, 2013

January 22, 2013

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