

THE DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION'S
PROPOSED ORDER TO ADOPT PERMANENT RULES

PROPOSED ORDER

The Wisconsin Department of Agriculture, Trade and Consumer Protection proposes an order to *repeal and recreate* ch. ATCP 76, *relating to* the Safety, Maintenance, and Operation of Public Pools and Water Attractions.

**Analysis Prepared by the Department of
Agriculture, Trade and Consumer Protection**

The Wisconsin Department of Agriculture, Trade and Consumer Protection (Department) proposes an order to repeal and recreate Wis. Admin. Code ch. ATCP 76 (Safety, Maintenance, and Operation of Public Pools and Water Attractions), formerly ch. DHS 172. Chapter DHS 172 had not been significantly modified by the Department of Health Services since 2007. Chapter ATCP 76 has also not been significantly modified since the program was brought to the Department on July 1, 2016. This new rule, if adopted, will bring Wisconsin into substantial accord with the current industry technology, innovations, and pool patron experiences.

Statutes Interpreted

Statutes Interpreted: Sections 93.07 (1), 93.07 (24) (e), 97.67 (1) and (4), 93.06 (7) and (8), 97.71, and 97.12 (3), Stats.

Statutory Authority

Statutory Authority: Sections 93.06 (7) and (8), 93.07 (1), 93.07 (24) (e), 97.65, 97.67(1) and (4), 97.71, Stats.

Explanation of Statutory Authority

The Department has broad general authority, pursuant to s. 93.07 (1), Stats., to adopt rules to implement programs under its jurisdiction. The Department has specific authority, in par. 93.07 (24)(e), Stats., to enforce the laws for the maintenance and operation of public swimming pools, and the Department has authority pursuant to s. 97.67(1) and (4), Stats., to adopt rules for public swimming pools dealing with fees; license issuance, pre-licensing inspection fees, reinspection fees, fees for operating without a license, and late fees for untimely license renewal. The Department has authority under subs. 93.06 (7) and (8), and s. 97.71, Stats., to set conditions on a license, suspend a license, or void a license. The Department may also

issue a special order requiring corrections before a public swimming pool resumes operations, pursuant to sub. 97.12 (3), Stats.

Related Statutes and Rules

Since the transfer of several programs from the Department of Health Service's Food Safety and Recreational Licensing section in July of 2016, the Department has regulated public pools and water attractions. A public pool operator is responsible for safely operating and maintaining a pool pursuant to ch. 97, Stats. Pool operators are also required to meet the requirements for pool construction pursuant to ch. SPS 390. Public pools and water attractions operators shall also meet the requirements pursuant to chs. NR 108, 811 and 812.

Plain Language Analysis

The proposed rule modifies Wis. Admin. Code ch. ATCP 76 by incorporating significant rule provisions of former ch. DHS 172.

A revised ch. ATCP 76 is needed because new technologies and trends within the pool and water attraction industry need to be acknowledged and addressed. In addition, in using the existing ch. ATCP 76, industry, inspectors and the general public continually note places within the code where clarification is needed to facilitate understanding of the rule and its intent. Because of the need for clarification, many new definitions are needed.

The pool industry encompasses a broad variety of businesses from small motels and campgrounds, to homeowner associations, schools, healthcare, and municipal and resort waterparks. In order to ensure development of a rule that considers all the various niches within industry, robust representation from within the pool industry, public health and the Department of Safety and Professional Services pool plan review was sought in rule development. Also, included in the pool industry are limited use public pools that now are rented to the general public in a residential environment.

Sections have been added and formatted to align with other Retail and Recreational rules.

The process for assigning a pool license fee has relied on a licensing structure that is complicated to understand and implement. The license fee has not kept pace with the Department's costs for issuing a license and conducting an inspection. The Department has not had a license fee increase for pools and water attractions since 2007. In the revised ch. ATCP 76, a pool is licensed using a modernized three-tier risk and complexity model that acknowledges the risks of the pool operation and the associated features. The proposed licensing model more clearly reflects the risks and complexity of the pool operation and more accurately reflects the time it takes for the Department to perform its licensing and inspection responsibilities. This licensing model will promote fairness to small business owners by having the license fee reflect inspection time, and risk associated with their facilities. License fees will not be based on a one-size-fits-all model.

Significant input was received from industry and public health partners related to methods for the operation of a pool's recirculation system and methods for chemical testing. Much of the language is outdated, including references that are no longer accurate or relevant. The input received ensured that the rule is updated to allow for new materials that perform more effectively in filtering pool water, and potentially a newer water testing kits that employ technologies that may be more accurate or more efficient than the

traditional approach. In these sections, the language of the rule has been intensively reviewed and clarified so that it is more easily understood by industry and regulators alike.

Supervision and staffing of pools is key to safely operating the pool as well as addressing risks that may require staffing by a lifeguard or attendant. The input received from industry and local health departments was used to revise the rule to address supervision of pools in general, and supervision of the nearly infinite types of features that may be added to a pool. At one time, a pool was a plain rectangle in the ground. Now there are pools that offer experiences such as waves, vortexes, and slide-based rides. It would be impossible to determine an exhaustive list of safety rules that would be applicable to all possible types of water experiences. The tables that describe attendant and lifeguard staffing were clarified so that they cover each type of water experience in detail (whirlpool, waterslide, pool slide under six feet, for example), and describe what the requirement is for that type of pool. The revised rule requires a pool operator and responsible supervisor to develop rules that make sense and accomplish a common goal of safely participating in the water experience.

When a waterborne illness outbreak occurs, early intervention is essential to identify and contain the outbreak. The rule supports expeditious investigation and resolution of any waterborne outbreaks. Sometimes when a suspected outbreak is occurring, it is difficult to know exactly what is expected of pool operators. The revised rule clearly states requirements for operators in the event of a suspected or confirmed outbreak so that it supports efficient and effective investigation of potential waterborne illnesses.

In recent years, there has been an upward trend in demand for dog swims. The revised rule aims at addressing the risks to ensure health and safety at these events by eliminating time spent on the variance process by pool operators, public health staff, and the Department.

Federal Virginia Graeme Baker Act requirements are intended to prevent entrapment and evisceration from submerged drains in the pool. These requirements specify ratings for drain covers as well as placement of drain covers. The revised rule clearly states the requirements and aligns with federal regulations.

Input received from pool operators and pool technical service companies has been incorporated into the rule to reflect current technologies and trends.

With this rule revision, the Department has sought to eliminate duplication, clarify expectations, and to simplify licensing and align fees with costs.

The Department also addressed limited-use public pools. These pools are not addressed under the current rule. Licensing and health and safety requirements have been developed for this new business model.

Wisconsin has a greater variety of requirements for disinfectant levels in order to address the risks and unique chemical environment for each type of pool. The revised rule continues to require higher disinfectant residuals in situations where there is more demand on the free chlorine, such as within whirlpools, where free chlorine disinfectant dissipates relatively rapidly, and within wading pools, where toddlers may be playing and there is a concern to keep the level above the minimum so that it does not rapidly drop below the minimum needed to kill many pathogens that may be present in feces. Some of the disinfectant requirements outside of those where specific requirements are necessary, however, have been streamlined, to make the requirements easier to find and follow. The revised rule streamlines and simplifies disinfectant residual requirements to be in line with those of surrounding states, while maintaining more stringent requirements in settings where appropriate.

With the revised rule, Wisconsin is the first state to address the toxicity of cyanuric acid by recognizing that a level of 300 parts per million (ppm) is toxic to humans, per the National Sanitation Foundation (2019).

Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations

There are no existing or proposed federal regulations that address the activities to be regulated by this proposed rule as a whole. However, the Consumer Product Safety Commission (CPSC) pursuant to 15 U.S. Code § 8003 requires specific construction and placement of drain covers.

The Centers for Disease Control and Prevention (CDC), oversees the guidance, Model Aquatic Health Code (MAHC). This is a comprehensive guidance document for pools, created with input from state health departments and industry partners. The Department referred to this guidance document in the revision process.

Summary of Comments Received during Preliminary Comment Period and at Public Hearing on Statement of Scope

The Department held preliminary hearings on the statement of scope (SS 005-20) on February 14, 2020 in Madison and February 17, 2020 in Wausau, with comments open until February 24, 2020. The Department received eight oral comments during the preliminary hearings and twelve written comments. The Department considered the comments received which included a desire for careful consideration towards adopting the Model Aquatic Code, and although it is mandated by Federal law, commenters expressed concerns with Virginia Graeme Baker Act (VGBA) and the Americans with Disabilities Act (ADA). The commenters also mentioned the importance of involving industry experts throughout the rule-revision process.

Comparison with Rules in Adjacent States

Surrounding states have regulations in place for public pools and water attractions. Regulations are similar to those in Wisconsin, though there are a few differences in which rules are enforced by sanitarians (construction and operation vs. only operation), licensing, requirements for disinfection and other chemical levels, dog swims, outbreak response, and other areas.

Surrounding states combine pool construction and operation into one code. In Wisconsin, pool construction and plan review fall under the regulatory authority of the Department of Safety and Professional Services and safety and maintenance of pools fall under the regulatory authority of the Department.

Illinois: Illinois's pool code, Part 820, is similar to Wisconsin's although their code combines construction and operation into one code. Pools at single family residences are not considered 'public' and are not subject to permitting if the intended use is only for owner and guests. Illinois's code does not have specific requirements for the chemical feed to be interlocked with the recirculation pump to prevent accidental chemical feed. Illinois allows cyanuric acid levels up to 100 ppm. One set of chemical parameters (including free chlorine and pH) is defined for all swimming basins. An emergency telephone is required within 300 feet of the pool enclosure. Telephone design (cellular vs. landline) is not described in the code.

Iowa: Iowa's pool rule, Rule 641, ch.15, is similar to Wisconsin's, but like Illinois's also combined construction and operation into one code. Residential pools operated for more than a certain number of hours per month are subject to the rule, Rule 641, ch.15, while other residential pools offered to the public for fewer hours per month are subject to a more limited set of rules within Rule 641, ch. 15.4(6) n. Iowa

requires a certified operator, except for smaller condominiums, apartment complexes and home owners associations. A telephone is required to be available, but technology and location is not specified. The level for pool closure for cyanuric acid level is 80 ppm.

Michigan: In Michigan, R-325.2191 through R-325.2199 contains regulations for both construction and operation of public swimming pools. Electrical interlock is covered in construction code. Pools in single-family residence are subject to the rule if offered to the public. The cyanuric acid limit is 80 ppm. Michigan requirements for disinfection are based on pH of the pool, but are similar for all bodies of water. A telephone must be provided. If it's not in the enclosure, written advice must be provided for how to find the phone, as in Wisconsin's proposed ATCP 76. Telephone technology is not specified. Requirements for disinfection of whirlpools are less specific and are outcome-based.

Minnesota: Minnesota's pool code, Chapter 4717, provides one set of disinfection parameters. Under subparagraph 11, Minnesota is also phasing-out use of cyanuric acid in indoor pools and sets a limit at 100 ppm. As of February, 2022, Minnesota will no longer require a telephone for public pools. Minnesota's lifeguarding requirements are similar to those of Wisconsin, although in Minnesota, a competitive pool would not be required to have a lifeguard, whereas in Wisconsin, the same pool would be required to have a lifeguard due to the size of the pool, and due to the presence of instructional programs.

Summary of Factual Data and Analytical Methodologies

Feedback on the rule was solicited from industry stakeholders on ch. ATCP 76, through a series of virtual public open meetings. Topics that were complex were addressed in virtual open public meetings with individuals from the industry who had a strong interest in the topic. Stakeholder feedback was collected from various public pool and water attraction businesses, pool design, construction and technical service industries, industry professional associations, Department, and local health department agent representatives, as well as the Department of Safety and Professional Services. The proposed changes in criteria for license fees were tested by applying the proposed criteria to all state-inspected public pools. The Department continually sought feedback on ch. ATCP 76 from industry members to consider ways to minimize adverse impacts on small business.

Analysis and Supporting Documents used to Determine Effect on Small Business or in Preparation of an Economic Impact Analysis.

The rule is not anticipated to have a major economic effect on pool operators since it primarily replaces and updates current rules. Feedback on the rule was solicited from industry members during the rule revision process.

It is important to note that by eliminating the need for variances and allowing flexibility of operation, a pool operator could experience lower operating costs. Some examples of variances that would no longer be necessary would be those related to use of certain filter media, signs at waterparks, first aid and telephone location and telephone technology, and dog swims.

An example of direct reduction in cost to operate a pool is a pool that maintains a landline for the pool. A \$1000-\$1800 per year landline can now be replaced by technology that can cost under \$400 total (one-time) with a cellular 911 service option.

For pool operators who fail to maintain active managerial control of risks at their pool, there would be a cost of \$300-\$500 to obtain pool operator certification that is valid for five years. Failure to maintain active

managerial control means that critical or numerous items are found during two inspections in a three-year period, making the pool more amenable to illnesses and serious accidents.

The proposed rule modifies the criteria for assigning license fees and uses a clearer and simpler licensing model. Instead of licensing by activity area, the licensing model in the revised rule is based on assigning complexity based on basic basin characteristics, and assigning add-on fees based on what is added to the basin. This greatly clarifies the licensing process, and brings the fee for the pool into alignment with the time it takes to inspect it and manage the program.

Three fee models were discussed with stakeholders. The model chosen with industry feedback contains a lower fee increase for a simple pool. The fee increased from \$150 to \$200 for an annual license. Because almost half of the state-inspected pools are simple in complexity, many operators will benefit from this fee model.

The fee category for moderate complexity, including whirlpools, is now more closely aligned with the time spent by inspectors on enforcement and education, and by the program on consultation and investigation. Whirlpools have more complex chemistry due to their higher water temperatures and the evaporation of chemicals used to control sanitation. Also, whirlpools are more likely than swimming pools to be associated with a *Legionella* outbreak, if the water chemistry is not carefully controlled. The fee for a moderate pool license is \$300, an increase of \$150.

The fee category for a complex pool that includes large pools and water attractions is now \$375, an increase of \$225.

For pools or water attractions that have features, an additional fee is applied. For example, a pool with a larger basin with features such as slides, waves and pad-walks, requires additional inspection time. A leisure river with slides, for example now costs \$425 per year to license. With the new fee structure, it will be complex with features and costs \$507, an increase of \$82.

Limited use public pools have a license fee of \$150.

Pools and water attractions need a secondary containment system for storage of disinfectants or acids. An estimated cost for the container is \$85 to \$200.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on Small Business

The Department's Regulatory Review Coordinator may be contacted by:

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Where and When Comments May Be Submitted

Questions and comments related to this rule may be directed to:

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Comments will be accepted up to two weeks after the last public hearing is held on this rule. Hearing dates will be scheduled after this hearing draft rule is approved by the board of agriculture, trade and consumer protection.

RULE TEXT

1 SECTION 1. ATCP 76 is repealed and recreated to read:

2 **Subchapter I**

3 **Administration**

4 **ATCP 76.01 Authority and purpose.** This chapter is promulgated pursuant to ss. 97.67 (1), (4) and
5 227.11 (2) (a), Stats., to prescribe rules for the maintenance and operation of public swimming pools and
6 water attractions for enforcement by the department and agent local health departments to protect public
7 health and safety.

8 **ATCP 76.02 Scope. (1) APPLICABILITY.** This chapter applies to all public pools and water
9 attractions, except that Subchapter VII, applies only to limited use public pools.

10 (a) *Pool or water attraction.* A pool or water attraction is a public pool or water attraction if it serves
11 or is installed for use by the state, a political subdivision of the state, a motel, a hotel, a resort, a camp, a
12 campground, a club, an association, a housing development, such as an apartment complex (a building
13 with 3 or more dwelling units), condominium complex, or housing complex having homeowners'
14 association, a school, a religious, charitable or youth organization, an educational or rehabilitative facility.

15 (b) Limited use public pool. A pool is considered a limited use public pool if the pool is advertised

16 for use to the general public and is associated with one or two family dwelling that is not part of a
17 condominium association.

18 (c) *Reference to the term "pool"*. Unless the context clearly indicates otherwise, references to "pool"
19 in these rules means a public pool, water attraction or a limited-use public pool.

20 (2) **VARIANCES**. When it appears to the department that strict adherence to a provision of this
21 chapter is impractical for a particular pool, the department may approve a variance from that provision
22 requested by that pool operator if the operator provides the department with satisfactory proof that the
23 approval of the variance will not jeopardize the public's health, safety, or welfare.

24 (3) **PROCEDURE FOR VARIANCE REQUEST**. (a) *Application*. Request for modification or
25 waiver of a requirement of this chapter shall be submitted in writing to the department or its agent having
26 jurisdiction, along with documentation specified in par. (d).

27 (b) *Local review*. A local inspector shall review the request and forward it to the department with
28 recommendations for approval or disapproval.

29 (c) *Department action on a variance*. On receipt of a complete variance request as specified in this
30 section, the department shall review the request and grant or deny the request in writing within 30
31 working days. A variance approved by the department shall be made conditional for a defined period of
32 time, or shall expire 5 years from the date of issuance. The department or its agent shall maintain a copy
33 of the variance in the license holder's inspection history file.

34 (d) *Application contents*. Documentation justifying a proposed variance from the requirements of this
35 chapter shall include the following information: 1. A statement of the proposed variance from this chapter
36 requirement citing relevant chapter location numbers;

37 2. The rationale for how the potential public health hazards and nuisances addressed by the relevant
38 chapter section will be alternatively addressed by the proposed variance.

39 (4) **CONFORMANCE WITH AN APPROVED VARIANCE**. If the department grants a variance as
40 specified in sub. (2), the license holder shall: (a) *Conditions*. Comply with the department's conditions for
41 the variance approval^P and

42 (b) *Retention*. Maintain a copy of the approved variance at the pool.

43 (5) **TRANSFERABILITY**. An approved variance is not transferable to any other pool, entity, or
44 licensee.

45 (6) **REISSUANCE**. A license holder who wishes to continue a variance after its expiration shall:

46 (a) *Request for reissuance*. File a request with the department for reissuance of the variance at least
47 30 days prior to its expiration, unless permission for a later date has been granted by the department.

48 (b) *Continued validity*. When a license holder has made timely and sufficient application for the
49 reissuance of a variance in reference to any activity of a continuing nature, the existing waiver does not
50 expire until the application has been finally acted upon by the department.

51 **Note:** To obtain a form for requesting a variance, e-mail datcpdfsrec@wisconsin.gov or contact the
52 Bureau of Food and Recreational Businesses at (608) 224-4702 or PO Box 8911, Madison, Wisconsin
53 53708-8911.

54 **ATCP 76.03 Definitions.** In this chapter:

55 (1) “Active Managerial Control” means that the risks at the pool are being managed so that the pool
56 is in compliance pursuant to ch. ATCP 76, or conditions are monitored so that corrections necessary for
57 compliance are in progress.

58 (2) “Activity pool” means a water attraction with a depth greater than 24 inches (61 centimeters)
59 designed primarily for play activity that uses constructed features and devices including pad walks,
60 flotation devices, and similar attractions.

61 (3) “Administrative follow-up” means a type of inspection in lieu of a reinspection. The
62 administrative follow-up does not require an in-person visit to the facility because the corrective action
63 can be validated through electronic or other effective means.

64 (4) “Adult” means a person 18 years of age or older.

65 (5) “AED” means automated external defibrillator.

66 (6) “Agent” means the city, county or village designated by the department pursuant to s. 97.615 (2),

67 Stats., and ch. ATCP 74, to issue licenses to and make investigations or inspections of public pools and
68 water attractions.

69 (7) “Analyte” means a substance that a test is used to detect.

70 (8) “Approved” means acceptable to the department, based on its determination of conformance with
71 this chapter and good public health practices.

72 (9) “Attendant” means a person trained to control patrons in a safe and orderly manner.

73 (10) “Barrier” means a fence, wall or similar structure meeting the requirements pursuant to s. SPS
74 390.18 (4).

75 (11) “Basin” means any vessel constructed of manmade materials designed to hold water to be used
76 as a public swimming pool or water attraction, the splash zone of an interactive play attraction, or a
77 stand-alone run-out slide.

78 (12) “Breakpoint chlorination” means establishing a hygienic environment in the pool by raising the
79 free available chlorine level to 10 times the combined chlorine level to achieve the destruction of
80 chloramines.

81 (13) “Certified operator” means an operator who is certified by successful completion of at least one of
82 the following training courses:

83 (a) The Pool and Hot Tub Alliance certified pool operator course.

84 (b) The National Recreation and Park Association aquatic facility operator course.

85 (c) An equivalent course approved by the department

86 (14) “CPR” means cardiopulmonary resuscitation.

87 (15) “Children’s slide” means a slide that has a maximum height of 4 feet (1.2 meters) as measured
88 vertically from the slide entrance to slide terminus, and located in less than 24 inches (61 centimeters) of
89 water.

90 (16) “Cold soak pool” means a pool that uses cold water for therapy.

91 (17) “Combined chlorine” means the combination of free chlorine with other substance in the water.

92 (18) (a) “Core item” means a provision in this rule that is not designated as a priority item or a

93 priority foundation item.

94 (b) “Core item” includes an item that usually relates to general sanitation, operational controls,
95 sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or
96 general maintenance.

97 (19) “Current pool” means a pool that creates a current for the purpose of exercise.

98 (20) “Death, injury or illness report” means the written record of all facts regarding an incident
99 resulting in bodily harm that requires assistance from emergency medical personnel, for a pool or its
100 associated buildings and structures (locker room, equipment room, deck, shower, and toilet facilities).

101 (21) “Deck” means the approved, unobstructed walking surface immediately adjacent to a pool.

102 (22) “Deep portion” means a portion of a pool having a design water depth greater than 5 feet (1.5
103 meters).

104 (23) “Department” means the Wisconsin department of agriculture, trade and consumer protection.

105 (24) “Drop slide” means a slide where the terminus is located 20 inches (50.8 centimeters) or more
106 above the water level.

107 (25) “Enclosure” means the area within the barrier that separates the pool or water attraction area
108 from other areas of the building or premises.

109 (26) “Engineer” means a registered professional engineer licensed in Wisconsin.

110 (27) “Entry access point” means the area in which a patron enters a water attraction.

111 (28) “Equipment” means all the necessary items for the operation of a public swimming pool.

112 (29) “Erosion feeder” means a chemical feed device in which powder, tablets, briquettes, or sticks are
113 placed in a container and through which a water stream is passed, eroding and dissolving the chemical.

114 (30) “Exercise pool” means a pool of shallow depth that operates with or without a current.

115 (31) “Existing pool” means a pool operating with a license first issued by the department or its agent
116 before June 30, 2023.

117 (32) (a) “Feature” means a physical object installed in a pool or water attraction that is intended for

118 recreational use.

119 (b) A “feature includes slides, water slides, pad walks, basketball hoops, diving boards, wave
120 generators, treadmills, vortex pools, current pools, swim-up bars, vanishing edge pools, tethered or
121 untethered floatables, spray features, pool depths greater than 16 feet or a play feature pursuant to s.
122 SPS 390.30.

123 (33) “Filter aid” means finely powdered diatomaceous earth or similar approved material used to coat
124 a septum type filter.

125 (34) “Flume” means that part of a slide within which sliding takes place.

126 (35) “Free chlorine residual” means the portion of the total available chlorine that is not “combined
127 chlorine” and is primarily present as hypochlorous acid (HOCl), hypochlorite ion (OCl-) or Cyanurate-
128 bound available chlorine.

129 (36) “General public” means any person who patronizes a pool. “General public” does not include
130 members of a household or their personal guests.

131 (37) “Imminent health hazard” means a condition that presents a substantial likelihood to cause
132 severe adverse health consequences or death.

133 (38) (a) “Instructional Program” means an activity occurring in the water that is led by a person
134 teaching a participant how to do an exercise, movement, skill or similar activity.

135 (b) “Instructional Program” includes a swimming class, an exercise class or a water aerobics class.

136 (39) “Interactive play attraction” means a water attraction, including manufactured devices using
137 sprayed, jetted or other water sources contacting patrons and not incorporating standing or captured water
138 as part of the patron activity area.

139 **Note:** Splash pads and spray pads are examples of interactive play attractions.

140 (40) “Leisure river” means a channeled flow of water of near-constant depth in which the water is
141 moved by pumps or other means of propulsion to provide a river-like flow that transports patrons over a
142 defined path.

143 **(41)** “Lifeguard” means a person holding a certificate from a course that meets the criteria for
144 lifeguarding, first aid, CPR and AED training and certification set forth in the 2018 Model Aquatic Health
145 Code or as approved by the department.

146 **Note:** A listing of approved courses may be obtained by contacting the department. E-mail
147 datcpdfsrec@wisconsin.gov or contact the Bureau of Food and Recreational Businesses at (608)
148 224-4702 or PO Box 8911, Madison, Wisconsin 53708-8911.

149 **(42)** “Lifeguard and attendant staffing plan” means a written description about how lifeguards and
150 attendants will be used at pools.

151 **(43)** (a) “Limited use public pool” means a swimming pool or whirlpool advertised for use to the general
152 public and is associated with one or two family dwelling that is not part of a condominium association.

153 (b) The limited-use public pool does not meet department of safety and professional services ch. SPS
154 390.

155 (c) “Limited use public pool” does not mean a pool only used by the owner and their guests, a plastic
156 kiddie pool, or a swim pond.

157 **(44)** “Maximum flow” means the highest flow rate attainable by the pump without friction from the
158 recirculation system.

159 **(45)** “New pool” means a pool operating with a license first issued by the department or its agent on
160 or after July 1, 2023.

161 **(46)** (a) “Nontethered floatable” means a floatation device added to a pool that is not tethered to the
162 pool basin, allowing movement of the device around the water.

163 (b) “Nontethered floatable” includes floating pads or other similar items.

164 (c) “Nontethered floatable” does not include rubber tubes in leisure rivers and swim wings.

165 **(47)** “NSF” means National Sanitation Foundation.

166 **(48)** “Operator” means the owner of a pool or the person responsible to the owner for the
167 operation of a pool, including the mechanical systems operations of the pool.

168 **(49)** “Oxidizer” means a chemical that can take away electrons from a molecule or atom,

169 thereby destroying organic matter.

170 (50) "Owner" means the state, a political subdivision of the state, corporation, company,
171 association, firm, partnership, or individual owning or controlling any pool.

172 (51) "Pad walk" means a tethered floatable under rope and netting in an activity pool that
173 allows a patron to cross the water using his or her hands.

174 (52) "Pathogen" means a microbial organism capable of causing disease.

175 (53) "Patron" means a human user of a pool.

176 (54) "Patron load" means the number of patrons in a body of water of a pool.

177 (55) "Peak flow" means the highest flow rate attainable by the pump within the pool's
178 recirculation system.

179 (56) "Person" means an individual, partnership, association, firm, company, corporation,
180 municipality, county, town or state agency, whether tenant, owner, lessee, or licensee, or the agent,
181 heir, or assignee of any of these.

182 (57) "Plunge pool" means a pool with a depth of greater than 24 inches (61centimeters), located
183 at the exit end of a waterslide flume and intended and designed to receive a patron emerging from
184 the flume.

185 (58) "Pool or water attraction" means a public pool or water attraction if it serves or is installed for use
186 by the state, a political subdivision of the state, a motel, a hotel, a resort, a camp, a campground, a club, an
187 association, a housing development, such as an apartment complex (a building with 3 or more dwelling
188 units), condominium complex, or housing complex having a homeowners' association, a school, a
189 religious, charitable or youth organization, an educational or rehabilitative facility.

190 (59) "Pool and water attraction area" means, in an indoor or outdoor facility, the pool or water
191 attraction and the area within a continuous enclosure.

192 (60) "Pool slide" means any slide where the drop from the slide terminus to water is less than
193 20 inches (50.8 centimeters) into greater than 24 inches of water and the flume carries less than
194 100 gallons of water per minute.

195 **(61)** “Principle renter” means the adult who is responsible for communicating with the owner
196 or responsible supervisor and is present to ensure that rules for the safe use of the limited use
197 public pool are followed.

198 **(62)** (a) “Priority item” means a provision in this rule directly related to health and safety that if not
199 met or is missing could significantly contribute to an increased risk for injury or illness.

200 (b) “Priority item” is an item that is denoted in this rule with a superscript P^{-P}.

201 **(63)** (a) “Priority foundation item” means a provision in this rule whose application supports,
202 facilitates, or enables one or more priority items.

203 (b) “Priority foundation item” includes an item that requires the purposeful incorporation of specific
204 actions, equipment or procedures by the operator such as personnel training, infrastructure,
205 documentation or record keeping.

206 (c) “Priority foundation item” is an item that is denoted in this rule with a superscript Pf^{-Pf}.

207 **(64)** “Public Pool” means a structure, basin, chamber, or tank, and appurtenant buildings and
208 equipment, used for wading, swimming, diving, water recreation, or therapy. Types of pools include pools
209 used for swimming, diving pools, exercise pools, mobile pools, therapy pools, wading pools, whirlpools,
210 and cold soak pools and water attractions or a limited use public pool. “Public Pool” does not include an
211 inflated mobile structure, basin, chamber, or tank; a swim pond; an individual therapeutic pod, tub, or
212 bath; or a fixed or mobile structure, basin, chamber, or tank that serves fewer than 3 individual residences
213 and is not used as a limited use public pool.

214 **(65)** “Responsible supervisor” means a person designated by the operator to maintain compliance with
215 regulations governing safety and sanitation of a pool or water attraction, a pool slide, or a waterslide.

216 **(66)** “Run-out slide” means a water slide where the rider does not exit into a plunge pool, but has a
217 deceleration area that permits the patron to stop before exiting the slide flume.

218 **(67)** “Safety data sheet” means written information that details the hazards associated with a chemical
219 and gives information related to its safe use.

220 **(68)** “Shallow portion” means the part of the pool that is 5 feet (1.5 meters) in depth or less.

221 (69) “Slide terminus” means the last 10 feet (3.1 meters) of a slide flume discharging into a pool or
222 water attraction.

223 (70) “Spectator area” means a designated area for people to observe or watch an activity in a pool.

224 (71) “Superchlorination” means the addition of an oxidizing product such as chlorine to pool water to
225 raise the level of oxidizer to at least 10 ppm. “Superchlorination” is sometimes referred to as
226 superoxidation.

227 (72) “Tethered floatable” means a play item or floatation device that is affixed to the basin of a pool
228 to restrict movement of the item.

229 (73) “Unauthorized access” means the entrance of a person into a restricted area without permission
230 of the operator or the operator’s designated representative.

231 (74) “Therapy pool” means a pool used for professionally administered physical therapy.

232 (75) “Turnover time” means the time for a given volume of water to pass through the recirculation
233 system.

234 (76) “Vanishing edge pool” means a pool that has no above-water line wall on one or more sides
235 where water spills over the edge.

236 (77) “Vortex pool” means a water attraction that is equipped with a method of transporting water in
237 the basin for the purpose of propelling patrons at speeds dictated by the velocity of the moving stream.

238 (78) “Wading pool” means a shallow pool having a maximum depth of 24 inches (61 centimeters) and
239 intended for children’s play.

240 (79) “Water attraction” means a pool with design and operational features that provide patron
241 recreational activity other than conventional swimming and involves partial or total immersion of the
242 body. Types of water attractions include activity pools, interactive play attractions, leisure rivers, plunge
243 pools, vortex pools, vanishing edge pools, waterslides, run-out slides, drop slides, pool slides, wave
244 pools, zero-depth entry pools, and any public pool with play features except wading pools.

245 (80) “Waterslide” means a slide where a water flow of 100 gallons of water per minute or more is
246 intended to carry a rider down a flume.

247 (81) “Wave pool” means a water attraction designed to simulate breaking or cyclical waves for the
248 purposes of surfing or general play.

249 (82) “Whirlpool” means a small pool, sometimes called a “spa”, which uses higher temperature water
250 than other pools and may include a water agitation system.

251 (83) “Zero–depth entry pool” means a water attraction having a sloped entrance to where the water
252 depth is zero inches at the shallowest point.

253 **ATCP 76.04 Plans and specifications for pools. (1) APPROVAL REQUIRED.** Except as required
254 pursuant to Subchapter VII, an operator shall submit pool plans for new construction and obtain approval
255 from the department of safety and professional services (DPS) pursuant to ch. SPS 390. After July 1,
256 2023, the following documents shall be kept onsite and made available to the department or its agent upon
257 request.

258 (a) Approved pool plans.

259 (b) Engineering statements and reports, when applicable.

260 (c) Compliance declaration, if applicable.

261 (d) Conditional DPS approvals, if applicable.

262 (e) Final DPS inspection approval.

263 (f) DPS or department variances, if applicable.

264 (2) MODIFICATIONS. An operator shall submit pool modification plans to the department of safety
265 and professional services pursuant to ch. SPS 390. Documentation shall be made available to the
266 department or its agent upon request as required under sub. (1).

267 (3) CHANGE OF OPERATOR. For a pool constructed prior to July 1, 2023, pool construction plans
268 are not required at a change of operator.

269 **ATCP 76.045 License holder qualifications.** To qualify for a license, an applicant shall do all of the
270 following:

271 (1) Be an owner of the pool or an officer of the legal entity owning the pool.

272 (2) Comply with the requirements of this chapter.

273 (3) Allow authorized representatives of the department or its agent access to the pool and provide
274 required information to those authorized representatives.

275 (4) Pay the applicable license fees at the time the application is submitted.

276 **ATCP 76.046 License holder responsibilities.** Upon acceptance of the license issued by the department
277 or its agent, the license holder shall do all of the following in order to retain the license:

278 (1) Comply with the provisions of this chapter.

279 (2) Follow reporting requirements to the department or agents, as applicable, as outlined in this
280 chapter.

281 (3) Immediately discontinue operations directly related to an imminent health hazard, and notify the
282 department or its agent.

283 (4) Replace existing facilities and equipment that no longer comply with the criteria set forth in ch.
284 ATCP 76.

285 (5) Comply with directives of the department or its agent including deadlines for taking corrective
286 actions specified in inspection reports, notices, orders, warnings, and other directives issued by the
287 department or its agent for the license holder's pool or in response to community emergencies.

288 (6) Accept notices issued and served by the department or its agent according to law.

289 (7) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for
290 failure to comply with ch. ATCP 76, and any other directive of the department or its agent, including
291 deadlines for corrective actions specified in inspection reports, notices, orders, warnings, and other
292 directives.

293 **ATCP 76.05 License to operate a pool. (1) LICENSE REQUIRED.** (a) *Conditions requiring a*
294 *license.* No person may operate a pool without a license from the department or its agent, except as
295 provided under sub. (c) 2.; a separate license is required for each pool basin.

296 (b) *Pool modification.* A pool for which a license has been issued and is later modified into a
297 different pool type shall require a new license and the operator shall pay all applicable fees.

298 (c) *Transfer of ownership.* 1. If a license holder sells or otherwise transfers ownership or operation of

299 a pool to another person, a new license is required pursuant to s. 97.67 (2) (a), Stats., and the pool may not
300 be opened to the public until the department or its agent has issued a new license.

301 2. Pursuant to s. 97.67 (2) (b) and (c), Stats., an individual may transfer a license to an immediate
302 family member, if the individual is transferring operation of the pool. A sole proprietorship that reorganizes
303 as a business entity, as defined in s. 179.70 (1), Stats., or a business entity that reorganizes as a sole
304 proprietorship or a different type of business entity, may transfer a license to the newly formed business
305 entity or sole proprietorship if the pool remains at the location for which the license was issued and at least
306 one individual who had an ownership interest in the sole proprietorship or business entity to which the
307 license was issued has an ownership interest in the newly formed sole proprietorship or business entity.

308 3. Except as provided in this paragraph, no license issued under this chapter is transferable from one
309 premise to another or from one person or entity to another.

310 4. A person who wishes to transfer a license under sub. (c), shall notify the department or its agent
311 prior to operation of the pool.

312 **Note:** To notify the department of a transfer of ownership, call (608) 224-4923 or send an e-mail to
313 datcpdfslicensing@wi.gov.

314 (d) *Preinspection required.* Before the department or its agent may issue a license to operate a pool
315 under sub. (1), the department or its agent shall conduct a preinspection. A preinspection is not required
316 for a transfer of a license under par. (c) 2.

317 **(2) LICENSE DURATION AND RENEWAL.** (a) *Expiration.* Each license issued under this chapter
318 expires on June 30, except that a new pool license issued during the period beginning on April 1 and ending
319 on June 30 expires on June 30 of the following year.

320 (b) *Annual Renewal.* Each existing pool license shall be renewed annually as provided in sub. (4).

321 **(3) NEW LICENSE.** (a) *Application.* To apply for a new pool license, the applicant shall apply on an
322 application form provided by the department or its agent. The completed application shall be accompanied
323 by all of the following: 1. The applicable fees pursuant to s. ATCP 76.06 Table B or C, and any fees
324 previously due to the department or its agent.

325 2. Proof that the department of safety and professional services pursuant to s. SPS 390.04 (1), has
326 approved plans and specifications for the pool, including modifications.

327 3. The completed final inspection report and approval from the department of safety and
328 professional services authorized inspector.

329 4. A statement from a supervising construction contractor, architect or engineer who worked on the
330 pool indicating that it was completed in accordance with the pool's construction plan pursuant to s. SPS
331 390.05 (1) (c).

332 5. Information, as determined by the department or its agent, indicating that the pool will be
333 maintained and operated in compliance with applicable federal and state laws and that rules have been
334 implemented for the operation of the pool that will protect the health, safety, and welfare of the public.

335 **Note:** To obtain a copy of the pool operator license application form, or to determine which agent to
336 contact for an application form, call (608) 224-4923 or send an e-mail to datcpdfslicensing@wi.gov.

337 (b) *Requests for preinspection.* The operator shall contact the department or its agent and arrange a
338 time for the preinspection pursuant to s. ATCP 76.05 (1) (d), before operating a new pool open to the
339 general public.

340 **Note:** To obtain a copy of the pool license application form, or to arrange for a preinspection, call
341 (608) 224-4923 or send an e-mail to datcpdfslicensing@wi.gov.

342 (4) LICENSE RENEWAL. (a) *Renewal fee.* To renew an existing pool license, the operator shall pay
343 the department or its agent the applicable license fee pursuant to s. ATCP 76.06 Table B or C, before the
344 license expires. If payment to renew a license fee is not received by the department before the expiration
345 date of the license, the late fee pursuant to s. ATCP 76.06 Table B or C, shall be paid in addition to the
346 license fee. An application for a renewal license is not required.

347 (b) *Department action on a license renewal.* 1. The department may refuse to renew a new pool
348 license as provided under sub. (5) (a) 1.

349 2. The department shall refuse to renew an existing pool license as provided under sub. (5) (b).

350 (5) DEPARTMENT OR AGENT ACTION ON LICENSE APPLICATION. (a) *Department decision*

351 *on a license.* 1. The department or its agent may not issue a new pool license or renew an existing pool
352 license unless all of the following conditions are met: a. The operator has corrected a condition for which the
353 department or agent has issued a written health or safety-related order.

354 b. The operator, applicant, or license holder has provided the department or its agent with the
355 information required under sub. (3) (a) 2. - 5.

356 c. The department or its agent has determined that the operator, applicant or license holder is not in
357 violation of ch. 97, Stats., or has only a minor violation as defined in s. 227.04 (1) (a), Stats.

358 (b) *License prohibited.* The department or its agent shall refuse to issue a new pool license or renew
359 an existing pool license under any of the following circumstances: 1. A fully and accurately completed,
360 signed and dated application has not been received by the department or its agent.

361 2. The department or its agent has not conducted the preinspection pursuant to s. ATCP 76.05 (1) (d).

362 3. The department or its agent has not received pool documentation pursuant to s. ATCP 76.04.

363 4. The operator has not paid all of the applicable fees pursuant to s. ATCP 76.06 Table B or C.

364 5. The operator has modified, repaired, or maintained the pool in a manner that is not in accordance
365 with what the department recognizes as safe practice as outlined in this chapter.

366 (c) *Conditional license.* Except as provided in s. 93.135, Stats., the initial issuance, renewal, or
367 continued validity of a license may be conditioned upon the requirement that the license holder correct a
368 violation of this chapter, s. 97.67, Stats., or ordinances adopted pursuant to s. 97.615 (2) (g), Stats., within
369 a specified period of time. If the condition is not satisfied within the specified time or after an extension
370 of time approved by the department, the license is void. No person may operate a pool after a license has
371 been voided. Any person who does so shall be subject to the penalties pursuant to ss. 97.72 and 97.73,
372 Stats., and fees pursuant to s. ATCP 76.06 (3) (e). An operator whose license is voided under this
373 paragraph may appeal the decision pursuant to s. ATCP 76.09.

374 (d) *Granting or denial of a license.* 1. The department or its agent shall issue or deny a new pool

375 license or shall renew an existing pool license within 30 days after the applicant meets all of the
376 requirements pursuant to subs. (3) or (4), as applicable.

377 2. If the department or its agent denies an application for a license, the applicant shall be given
378 reasons, in writing, for the denial and information regarding appeal rights pursuant to s. ATCP 76.09.

379 **(6) VOIDED LICENSE FOR FAILURE TO PAY FEES.** (a) *Payment time frame.* If an applicant or
380 operator fails to pay all applicable fees, late fees and processing charges pursuant to s. ATCP 76.06, within
381 45 days after the expiration of the license, the license is void.

382 (b) *Notice of insufficiency.* If the department receives a notice of an insufficiency pursuant to s.
383 ATCP 76.06 (4), the applicant or operator shall have 15 days after receipt of notice from the department
384 of the insufficiency to pay all applicable fees and processing charges or the license is void.

385 (c) *Appeal rights.* An operator whose license is voided under this subsection may appeal the decision
386 as pursuant to s. ATCP 76.09. The burden is on the license applicant or operator to show that all
387 applicable fees, late fees and processing charges have been paid. During any appeal process concerning a
388 payment dispute, operation of the pool is deemed to be operation without a license and is subject to the
389 fees pursuant to s. ATCP 76.06 (3) (e), in addition to the fees otherwise due, unless the applicant or owner
390 meets its burden of proof under this subsection.

391 **(7) LICENSE POSTING.** A license shall be posted in a place visible to the public. A license may not
392 be altered or defaced.

393 **ATCP 76.06 Department fees. (1) FEE SCHEDULE.** Pursuant to s. 97.67 (5), Stats., no license may be
394 issued until all applicable fees have been paid. Fees specified under s. ATCP 76.06 Table B or C, apply to
395 pool licenses issued by the department or its agent under this chapter for each basin.

396 **Note:** Pursuant to s. 97.615 (2) (d), Stats., a local health department can establish and collect fees for
397 license. For a license issued by a local health department, contact the local health department for its
398 license fee schedule.

399 (2) LICENSE CATEGORY ASSIGNMENT. (a) *Criteria.* 1. The department or its agent shall assign
400 a pool basin to a license category by evaluating the complexity of the pool basin based on the criteria
401 pursuant to s. ATCP 76.06 Table A, in this section.

402 2. The department or its agent shall assign a pool basin whose point value is 0 to 2, to the simple
403 license category.

404 3. The department or its agent shall assign a pool basin whose point value is greater than 2, but not
405 more than 3, to the moderate license category.

406 4. The department or its agent shall assign a pool basin whose point value is 3.5 or greater, to the
407 complex license category.

408 5. If the department or its agent orders a pool closed because of a confirmed waterborne illness
409 outbreak or chemical release incident, associated with the operation of the pool, the department or its
410 agent shall immediately assign the pool to the complex category for the current and following licensing
411 year. If no further outbreaks or closures occur, the department or its agent may reduce the license to the
412 appropriate license category assignment.

413 (b) *Point values for determining factors for assigning a pool license category.*

414 **ATCP 76.06 Table A**

Determining Factors for Pool License Category (per Basin)	Point Value
A. Basin	1.0
B. The pool type is a whirlpool or therapy pool	1.0
C. Choose the applicable recirculation system	
1. Recirculation system is designated to a single pool basin	1.0
2. Recirculation system is shared with another pool basin	0.5
D. The basin is greater than 1999 square feet in area	1.0
E. The pool is defined as a water attraction	1.0

415 (c) *Fee schedule tables.*

416 **ATCP 76.06 Table B Fee Schedule — SFY 2023**

417 **For licenses issued April 1, 2023 through June 30, 2025**

Type of Facility	License Fee	Preinspection Fee	1st. Reinspection or Administrative Follow-up Fee	2nd. and Subsequent Reinspection or Administrative Follow-up Fee	Late Fee
Simple pool	\$200	\$200	\$100	\$150	\$40
Simple pool w/ features	\$332	\$332	\$100	\$150	\$66
Moderate pool	\$300	\$300	\$100	\$150	\$60
Moderate pool w/features	\$432	\$432	\$100	\$150	\$86
Complex pool	\$375	\$375	\$100	\$150	\$75
Complex pool w/ features	\$507	\$507	\$100	\$150	\$101

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ATCP 76.06 Table C Fee Schedule — SFY 2025

420

For licenses issued on or after April 1, 2025

Type of Facility	License Fee	Preinspection Fee	1st. Reinspection or Administrative Follow-up Fee	2nd. and Subsequent Reinspection or Administrative Follow-up Fee	Late Fee
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Simple pool	\$208	\$208	\$100	\$150	\$42
Simple pool w/ features	\$345	\$345	\$100	\$150	\$69
Moderate pool	\$312	\$312	\$100	\$150	\$62
Moderate pool w/features	\$450	\$450	\$100	\$150	\$90
Complex pool	\$390	\$390	\$100	\$150	\$78
Complex pool w/ features	\$527	\$527	\$100	\$150	\$105

421

422 **(3) TYPES OF FEES.** (a) *Preinspection fee.* The operator shall pay the applicable preinspection fee
423 pursuant to s. ATCP 76.06 Table B or C, to the department or its agent before a new license is issued
424 pursuant to s. ATCP 76.05 (3).

425 (b) *License fee.* The operator shall pay the applicable license fee pursuant to s. ATCP 76.06
426 Table B or C, to the department for each pool for which the operator applies for a new or renewal
427 license.

428 (c) *Late fee.* If the license fee for a license renewal is not paid before the expiration date of the
429 license, the operator of the pool shall pay to the department or its agent the late fee pursuant to s.
430 ATCP 76.06 Table B or C, and pursuant to s. 93.21(5) (b), Stats., in addition to the renewal license
431 fee.

432 (d) *Reinspection or administrative follow-up fee.* If the department or its agent conducts a
433 reinspection or administrative follow-up of a pool pursuant to s. ATCP 76.07 (1) (b) 1. or 4., the
434 operator shall pay to the department or its agents the applicable reinspection or administrative
435 follow-up fee pursuant to s. ATCP 76.06 Table B or C. The department or its agents shall assess an
436 additional fee pursuant to s. ATCP 76.06 Table B or C, for any second or subsequent reinspection
437 or administrative follow-up conducted pursuant to s. ATCP 76.07 (1) (b) 4.

438 (e) *Fees for operating without a license.* If a pool is found to be operating without a license, the
439 operator shall pay to the department or its agents a fee of \$749.00, in addition to all applicable fees
440 and any processing charges under sub (4).

441 **Note:** Anyone operating a pool without a license is also subject to the penalties pursuant to ss.
442 97.72 and 97.73, Stats.

443 (f) *Duplicate license.* The department or its agent may charge the operator of a pool \$15 for the
444 request of a duplicate license.

445 (g) *Fees for special condition inspections.* For inspection or consultation activities that are not
446 directly related to the department or its agent's responsibilities for issuing licenses, the department or its
447 agent shall charge the operator or the entity requesting the inspection or consultation \$175.00.

448 **(4) PENALTIES FOR INSUFFICIENCY OF PAYMENT.** If the payment for a new or renewal
449 license is by check or other draft drawn upon an account containing insufficient funds, the applicant or
450 operator shall, within 15 days after receipt of notice from the department of the insufficiency, pay all
451 applicable fees under sub. (1), and the financial institution's processing charges by cashier's check, other
452 certified draft, or money order.

453 **ATCP 76.07 Enforcement. (1) INSPECTIONS AND ACCESS TO THE PREMISES. (a) Inspections.**
454 Pursuant to ss. 97.615 (2) and 97.65 (1), Stats., an authorized employee or agent of the department, upon
455 presenting proper identification, may enter any pool area and the recirculation equipment and piping area,
456 and any other associated area at any reasonable time, for any of the following purposes:

- 457 1. To inspect the pool.
- 458 2. To determine if there has been a violation of this chapter or s. 97.67, Stats.
- 459 3. To determine compliance with previously written violation orders.
- 460 4. To secure samples or specimens.
- 461 5. To examine and copy relevant documents and records related to the operation of the pool.
- 462 6. To obtain photographic or other evidence needed to enforce this chapter.

463 (b) *Reinspections or administrative follow-up.* 1. The department or its agent may perform a
464 reinspection or administrative follow-up of a pool whenever an inspection or the investigation of a
465 complaint reveals the existence of a violation that is potentially hazardous to the health and welfare of
466 patrons or employees of the pool.

467 2. A reinspection or administrative follow-up shall be scheduled to allow the operator a reasonably
468 sufficient amount of time to correct the deficiencies.

469 3. A reinspection or administrative follow-up fee shall be charged for the reinspection or
470 administrative follow-up pursuant to s. ATCP 76.06 Table B or C, or applicable charges as determined by
471 an agent of the department.

472 4. If an additional reinspection or administrative follow-up is required because a violation has not been
473 corrected in the scheduled period of time, the department shall assess a second or subsequent reinspection or
474 administrative follow-up fee pursuant to s. ATCP 76.06 Table B or C, as authorized pursuant to s. ATCP 76.06
475 (3) (d), and the department may order the operator to show just cause why the license should not be
476 suspended or revoked pursuant to s. ATCP 76.08.

477 **(2) GENERAL ORDERS TO CORRECT VIOLATIONS.** (a) *Written orders.* If upon inspection of a
478 pool, the department or its agent finds that the pool is not designed, constructed, equipped, or operated
479 pursuant to ch. SPS 390 and this chapter, the department or its agent shall issue a written order to correct
480 the violation. The order shall specify the correction needed for compliance and the time period within
481 which the correction shall be made. The time period specified in the order may be extended at the

482 discretion of the department or its agent as specified in par. (c).

483 (b) *Failure to correct a violation.* 1. If a violation is not corrected by the expiration of the time
484 period stated in the order given under par. (a), or any extension of time granted under par. (c), the
485 department or its agent may issue an order pursuant to s. ATCP 76.08, to suspend or revoke the license to
486 operate the pool. An order for suspension or revocation shall take effect pursuant to s. ATCP 76.08.

487 2. Pursuant to s. 97.12 (5), any person who fails to comply with an order of the department or its agent
488 shall forfeit \$50 for each day of noncompliance after the order is served upon or directed to him or her. A
489 person may appeal a forfeiture pursuant to s. ATCP 76.09.

490 (c) *Requests for an extension to correct a violation.* 1. The department or its agent may extend the
491 time period to correct a violation based on a determination of the seriousness of the violation, the
492 operator's progress towards correcting the violation, and the operator's previous history of compliance.

493 2. To request an extension to correct a violation, the operator shall submit a written request to the
494 department or its agent before the date specified in the written order to correct the violation. The operator
495 shall provide information that demonstrates to the department or its agent that corrective action has been
496 initiated, but additional time is needed to fully correct the violation.

497 **(3) TEMPORARY ORDERS.** (a) *Conditions for a temporary order.* Pursuant to s. 97.65 (2) (a),
498 Stats., whenever, as a result of an inspection under sub. (1), the department or its agent has reasonable
499 cause to believe that an immediate danger to health or safety exists, the department or its agent may issue a
500 temporary order without advance notice or hearing to do any of the following:

501 1. Prohibit the continued operation or method of operation of specific equipment.

502 2. Require the premises or affected areas within the premises to cease operations and close until
503 remedies are applied which eliminate the immediate danger to health or safety.

504 (b) *Duration of a temporary order; actions prohibited.* 1. A temporary order shall take effect upon
505 delivery to the operator or responsible supervisor. Except as provided in par. (c), the temporary order
506 shall remain in effect for 14 days from the date of its delivery, but a temporary order may be reissued for

507 one additional 14-day period if necessary to complete any analysis or examination of samples,
508 specimens, or other evidence.

509 2. No operation or method of operation prohibited by the temporary order may be resumed without
510 the approval of the department or its agent until the order has terminated or the time period specified in
511 subd. 1., has expired, whichever occurs first, unless as provided under par. (c), the department or its
512 agent provides notices that an immediate danger to health or safety is present. If, upon completed
513 analysis or examination, the department or its agent determines that construction, sanitary condition,
514 operation, or method of operation of the premises or equipment does not constitute an immediate danger
515 to health or safety, the department or its agent shall immediately notify the owner, operator, or
516 responsible supervisor in writing and the temporary order shall terminate upon receipt of the written
517 notice.

518 (c) *Notice of findings upon analysis or examination.* If the analysis or examination under sub. (1),
519 shows that the construction, sanitary condition, operation, or method of operation of the premises or
520 equipment constitutes an immediate danger to health or safety, the department or its agent, within the
521 effective period of the temporary order specified in par. (b) 1., shall provide written notice of the findings
522 to the owner, operator or responsible supervisor. Upon receipt of the notice, the temporary order remains
523 in effect until a final decision is issued pursuant to s. ATCP 76.09. The notice shall include a statement that
524 the facility has a right to request a hearing pursuant to s. ATCP 76.09, within 15 days after issuance of the
525 notice.

526 (d) *Failure to comply with a temporary order; forfeitures and penalties.* Any person who fails to
527 comply with a temporary order issued by the department shall forfeit \$50 for each day of noncompliance
528 after the order is served upon or directed to them and, pursuant to s. 97.65 (5) (a), Stats., may be fined not
529 more than \$10,000 or imprisoned not more than one year in the county jail, or both. A person may
530 appeal a forfeiture or penalty pursuant to s. ATCP 76.09.

531 (4) ACTION PLANS. (a) When required by the department or its agent, the operator shall develop,
532 on a form provided by the department or its agent, an action plan for compliance. The action plan shall
533 include all of the following:

- 534 1. A description of the violation and code citation.
- 535 2. The steps the operator will take to correct the violation.
- 536 3. The date compliance will be achieved.

537 (b) The pool is placed on a conditional license.

538 (c) The department or its agent shall void the pool license pursuant to s. ATCP 76.05 (5) (c), if the
539 operator continues to be out of compliance or fails to meet the objectives outlined in the action plan past
540 the date provided in the action plan.

541 **ATCP 76.08 Suspension or revocation of license.** The department may, by summary order and without
542 prior notice or hearing, suspend a license issued under this chapter if the department finds that there has
543 been a substantial failure to comply with the applicable requirements of this chapter and that the
544 continuation of the violations constitutes a serious danger to public health. The order shall be in writing,
545 have the force and effect of an order issued pursuant to s. 93.18, Stats., and is subject to right of hearing
546 before the department, if requested within 10 days after date of service.

547 **ATCP 76.09 Appeals of actions by the department.** If requested in writing within 10 days after date of
548 the service of an order, a hearing shall be conducted pursuant to ch. ATCP 1. Enforcement of the order
549 shall not be stayed pending action on the hearing. A request for hearing does not automatically stay or
550 modify a summary special order.

551 **Note:** A request for hearing shall be submitted to the DATCP Secretary via e-mail at
552 datcpappeals@wisconsin.gov, faxed to (608) 224-5034, mailed to PO Box 8911, Madison, Wisconsin
553 53708-8911, or hand delivered to 2811 Agriculture Drive, Madison, Wisconsin 53718. The hearing may
554 be conducted by the department secretary or designee.

555 **ATCP 76.10 Appeals of actions by agent health departments.** If an agent issues a license under this
556 chapter, the operator shall appeal enforcement action to the agent health department.

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Subchapter II

Standards for Pools

ATCP 76.105 Qualifications of an authorized representative conducting inspections. An authorized representative of the department or its agent who inspects a pool or conducts a plan review for compliance pursuant to ch. ATCP 76 shall meet the staffing qualification requirements pursuant to s. ATCP 74.08.

ATCP 76.106 Inspections (1) REFUSED INSPECTION; PROCESS. If a person denies access to the department or its agent, the department or its agent shall inform the person of all the following:

(a) *Department access.* The license holder is required to allow access to the department or its agent pursuant to s. 97.12, Stats.

(b) *License condition.* Access is a condition of the acceptance and retention of a pool license pursuant to s. ATCP 76.045 (3).

(c) *Denied access.* If the pool license holder denies access to an authorized representative of the department or its agent, the department or its agent may apply for an inspection warrant to allow access pursuant to s. 66.0119, Stats.

(2) REPORTING OF REFUSED ACCESS. If the person in charge continues to refuse access after the department or its agent presents credentials, provides the explanation in sub. (1), and makes a final request for access, the department or its agent shall document details of the denial of access on an inspection report form.

(3) FREQUENCY OF INSPECTION. The department or its agent shall inspect a pool at least once during the licensing period or as approved by the department.

(4) INSPECTION DOCUMENTATION. The department or its agent shall document all of the following on an inspection report form:

(a) *Establishment information.* Administrative information about the pool's legal identity, street and mailing addresses, type of establishment and operation, inspection date, and other information such as

582 type of water supply and sewage disposal, status of the license, and personnel certificates that may be
583 required at the pool.

584 (b) *Inspection findings.* The conditions or other violations from this chapter that require corrective
585 action by the license holder. An accompanying narrative shall contain all of the following:

586 1. A factual description of the violation observed, including location of the observed violation.

587 2. Citation and a brief description of the statute, administrative rule, or local ordinance for the
588 observed violation.

589 3. A statement indicating what corrective action the license holder has taken, or shall take, to regain
590 compliance with the administrative rule, statute, or local ordinance.

591 4. Unless otherwise indicated on the inspection report, each violation shall have a corrective action
592 deadline. The corrective action deadline shall be based on the following criteria:

593 a. The nature of the potential hazard involved and the complexity of the corrective action needed. The
594 department or its agent may agree to or specify additional time, not to exceed 72 hours after the
595 inspection, for the license holder to correct violations of a priority item.

596 b. The license holder has a maximum time of 10 calendar days after the inspection for the license
597 holder to correct violations of a priority foundation item.

598 c. The license holder shall correct core items by a deadline agreed to or specified by the department or
599 its agent, but no later than 90 calendar days after the inspection. The department or its agent may approve
600 a written compliance schedule that extends beyond 90 calendar days, if the license holder submits a
601 written schedule of compliance and no health hazard exists, or will result, from allowing an extended
602 schedule for compliance.

603 (5) ISSUING A REPORT AND OBTAINING ACKNOWLEDGMENT OF RECEIPT. At the
604 conclusion of the inspection, an authorized representative of the department shall sign the completed
605 inspection report. The department or its agent shall then perform an exit interview and obtain a signature
606 on the inspection report from the license holder's designated person in charge. A copy of the inspection

607 report shall be left with the person in charge at the completion of the inspection or emailed or otherwise
608 presented within 2 business days after completion of the inspection.

609 (6) REFUSAL TO SIGN INSPECTION REPORT. If the license holder's designated person in charge
610 refuses to sign the inspection report, the department or its agent shall do all of the following:

611 (a) *Receipt of inspection report.* Inform the person who declines to sign the inspection report that a
612 written acknowledgment of receipt is not an agreement with findings.

613 (b) *License holder's obligation.* Inform the person that refusal to sign the inspection report will not
614 affect the license holder's obligation to correct the violations noted in the inspection report by the
615 deadlines specified.

616 (c) *Refusal documentation.* Document the refusal to sign in the inspection report.

617 (7) POSTING OF INSPECTION REPORTS. The department and its agents shall make inspection
618 reports available to the public on the internet.

619 Subchapter III

620 Water Treatment Systems and Water Quality

621 **ATCP 76.11 Recirculation system. (1) GENERAL.** Each pool shall have a water recirculation system
622 with disinfection treatment and filtration equipment consisting of overflow gutters or skimmers, main
623 drains, inlets, pumps, piping, holding tanks and filters. The system shall be operated continuously except
624 for seasonal closing or during periods of necessary maintenance. ^P

625 **Note:** See s. SPS 390.14 for design requirements for the recirculation system.

626 (2) SKIMMERS AND RECIRCULATION FLOW. (a) *Skimmer flow.* 1. The flow through
627 each skimmer shall be adjusted as often as necessary to maintain a vigorous skimming action at
628 each skimmer. ^{Pf}

629 2. The pool water level shall be maintained at an elevation so that continuous effective surface
630 skimming is accomplished through skimmers or over the gutter lip. ^{Pf}

631 a. For gutter pools, approximately 75 percent of the required recirculation flow shall be
632 through the gutter and 25 percent through the main drain during normal operation. ^{Pf}

633 b. For pools with skimmers, approximately 80 percent of the recirculation flow shall be
634 through skimmers and 20 percent through the main drain. ^{Pf}

635 c. For reverse flow pools, 100 percent of the required recirculation shall be through the gutter or
636 skimmer. ^{Pf}

637 (b) *Skimmers maintained.* 1. Skimmers, skimmer weirs, and overflow gutters and drains shall be
638 maintained so that they are clean.

639 2. Skimmers, skimmer weirs, and overflow gutters are repaired or replaced as needed.

640 3. Skimmer covers shall be securely seated on deck.

641 (c) *Inlets.* Inlets shall be checked and adjusted to ensure that the rate of flow through each inlet
642 is such that a uniform distribution pattern is established. Inlets in pools with surface skimmers shall
643 be directed as necessary to ensure that there is effective skimming in all areas. ^{Pf}

644 (d) *Strainer baskets or screens.* 1. Strainer baskets or screens shall be continuously in use and
645 maintained.

646 2. Clean spare strainer baskets or screens shall be available.

647 3. Strainer baskets for skimmers and pump strainers shall be cleaned at least daily.

648 (3) SURGE TANKS. Surge tanks shall be operated within designed water levels.

649 (4) PUMPS. (a) *Operational specification.* The pump manufacturer's maintenance and
650 operating instructions shall be followed. ^{Pf}

651 (b) *Continuous operation.* Recirculation pumps shall continuously achieve the designed pool
652 water recirculation rate except during maintenance operations. ^{Pf}

653 (c) *Turnover rate.* The turnover time for pools shall be pursuant to s. ATCP 76.11 Table A and B.

654 ^{Pf}

655 **s. ATCP 76.11 Table A Maximum Turnover Time by Pool Type**

Pool Type	Turnover Time (in hours)
Swimming	6

Diving	6
Lap Lanes	6
Activity	2
Interactive play attraction	0.5
Leisure river	2
Plunge	1
Runout slide	1
Vortex	1
Wading pool	1
Whirlpool	0.5
Therapy and Exercise pools	See s. ATCP 76.11 Table B
Cold soak	4

656

657 **Note:** If a pool is used as an alternate type of pool (ex. whirlpool used as a pool), the
658 recirculation shall follow the stricter turnover time.

659 **s. ATCP 76.11 Table B Maximum Turnover Time for Therapy and Exercise**

Pool Temperature in °F. (°C.)	Load (gals/person)	Maximum Turnover Time (hours)
<72–93 (22–33 °C.)	> 2,500	4
<72–93 (22–33 °C.)	> 450	2
<72–93 (22–33 °C.)	< 450	1
>93–104 (33–40 °C.)	N/A	0.5

660 N/A = not applicable.

661 **Note:** If a pool is used as an alternate type of pool (ex. whirlpool used as a pool), the recirculation
662 should follow the stricter turnover time.

663 (5) FLOWMETERS, VALVES, AND GAUGES. (a) *Maintained*. Flowmeters, valves and gauges
664 shall be maintained in operating condition.

665 (b) *Installed*. Installed per manufacturer instructions or as verified by the pump curve. ^{Pf}

666 (5m) PIPING. Water treatment system piping shall have permanent labels, numbered tags or a color
667 coding system that identifies valves, piping, and the direction of water flow. Labels, tags, or color coding
668 shall correspond to a conspicuously posted, easily read chart that explains the system.

669 (6) FILTERS. (a) *General*. 1. The manufacturer's data plate shall be visible on all filters.

670 2. Filter shells and appurtenances shall be maintained in operating condition ^{Pf}

671 3. The backwash procedure shall follow the filter manufacturer's written directions.

672 4. Backwash procedures shall be conspicuously posted in the filter area on an easily read chart.

673 5. Filter media shall be inspected annually and cleaned or replaced when necessary.

674 (b) *Sand filters*. The following types of sand filters shall be backwashed as recommended by the
675 manufacturer: 1. Rapid-rate sand filters. ^{Pf}

676 2. High-rate sand filters. ^{Pf}

677 3. Vacuum sand filters. ^{Pf}

678 (c) *Diatomaceous earth filters*. 1. Pressure and vacuum type diatomaceous earth filters shall be
679 backwashed as recommended by the manufacturer. ^{Pf}

680 2. Septum covers shall be removed, cleaned or replaced when they no longer provide effective filtration
681 or create a friction loss preventing maintenance of the required recirculation rate. ^{Pf}

682 3. Diatomaceous earth wastewater separation tanks, where installed, shall be cleaned according to
683 manufacturer instructions. ^{Pf}

684 4. Positive displacement feeder suction intake shall be: a. suspended at least 6 inches above any
685 sludge layer in the solution tank. ^P

686 b. Tanks for mixing and distribution of slurry shall be appropriately labeled.

687 c. A cover with a screened vent shall be provided on all mixing and distribution tanks.

688 d. The installation shall be maintained to prevent backflow of water into the tanks and to prevent the
689 slurry from being siphoned out of the tanks into the pool recirculation system. ^{Pf}

690 5. Diatomaceous earth slurry feeders. a. The lowest effective concentration of solution shall be used
691 in a diatomaceous earth slurry feeder.

692 b. The concentration of solution may not exceed 5 percent by weight. ^{Pf}

693 c. The diatomite slurry feeder head and lines shall be flushed as recommended by the manufacturer,
694 to assure proper and continuous operation. ^{Pf}

695 d. Water from the discharge side of the recirculation pump may be used.

696 e. If connection is to a potable water supply line, the supply line shall be equipped with an approved
697 backflow or backsiphonage prevention device. ^P

698 f. Diatomite slurry tank agitators shall run continuously. ^{Pf}

699 (d) *Cartridge filters*. 1. Cartridge-type filters shall be removed and cleaned as recommended by the
700 manufacturer. ^{Pf}

701 2. Cartridges shall be replaced when plugged or damaged. ^{Pf}

702 3. A duplicate set of replacement cartridges shall be available on-site and used when removing a
703 soiled cartridge from the filter for cleaning. ^{Pf}

704 (e) *Activated filter media, filter ball media, and glass filter media*. Shall be maintained and
705 backwashed according to the manufacturers' specifications. ^{Pf}

706 (f) *Other media types*. Other media types as approved by the department shall be maintained and
707 backwashed according to the manufacturers' specifications. ^{Pf}

708 **ATCP 76.12 Labeling, storing, mixing, and handling chemicals, including gaseous chlorine.** All
709 labeling, storing, mixing and handling of chemicals must be in compliance with applicable local, state and
710 federal regulations. ^{Pf} **(1) LABELING.** Except for erosion feeders, which require only the name of the
711 chemical, all chemicals used in the operation and maintenance of pools, and bulk storage tanks containing
712 the chemicals, shall be conspicuously labeled with the following information: ^{Pf}

713 (a) Name of the product. ^{Pf}

- 714 (b) The manufacturer's name and address. ^{Pf}
- 715 (c) Active ingredients. ^{Pf}
- 716 (d) Directions for use. ^{Pf}
- 717 (e) Hazardous ingredient warning. ^{Pf}
- 718 (f) For chemicals used for the primary purpose of controlling microbial or algal growth, the U.S.
- 719 environmental protection agency registration number. ^{Pf}

720 **(2) STORAGE.** Chemicals shall be: (a) *Original container.* Stored in the original or a properly

721 labeled container. ^{Pf}

722 (b) *Location.* Covered and kept in a clean, dry, well ventilated and locked area away from flammables,

723 incompatible chemicals, and heat sources. ^P

724 (c) *Separation.* Oxidizers shall be stored separately from acids. ^P

725 (d) *Access.* Only authorized personnel shall have access to a chemical storage area. ^P

726 (e) *Chlorine gas.* Chemicals may not be stored in a chlorine gas storage area. ^P

727 (f) *Food.* Food may not be stored in a chemical storage area. ^{Pf}

728 (g) *Smoking.* Smoking is prohibited in a chemical storage area. ^P

729 (h) *Ventilation.* Ventilation shall comply pursuant to SPS 364, as enforced by the department of

730 safety and professional services. ^{Pf}

731 (i) *Doors.* Doors shall be locked and marked to indicate entry is for authorized personnel only. ^{Pf}

732 (j) *Emergency telephone numbers.* A list of emergency telephone numbers must be readily

733 accessible. ^{Pf}

734 (k) *Secondary containment.* For new pools constructed after the effective date of the rule, secondary

735 containment is required for liquid disinfectant and acid. ^{Pf}

736 **Note:** A separate room is not required under this rule, unless required by the department of safety

737 and professional services.

738 **(3) MIXING.** (a) *Added to water.* A chemical solution shall be added to water, not by adding water

739 to the chemical. ^P

740 (b) *Separately added.* Each chemical or chemical solution shall be separately added to the water. ^P

741 (c) *Restriction of patrons.* Patrons shall not be in the pool, when chemicals are added directly into
742 the pool basin. ^P

743 (4) HANDLING. (a) *Smoking.* Smoking by anyone handling chemicals or by anyone within the
744 immediate vicinity of chemicals being mixed is prohibited. ^P

745 (b) *Safety data sheet.* 1. a. Safety data sheets for each chemical used shall be readily accessible to staff,
746 the department or its agent. For example, the operator may keep the safety data sheets in a binder or on a
747 computer as long as the operator or designated representative has immediate access to the information
748 without leaving the pool area, ^{Pf}

749 b. A paper back-up is available for rapid access to the safety data sheet in the case of a power outage
750 or other emergency. ^{Pf}

751 2. Staff shall be trained in the use of the safety data sheets and where they are located. ^{Pf}

752 **ATCP 76.13 Chemical feeders and filter aid equipment. (1) GENERAL.** (a) *Installed.* All disinfectant
753 or sanitizer chemical (including disinfectant or sanitizer and acid) feeders shall be installed according to
754 the manufacturer's directions.

755 (b) *Used.* Used only with the disinfectant or sanitizer recommended by the manufacturer and meet all
756 of the following requirements: ^{Pf}

757 1. Feeders shall be:

758 a. Automatic. ^{Pf}

759 b. Easily adjustable. ^{Pf}

760 c. Capable of providing the required chemical residuals. ^{Pf}

761 (c) *Interlocks* 1. All recirculation systems shall be equipped with chemical feed interlocks pursuant
762 to ch. SPS 390, as enforced by the department of safety and professional services by: a. Providing an
763 interlock device so that when power to the recirculation pump is interrupted, the chemical feed stops, ^{Pf}
764 and

765 b. Except as provided in Subd. 5., for a pool or whirlpool, provide an interlock device so that when
766 flow in the recirculation system is interrupted, the chemical feeds stops. ^{Pf}

767 2. The operator or their designee shall demonstrate knowledge to the department or its agent:

768 a. Shows the location of chemical feed connections and system flow sensing interlocks in the
769 recirculation system; ^P

770 b. Describes how the chemical feeder electrical interlock functions; ^P

771 c. Describes how the system flow interlock functions, if applicable; ^P

772 d. Describes how monthly testing is performed; ^P and

773 e. Describes what safety measures that must be employed during monthly testing. ^P

774 3. Once monthly, challenge testing of the chemical feeder system shall be conducted to assess the
775 interlocks pursuant to subd 2. and 3. ^P

776 4. a. A log of the monthly test shall be kept, with the date, results, and the name of the person
777 performing the test. ^P

778 b. Records shall be made available to the department or its agent upon request.

779 5. For pools constructed before February 2009, Par. (c) 1. b., does not apply unless the pool has been
780 involved in a chemical release incident in which the installation of a flow sensor would have prevented
781 the chemical release.

782 **(2) EQUIPMENT MAINTENANCE.** (a) *Maintenance hazards.* All maintenance that presents a
783 danger to the patrons, including changing chlorine gas tanks and testing interlocks, shall be performed
784 when the pool is not in use or is closed to public use. ^P

785 (b) *Maintenance signage.* When access to a pool or pool area cannot be restricted, signage shall be
786 in place indicating that the pool is closed and the area shall be monitored to ensure the pool is not in use.
787 This would include a pool area that contains more than one pool, but not all of the pools are closed. This
788 also applies to hotels with pools built before February 1, 2017, with access to the pool area through the
789 guest room. ^P

790 **(3) REPAIRS.** Only personnel trained and licensed in handling gas chlorine by a certifying agency

791 such as the Federal occupational health and safety administration may repair gas chlorinators. ^{Pf}

792 (4) EVACUATION DURING CHEMICAL FEED INCIDENT. When the interlock is activated
793 stopping flow from the chemical feeders, or the water recirculation pump is stopped manually or
794 unexpectedly for any reason and duration, including power outages, all bathers shall be evacuated from
795 the pool until manual evaluation of the cause for interlock activation or recirculation pump interruption
796 is completed by the responsible supervisor or pool operator. ^P

797 **ATCP 76.14 Disinfectant or Sanitizer feeding and residuals. (1) GENERAL.** Each pool in use shall
798 be automatically and continuously disinfected by means of disinfectant or sanitizer and feeding equipment
799 that is in compliance with this section and s. ATCP 76.13. ^P

800 (2) CHEMICAL USE REQUIREMENTS. (a) *Disinfectant or Sanitizer-producing chlorine and*
801 *bromine and other chemicals.* Disinfectant or Sanitizer-producing chlorine or bromine and any
802 supplemental or alternative chemical used shall meet all the following requirements:

803 1. a. The disinfectant or sanitizer or supplemental chemical is registered with the U.S. environmental
804 protection agency as a disinfectant or sanitizer, except algaecides shall be registered as algaecide ^{Pf}.

805 b. The product label is registered with the department. ^{Pf}

806 2. The disinfectant or sanitizer has an effective residual that can be measured easily and accurately by
807 an approved field test procedure. ^{Pf}

808 3. The disinfectant or sanitizer is compatible for use with other chemicals normally used in the water
809 treatment or is clearly identified as having a use limitation. ^{Pf}

810 4. The disinfectant or sanitizer does not impart toxic properties to the patrons in the water when used
811 according to the manufacturer's directions. ^P

812 5. The disinfectant or sanitizer does not create an undue safety hazard when handled, stored, or used
813 according to the manufacturer's directions. ^P

814 (b) *Bromine.* Bromine may not be used in a waterslide, pool slide, plunge pool or wave pool without
815 the department's approval.

816 (c) *Cyanuric acid*. Cyanuric acid-containing disinfectant or sanitizer may not be used at an indoor
817 pool, therapy pool or whirlpool, beginning 2 years after the effective date of the new rule.

818 (3) GAS CHLORINATION. (a) *Upright*. Cylinders shall be in an upright position, other
819 container types shall be placed per manufacturer's instructions. ^{Pf}

820 (b) *Chained*. Cylinders shall be chained or strapped to a rigid support. ^{Pf}

821 (c) *Moving cylinders*. Cylinders may not be moved unless the protection cap is secured over the
822 valve. ^{Pf}

823 (d) *Tagged*. Empty cylinders shall be tagged to indicate they are empty. ^{Pf}

824 (e) *Valves*. Cylinder valves shall be closed when in storage or empty. ^{Pf}

825 (4) CHEMICAL FEEDING. Disinfectant or Sanitizer and filter aid feeding shall be conducted
826 as follows: (a) *Positive displacement disinfectant or sanitizer feeding*. Liquid chemicals shall be
827 fed into water circulation piping or a surge tank or vacuum filter by means of a positive
828 displacement feeder either at full strength or diluted. If calcium hypochlorite or another chemical
829 that forms a residue is used, a 2-tank system shall be used. One tank shall be used for mixing the
830 solution and settling the precipitate. The clear liquid shall be decanted or siphoned into the second
831 tank for distribution. ^{Pf}

832 (b) *Flow-through feeders*. The chemical used, the manner of usage, and the quantity used in a
833 flow-through feeder shall be as recommended by the feeder manufacturer. ^{Pf}

834 (c) *Dry feeders*. Feeders used for feeding dry chemicals into water circulation piping, a surge
835 tank, or vacuum filter shall be maintained for proper operation. ^{Pf}

836 (5) CHEMICAL CONCENTRATIONS AND RESIDUALS. (a) *Minimum disinfectant or*
837 *sanitizer residuals*. Except as provided in par. (b), feeding shall result in the minimum disinfectant
838 or sanitizer residuals pursuant to s. ATCP 76.14 Table. ^P

839 (b) *Cyanurates*. The water cyanuric acid concentration may not exceed 30 ppm. ^{Pf} 1. A
840 cyanuric acid level above 300 ppm is considered a hazardous substance in the pool. ^P

841 (c) *pH control*. The water's pH shall be maintained within a range of 7.2 to 7.8. ^P

842 (d) *Alkalinity*. The total alkalinity of pool water shall be maintained between 60 and 180 ppm as
 843 calcium carbonate unless it can be shown by the operator that another level of total alkalinity produces
 844 chemically balanced water based on calculations approved by the department. ^{Pf}

845 (e) *Combined chlorine*. 1. The operator shall develop and implement a plan to minimize combined
 846 chlorine in the pool. ^{Pf}

847 2. The plan shall contain the following components: ^{Pf} a. Action level (it is recommended that 0.4
 848 ppm be used for combined chlorine for either breakpoint chlorination or water replacement or a
 849 combination of both to occur.)

850 b. Taking into account monochloramine in the source water.

851 c. Volume of pool.

852 d. Range of volume of fresh source water added to pool each day.

853 e. Description of showering requirements and how communicated to patrons.

854 f. A record shall be maintained documenting combined chlorine test results, date and times breakpoint
 855 chlorination was performed and any complaints of eye or respiratory irritation.

856 (f) *Maximum chlorine residual*. The maximum chlorine residual in any pool shall not exceed
 857 10 ppm. ^P

858 (g) *Maximum total bromine*. The maximum total bromine in a pool shall not exceed 10 ppm. ^P

859 **s. ATCP 76.14 Table A**

860 **Minimum disinfectant or sanitizer residuals in parts per million (ppm)**

Swimming and Activity Pools	Minimum Free Chlorine Residual	Total Bromine
Swimming and Activity Pool	1.0 ppm	3.0 ppm
Swimming and Activity Pool With Stabilizer	2.0 ppm	N/A
Swimming and Activity Pool With Electronic Monitoring Devices Present And Properly Functioning	1.0 ppm (with or without stabilizer)	3.0 ppm

Wading Pools		
Wading Pool	2.0 ppm	4.0 ppm
Wading Pool With Stabilizer	4.0 ppm	N/A
Wading Pool With Electronic Monitoring Devices Present and Properly Functioning	1.0 ppm (with or without stabilizer)	3.0 ppm
Whirlpool, Exercise, Therapy Pools		
Whirlpool, Exercise, or Therapy Pool	3.0 ppm	4.0 ppm
Whirlpool With Stabilizer	6.0 ppm	N/A
Whirlpool Pool With Electronic Monitoring Devices Present and Properly Functioning	3.0 ppm (with or without stabilizer)	4.0 ppm
Water Attractions Other Than Those Specified		
Water Attraction Other Than Those Specified	1.0 ppm	3.0 ppm
Water Attraction Other Than Those Specified With Stabilizer	2.0 ppm	N/A
Water Attraction With Electronic Monitoring Devices Present and Properly Functioning	1.0 ppm (with or without stabilizer)	3.0 ppm
Plunge Pools and Wave Pools		
Plunge and Wave Pool	2.0 ppm	3.0 ppm
Plunge and Wave Pool With Stabilizer	4.0 ppm	N/A
Plunge and Wave Pool With Electronic Monitoring Devices Present and Properly Functioning	1.0 ppm (with or without stabilizer)	3.0 ppm

Interactive Play Attractions		
Interactive Play Attraction	2.0 ppm	3.0 ppm
Interactive Play Attraction With Stabilizer	4.0 ppm	N/A
Interactive Play Attraction With Electronic Monitoring Devices Present and Properly Functioning	1.0 ppm (with or without stabilizer)	3.0 ppm
Waterslides and Pool Slides		
Waterslides and Pool Slides	2.0 ppm	3.0 ppm
Waterslides and Pool slides With Stabilizer	4.0 ppm	N/A
Waterslides and Pool Slides With Electronic Monitoring Devices Present and Properly Functioning	1.0 ppm (with or without stabilizer)	3.0 ppm

861

862 **(6) ELECTRONIC MONITORING DEVICES.** (a) *Water potential.* When oxidation potential
863 controllers are used the water potential shall be kept between 650–900 mV. In addition, to the
864 requirements pursuant to s. ATCP 76.18 (3), if the water potential reads below 650 mV or above 900 mV,
865 the operator shall manually test the pool water with an approved test kit. ^{Pf}

866 (b) *Free chlorine, or bromine.* For a pool equipped with an approved and properly maintained
867 electronic monitoring device to control the disinfectant or sanitizer level and pH, the available
868 disinfectant or sanitizer residual shall meet the minimum requirements pursuant to s. ATCP 76.14 Table
869 A, and be tested pursuant to s. ATCP 76.18 (3). ^{Pf}

870 **ATCP 76.15 Alternative or supplemental disinfection systems.** Any one of the following alternative or
871 supplemental systems may be added to a pool if an automated disinfection system is in place and on line
872 to maintain the disinfectant or sanitizer residuals pursuant to s. ATCP 76.14 Table A. ^{Pf}

873 **(1) CHLORINE GENERATORS.** (a) *NSF 50.* Chlorine generators (such as salt systems) shall be

874 certified and installed to NSF 50 and manufacturer instructions. ^{Pf}

875 (b) *Disinfectant system on line.* An additional disinfection system shall remain on line and able to
876 automatically provide the capacity to superchlorinate the water and maintain the required sanitizer
877 residual. ^P

878 (2) OZONE GENERATORS. (a) *Maximum concentration.* Ozone generators shall provide a
879 concentration of ozone in the return line to the pool not to exceed 0.1 mg/L. ^P

880 (b) *Electrically interlocked.* The ozone generator shall be electrically interlocked with the
881 recirculation pump to prevent the feeding of ozone when the recirculation pump is not operating. A flow
882 sensor controller may also be used to turn off the feeder when flow is interrupted. ^P

883 (c) *Maximum ambient ozone level.* Off-gassing of ozone shall not result in ozone levels in the
884 equipment room or pool area exceeding 0.1 ppm. ^P

885 (3) ULTRAVIOLET LIGHT. Ultraviolet light units shall be certified to NSF 50, and tested and
886 approved for use in water disinfection systems and installed pursuant to NSF 50 requirements. ^P

887 (4) OTHER TECHNOLOGIES. Other technologies that inactivate or kill pathogens shall be certified
888 and installed pursuant to NSF 50, manufacturer instructions and have an EPA registration number, if
889 applicable. ^P

890 **ATCP 76.16 Water quality. (1) GENERAL REQUIREMENT.** Pool water shall be free of chemical,
891 physical and microbial substances known to be, or suspected of being, capable of creating toxic reactions
892 or skin or membrane irritations. ^P

893 (2) WATER CLARITY. Pool water shall be transparent and free from cloudiness. The main drain
894 grating shall be readily visible from the pool deck, including the outline of the main drain and the main
895 drain cover pattern. ^P

896 (3) WATER SAMPLING. (a) *Sample collection and analysis.* The department or its agent may
897 collect samples of pool water for microbiological analysis in evaluating water quality. The analysis of
898 water samples shall be performed by a laboratory accredited by the department. These monitoring

899 activities may be supplemented with additional microbiological analysis, which shall be performed by an
900 accredited laboratory certified in those methods. ^{Pf}

901 **Note:** A list of accredited laboratories may be obtained by calling the department at 608-224-4712
902 or by email at www.datcp.state.wi.us.

903 (b) *Bacteriological standards.* Water quality shall be maintained to meet the following standards:

904 1. When bacteriological analysis of total *coliforms*, *Staphylococcus aureus*, *Pseudomonas*
905 *aeruginosa* or *Legionella pneumophila* is performed, no colony forming units are present in a 100 mL
906 sample. ^P

907 2. When bacteriological analysis is performed for the heterotrophic plate count, the total count may
908 not exceed 200 colonies in a one mL sample. ^{Pf}

909 (4) ALGAE CONTROL. An algaecide may be used in a pool pursuant to ss. ATCP 76.14 (2) and
910 29.50 (4) (b) 1, according to the manufacturer's label directions. ^P

911 **ATCP 76.17 Water test kits. (1) APPROVED.** A test kit of a type approved by the department shall be
912 maintained for testing the pool water pH; the disinfectant or sanitizer residual; the combined chlorine
913 level, when chlorine is used; the total alkalinity; and the cyanuric acid concentration. The test kits shall
914 meet the following specifications, as described in s. ATCP 76.17 Table A. Required Test Kit Accuracy
915 and Increment. ^{Pf}

916 **s. ATCP 76.17. Table A Required Test Kit Accuracy and Increment**

	Minimum Accuracy ^{Pf}	Maximum Increment ^{Pf}
Chlorine and combined chlorine	+/- 0.2 ppm	0.2 ppm
pH	+/- 0.2 pH unit*	0.2 units
Alkalinity	+/- 25 percent	10 ppm
Cyanuric	+/- 20 percent	20 ppm
Bromine	+/- 10 percent	0.5 ppm

917

918 **Note:** Operators who do not want to use a pH meter and are using a test kit with a pH accuracy of
919 +/- 0.2 pH units must be able to maintain the pH within a range of 7.4 to 7.6. Due to a common degree
920 of error in many available test kits for pH, it is strongly encouraged to use a pH meter, with an accuracy
921 greater than 0.1 or better, to determine the PH reading on the higher and lower end. If the Taylor test kit
922 is used and natural light is not available, the Taylor light box shall be used as instructed in the
923 manufacturer's directions.

924 **(2) TEST REAGENTS USE AND STORAGE.** Test kit reagents shall be: (a) *Stored.* Stored in the
925 original container or per manufacturer directions. ^{Pf}

926 (b) *Replaced.* Replaced as recommended by the manufacturer. ^{Pf}

927 (c) *Temperature range.* Stored within the temperature range specified by the manufacturer for storage. ^{Pf}

928 (d) *Use.* Used and properly disposed of before the expiration date. ^{Pf}

929 **(3) TESTING REAGENT TECHNOLOGIES.** The disinfectant or sanitizer testing reagent shall use one of
930 the following technologies: (a) *Method.* Diethyl-p-phenylene diamine (DPD) in powder or liquid form.
931 A test kit using the titrimetric method, ferrous ammonium sulfate and diethyl-p-phenylene diamine (FAS-
932 DPD) for chlorine and bromine testing and colorimetric comparators used for additional water testing shall
933 be approved by the department and shall provide for accurate comparison in the required range for each
934 test pursuant to s. ATCP 76.14 (4). ^{Pf}

935 (b) *Alternatives.* Other photometric, electronic or other technology that achieves the accuracy as
936 described in s. ATCP 76.17 Table A, and measures analytes within the range pursuant to s. ATCP 76.14
937 (4). ^{Pf}

938 **ATCP 76.18 Water testing frequency. (1) ALL POOLS, EXCEPT WHIRLPOOLS, THERAPY AND**
939 **EXCERCISE POOLS. (a) pH and disinfectant or sanitizer.** Except as provided under sub. (2) or (3), water
940 shall be tested for pH and disinfectant or sanitizer residual: 1. Daily before the pool is open to the public or
941 before the pool is in use, ^{Pf}

942 2. At least one other time, during the day's peak patron load. ^{Pf}

943 (b) *Combined chlorine.* When chlorine is used, the water shall also be tested at least twice a week for the

944 combined chlorine level. ^{Pf}

945 (c) *Alkalinity*. Water shall also be tested at least once a week for total alkalinity. ^{Pf}

946 (d) *Cyanuric acid*. When cyanuric acid is used in the water basin, the cyanuric acid concentration in
947 the water shall be tested at least once a week. ^{Pf}

948 (2) WHIRLPOOL, THERAPY AND EXERCISE POOLS. Except as specified under sub. (3), water in

949 a whirlpool, therapy pool, or exercise pool shall be tested for pH and disinfectant or sanitizer residual: (a)

950 *Frequency*. Before the pool is open to the public or before the pool is in use and at least 4 times daily. ^{Pf}

951 (b) *When in use*. For at least 2 of these times, the testing shall be done when the pool is in use. ^{Pf}

952 (c) *Combined chlorine and alkalinity*. Water shall be tested at least once daily for combined chlorine,
953 when chlorine is used, and at least weekly for total alkalinity. ^{Pf}

954 (3) ELECTRONIC MONITORING DEVICE. (a) *Frequency*. Water in a pool that has a properly

955 maintained electronic monitoring device installed to control pH and disinfectant or sanitizer residual shall

956 be manually tested at least once a day for pH and disinfectant or sanitizer residual with an approved test kit

957 pursuant to s. ATCP 76.17 Table A. ^{Pf}

958 (b) *Maintenance*. The operator shall periodically monitor the device to determine if it meets operating

959 criteria pursuant to s. ATCP 76.14 (5). ^{Pf}

960 (4) INCREASED TESTING. The department or its agent may require more frequent testing, if the

961 testing logs are not maintained and the operator demonstrates a lack of active managerial control. ^{Pf}

962 **ATCP 76.19 Water supply and temperature. (1) WATER SUPPLY PROTECTION.** A minimum air

963 gap of 2 pipe diameters or 6 inches, whichever is less, shall exist between the potable water supply inlet

964 and the overflow point of any pool, makeup tank, surge tank, solution tank, or slurry tank unless another

965 approved backflow and backsiphonage prevention device is provided. ^P

966 (2) WATER SOURCE. The water supplied to a pool shall be from a source approved by the

967 department of natural resources pursuant to chs. NR 108, 811, or 812. ^P

968 (3) WATER LEVEL. Proper water level shall be maintained at all times when the pool is open. ^{Pf}

969 (a) *Skimmers*. Water levels in pools with skimmers shall be maintained at a level such that the weir is
970 half submerged or in the case of a floating weir, used according to manufacturer's directions. ^{Pf}

971 (b) *Gutters*. Pools designed with gutters shall have a continuous water supply over the gutter to provide
972 effective skimming. ^{Pf}

973 **(4) WATER TEMPERATURE.** (a) *Accuracy*. 1. An accurate thermometer shall be located in the pool
974 water return line. ^{Pf}

975 2. Shall be accessible for observation by the operator. ^{Pf}

976 (b) *Pool water temperature*. 1. Except as provided in par. (d), the water temperature of an indoor pool
977 shall be between 70°F. (21°C.) and 90°F. (32°C.). ^P

978 2. The minimum water temperature for an outdoor pool shall be 65°F. (18°C.). ^P

979 (c) *Whirlpool water temperature*. The water temperature in a whirlpool shall be greater than
980 90°F (32°C.), and shall not exceed 104°F. (40°C.) ^P

981 (d) *Cold soak pool water temperature*. 1. Cold soak pools may be operated at a lower
982 temperature than specified under par. (b).

983 2. The pool shall post the water temperature on signage pursuant to s. ATCP 76.29 (5). ^{Pf}

984 **Subchapter IV**

985 **Staffing Pools**

986 **ATCP 76.20 Operator. (1) POOLS.** (a) *General requirement*. Each pool shall be under the
987 supervision of at least one operator, except that if multiple pools are located on the same premise,
988 and licensed by the same person, they may be supervised by one operator. ^{Pf}

989 (b) *Operator responsibilities*. Each operator shall be responsible for pool operation and
990 maintenance including equipment shut-down, backwashing, daily maintenance and vacuuming, and
991 maintenance of water quality pursuant to s. ATCP 76.11. ^{Pf}

992 **(2) POOL OPERATOR CERTIFICATION.** (a) *Pool operator certification required*.

993 1. Each water attraction or multiple water attractions on the same premise shall have at least one

994 certified operator. ^{Pf}

995 2. An owner of a pool who demonstrates a lack of active managerial control over the pool
996 operation by having 2 or more reinspections in a 3-year period. ^{Pf}

997 3. Pool operator certification shall be obtained within 90-days of receiving a new license or
998 meeting the conditions under sub. (2) (a) 2. ^{Pf} a. A pool that is required to have a certified operator
999 under sub. (2), may contract with a certified operator.

1000 b. The certified operator shall be able to respond within 3-hours.

1001 4. The owner of a pool shall replace a certified operator within 90 days after a certified
1002 operator's departure. ^{Pf}

1003 (b) *Certified operator duties.* 1. The certified operator will perform service related to water
1004 quality parameters pursuant to ss. ATCP 76.14, 76.16 and 76.19.

1005 2. The certified operator shall ensure that equipment is properly functioning pursuant to ss.
1006 ATCP 76.11, 76.13, 76.15, and 76.17.

1007 (c) *Documentation of certification.* A current copy of the certified operator's certification shall
1008 be maintained at the pool. ^{Pf}

1009 **ATCP 76.21 Responsible supervisor. (1) RESPONSIBILITIES.** (a) *Supervision.* Each pool shall
1010 be under the supervision of at least one responsible supervisor at all times when the pool is in use or
1011 is open to the public. ^P

1012 (b) *Availability.* The responsible supervisor shall be on the premises or immediately available via
1013 a phone number posted by the emergency phone and shall respond to an unsafe or unsanitary
1014 condition within 15 minutes, at any time the pool is open for use. ^P

1015 (c) *Duties.* The responsible supervisor shall ensure: 1. Order is maintained, ^P

1016 2. Safety and rescue equipment is in place, ^P

1017 3. Pool use regulations enforced, ^P

1018 4. Sanitation and water testing is performed, ^P

1019 5. Monthly interlock testing is performed,

- 1020 6. Monthly secondary anti-entrapment device testing is performed, if applicable, ^P
- 1021 7. Records are maintained, ^P
- 1022 8. Chemical safety training is provided to staff, ^P
- 1023 9. The rope separating the shallow and deep areas of the pool is in place during required times,
- 1024 ^P
- 1025 10. The pool is closed pursuant to s. ATCP 76.30 ^P, and
- 1026 11. A pool cover or blanket, if provided, does not pose a safety hazard to patrons. ^P

1027 **ATCP 76.22 Lifeguards and attendants. (1) LIFEGUARD AND ATTENDANT STAFFING**

1028 PLANS. A pool that is not required to have an attendant or lifeguard is not required to have a

1029 lifeguard or attendant staffing plan. (a) *Staffing plan requirements.* The owner or operator of a pool,

1030 including a whirlpool over 4 feet deep and a pool with a visual obstruction, shall have a written

1031 lifeguard and attendant staffing plan. ^{Pf}

1032 (b) *Plan criteria.* The owner or operator shall keep a copy of the plan at the pool and make it

1033 available to the department or its agent upon request. The department or its agent shall review,

1034 verify and approve the plan according to the following criteria: 1. The square footage of the pool. ^{Pf}

1035 2. The maximum and average patron load. ^{Pf}

1036 3. The hours of operation. ^{Pf}

1037 4. In addition to the location of each lifeguard station or lifeguard roaming zone account for elements

1038 such as, glare, distance to scan and rescue and obstructions. ^{Pf}

1039 5. The location of each first aid station. ^{Pf}

1040 6. The number of lifeguards or attendants on duty pursuant to s. ATCP 76.23. ^{Pf}

1041 7. A diagram of the facility that indicates the placement of attendants, lifeguards, roaming zones,

1042 chairs, and stations for both average and maximum patron capacity. The diagram shall include each

1043 obstruction. ^{Pf}

1044 8. A method of communication when 2 or more attendants or lifeguards are required. ^{Pf}

1045 (c) *Lifeguard signage.* A pool less than 2,000 square feet shall post a sign that states, in letters that are

1046 a minimum of 4 inches high, “No Lifeguard on Duty”.^{Pf}

1047 (d) *Periodic supervision.* A plan required under par. (a), to address coverage or periodic supervision within
1048 a pool enclosure that contains lifeguarded and non-lifeguarded pools.^{Pf}

1049 (2) QUALIFICATIONS. (a) *Certification requirements.* A copy of each certification held by
1050 lifeguard staff shall be maintained at the pool and shall be made available for inspection by the department
1051 or its agent.^P Certifications required include: 1. Lifeguarding certification,^P

1052 2. First aid certification,^P and

1053 3. CPR with AED certification.^P

1054 (b) *Water attraction lifeguard requirements.* At least one lifeguard, pursuant to s. ATCP 76.23 (1), to
1055 supervise a water attraction shall have one or more of the following additional certifications:^P

1056 1. American Red Cross Lifeguard with Waterpark Skill certification.

1057 2. National Aquatic Safety Company Lifeguard Training certificate.

1058 3. National Pool and Water park International Lifeguard Training Program certificate.

1059 4. Other water park certification approved by the department.

1060 (c) *Attendants.* Attendants may staff water attractions, waterslides, or pool slides to assist patrons,
1061 pursuant to s. ATCP 76.23. Attendants may not be used in place of lifeguards.

1062 (3) LIFEGUARD IDENTIFICATION AND ASSIGNMENT. (a) *Identification and equipment.* At all
1063 times when on duty a lifeguard shall have all the following: 1. Clothing that is conspicuously marked

1064 “Lifeguard” or “Guard”,

1065 2. A rescue tube with a harness as instructed in national certification courses.^P

1066 3. A whistle.^P

1067 (b) *Assigned duties.* A lifeguard who is assigned to supervise a pool or water attraction may not be
1068 assigned duties that may distract the lifeguard’s attention from observing a patron in the pool or water
1069 attraction area or that may hinder the lifeguard’s ability to provide immediate assistance to a patron.^P

1070 **ATCP 76.23 Lifeguard and attendant placement and staffing requirements.**

1071 (1) GENERAL. (a) *Staffing requirements.* 1. Each pool having a surface area of 2,000 square feet or
1072 more shall be staffed pursuant to s. ATCP 76.23 Table A, and s. ATCP 76.23 Table B, when the pool is in
1073 use or is open to the public. If the requirements in s. ATCP 76.23 Table A, and s. ATCP 76.23 Table B,
1074 conflict, the pool shall comply with the strictest requirements of s. ATCP 76.23 Table A, or s. ATCP
1075 76.23 Table B. ^P

1076 2. An operator may close a portion of a pool to patrons in order to meet the lifeguard staffing
1077 requirements for square footage pursuant to s. ATCP 76.23 Table A, except that least one lifeguard shall
1078 be provided. ^P

1079 3. An operator may limit the number of patrons in order to meet s. ATCP 76.23 Table A, for lifeguard
1080 staffing. ^P

1081 4. When the patron load of a pool exceeds 336 patrons, one lifeguard shall be provided for each
1082 additional 100 patrons or fraction thereof. ^P

1083 (b) *Department evaluation required.* For a pool type that is not addressed in s. ATCP 76.23 Table A,
1084 or s. ATCP 76.23 Table B, the operator shall request evaluation by the department and follow the
1085 requirements specified by the department following the evaluation. ^P

1086 (c) *Slide flumes.* An additional lifeguard shall be provided for every 2 slide flumes installed at a pool
1087 other than a separate waterslide plunge pool. ^P

1088 (d) *Waterslide attendant.* An attendant responsible for enforcing waterslide usage rules shall be
1089 stationed at the entrance to the waterslide flume. ^P

1090 (2) SIGNAGE. Each pool that is not required to have a lifeguard shall post a sign with letters at least
1091 4 inches high stating: “Warning: No Lifeguard on Duty.” ^{Pf}

1092 **s. ATCP 76.23 Table A**

1093 **Required Number of Lifeguards Based on Square Footage**

Actual Patron	Lifeguards for a Pool or Water Attraction	Lifeguards for a Pool or Water	Lifeguards for a Pool or Water
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Load*	with a Surface Area of 2,000 to 4,999 sq. ft.	Attraction of 5,000 to 9,999 sq. ft.	Attraction of 10,000 or More sq. ft.
1 – 60	1	2	3
61 – 136	2	3	4
137 – 136	3	4	5
237 – 336*	4	5	6

1094 * When the patron load exceeds 336 patrons, one lifeguard shall be provided for each additional 100
1095 patrons or fraction thereof.

1096 **s. ATCP 76.23 Table B**

1097 **Required Number of Lifeguards and Attendants Based on Pool Type**

Pool Type	Pool or Slide Details	Lifeguard and Attendant Staffing Requirements
Activity Pools	Pool contains one of the following: 1. A pad walk. 2. A tethered floatable more than 18 inches long in 2 directions. Appendages such as alligator feet should not be included in determining the length. 3. A nontethered floatable. Nontethered floatables do not include tire inner tubes used in Leisure Rivers or waterslides.	At least one lifeguard is required
Leisure Rivers or any feature that convey riders seated		At least one Lifeguard, more based on square footage pursuant to s.

or standing.		ATCP 76.23 Table A.
Vortex Pools		At least one lifeguard is required.
Current Pools; Pools with Treadmill	Whenever the pool is occupied by a patron and the current or treadmill is operating.	At least one lifeguard is required.
Vanishing Edge Pools	Unless the water attraction is limited to adult use only.	At least one lifeguard regardless of the square footage.
Wave Pools, any pool that involves patron interacting with moving water or is designed to allow patron to fall into water		At least one lifeguard is required regardless of the square footage of the pool. Additional lifeguard staffing shall be based on the patron load requirements pursuant to s. ATCP 76.23 Table A.
Pools with a Visual Obstruction, Except for Wading Pool	The pool has a visual obstruction larger than 10 feet in length by 6 feet in height by 5 feet in width or if the visual obstruction covers more than 20 percent of the pool's basin.	At least one attendant is required.
Wading Pool with a Visual Obstruction	Unless a variance is obtained from the department for an alternate method of coverage.	At least one attendant is required.
Pool Type	Pool or slide Details	Lifeguard and Attendant Staffing Requirements
Medical,	If medical, rehabilitation or training staff are	No lifeguard or attendant is

Rehabilitation or Training Facility Therapy Pools, including those with current or treadmill.	trained in CPR, AED, first aid and receive training that covers safely extricating a patient from the water in case a rescue is needed. The operator must provide a risk control plan that explains how rescues and training shall be accomplished.	required.
Pools with Diving Boards or Platforms	For every 2 diving boards or platforms in the same pool.	At least one lifeguard.
Wading Pools		Do not require a lifeguard or attendant.
Whirlpools	If a whirlpool is located within a water attraction complex,	At least one attendant shall provide periodic supervision of the whirlpool. If a whirlpool is not guarded or attended with an attendant assigned at all times, a sign shall be posted that states in letters that are at least 4 inches high: "No Lifeguard on Duty".
	Children's Slide	No attendant is required.
	Poolslide: Less than 6 feet in height, which drops into water less than 4 feet or less in depth.	No lifeguard or attendant is required.

Pools with Slides	Poolslide: Less than 6 feet in height, with an obstructed view of slide terminus at 43 inches at entry point.	At least one lifeguard.
	Poolslide: That drops into water greater than 4 feet deep.	At least one lifeguard.
	Run-out slide: 6 feet or greater in height clear view of the slide terminus.	At least one attendant on top platform.
	Run-out slide: 6 feet or greater in height with an obstructed view of the slide terminus.	At least one attendant on top and bottom of run-out.
	Run-out slide: Less than 6 feet with a clear view of slide terminus.	No attendant or lifeguard required
	Run-out slide: Less than 6 feet with an obstructed view of slide terminus.	At least one attendant.
Pools with Slides	Waterslide or Drop slide: 6 feet or greater in height.	Attendant on top of the slide, lifeguard on bottom and means of 2-way communication between attendants and lifeguards.
	Waterslide or Drop slide: Less than 6 feet with a clear view of slide terminus and no obstructions around slide.	At least one lifeguard.
Pool Type	Pool or slide Details	Lifeguard and Attendant Staffing Requirements

<p>Interactive Play Attraction (Splash Pads)</p>	<p>An interactive play attraction not restricted by an enclosure.</p>	<p>Shall have at least one attendant on the premises. The attendant shall provide periodic supervision of the water attraction as specified in the staffing plan.</p>
<p>Swim-up bars</p>	<p>When open</p>	<p>Shall have a written plan that addresses:</p> <ol style="list-style-type: none"> 1. Supervision of the swim up bar, 2. Patrons who are ill, 3. Patrons adversely affecting sanitation, 4. Patrons engaging in dangerous behavior, or 5. Patrons who are injured.
<p>Any pool or water attraction with instructional program</p>	<p>A pool that is used for an activity occurring in the water that is led by a person teaching a participant how to do an exercise, movement, skill or similar activity.</p>	<p>Shall be staffed by a lifeguard when the instructional program is in session.</p> <p>If the coach or instructor that provides instruction during the program is a lifeguard,</p>

		<p>the requirement of this subsection is met provided the coach or instructor can supervise the entire group. A pool that normally requires a lifeguard and that is open to the public during an instructional program session shall be supervised by an additional lifeguard or attendant pursuant to s. ATCP 76.23.</p>
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1099 **ATCP 76.24 Patron safety during pool maintenance. (1) MAINTENANCE OPERATIONS.** The
 1100 operator shall ensure that no patrons are in the pool during pool maintenance operations. ^P

1101 **(2) RECIRCULATION SYSTEM INTERRUPTION.** Patrons shall be removed from the pool when
 1102 the pool recirculation system is interrupted. Once the recirculation system is restored, patrons shall not
 1103 reenter the pool until chemical levels are determined to be within acceptable ranges. ^P

1104

Subchapter V

1105

Operation and Management

1106 **ATCP 76.25 Maximum patron load. (1) WATER ATTRACTIONS.** The maximum number of patrons
 1107 permitted to be in an individual water attraction at any one time shall be calculated on the basis of allowing
 1108 one patron for every 15 square feet of water surface area. The splash zone of any water attraction shall be
 1109 included in the calculation of the water surface. ^{Pf}

1110

(2) POOLS. (a) Pools used for swimming. The maximum number of patrons permitted to be in the

1111 water of a pool used for swimming at any one time shall be computed on the basis of allowing one patron
1112 for every 15 square feet of the shallow portion of the pool and one patron for every 25 square feet of the
1113 deep portion of the pool. ^{Pf}

1114 (b) *Whirlpools*. The maximum number of patrons permitted to be in the water of a whirlpool at any
1115 one time shall be computed on the basis of allowing one patron for every 10 square feet of whirlpool
1116 surface area. ^{Pf}

1117 (c) *Wading pools*. The maximum number of patrons permitted to be in the water of a wading
1118 pool at any one time shall be computed on the basis of allowing one patron for every 15 square feet
1119 of wading pool surface area. ^{Pf}

1120 (d) *Therapy and exercise pools*. The maximum number of patrons permitted to be in the water
1121 of a therapy or exercise pool at any one time shall be computed on the basis of allowing one patron
1122 every 15 square feet of the shallow portion of the pool and one patron for every 25 square feet of the
1123 deep portion of the pool. ^{Pf}

1124 **ATCP 76.26 Rescue equipment. (1) REQUIRED EQUIPMENT.** (a) *Good repair and accessible.*

1125 1. All rescue equipment shall be maintained in good repair. ^P

1126 2. Rescue equipment shall be mounted or positioned in a conspicuous place and shall be readily
1127 accessible. ^{Pf}

1128 (b) *Shepherd's crook, ring buoy, and rescue tube*. 1. a. For each basin of water over 10 feet in length
1129 and over 2 feet deep, an intact shepherd's crook-type pole shall be provided. ^P

1130 b. For non-guarded pools, the shepherd's crook shall be long enough to effect a rescue in the deepest
1131 part of the pool. ^P

1132 c. If the shepherd's crook is not one continuous pole, the pieces shall be securely connected with
1133 durable nuts and bolts or similar hardware. ^P

1134 2. In addition, for each lifeguard chair, or for a pool 30 feet or more in width that does not have
1135 lifeguard chairs, at least one of the following shall be provided: a. A ring buoy having a minimum outside

1136 diameter of 20 inches. Each ring buoy shall be attached to a 1/4 inch rope having a length not less than 1-
1137 1/2 times the maximum width of the pool or 50 feet, whichever is less. ^P

1138 b. A rescue tube. ^P

1139 (c) *Safety rope*. 1. If applicable, a safety rope shall be provided pursuant to s. SPS 390.18 (1). ^{Pf}

1140 2. The safety rope shall remain in place except during a lifeguarded activity or adult-only lap swim. ^{Pf}

1141 3. The safety rope and floats shall be maintained in good repair and working order. ^{Pf}

1142 (d) *Spine board*. A spine board with straps and head immobilizer in good condition shall be available
1143 at a pool where a lifeguard is required pursuant to s. ATCP 76.23. ^P

1144 **(2) TELEPHONE.** (a) *Connection to emergency services*. A telephone capable of connecting with 911
1145 or emergency dispatch services is accessible at all times during pool operation. ^P

1146 (b) *Other technologies*. Telecommunication technology, other than a landline telephone, may be used
1147 if, in the pool area, the telecommunication device: 1. Is equipped with a permanent continuous power
1148 supply with battery backup, and

1149 2. Has a reliable service connection. ^P

1150 (c) *Location*. The location of the telephone shall be within 25 feet of the pool area. ^P

1151 (d) *Emergency numbers and address*. A current list of emergency telephone numbers and the
1152 facility's location shall be attached to or posted near the telephone. ^{Pf}

1153 **ATCP 76.27 First aid supplies. (1) AVAILABILITY.** (a) *Pool area*. A first aid kit shall be available at
1154 each pool area. ^P

1155 (b) *Contents*. The first aid kit shall contain all of the following items: ^{Pf}

1156 1. Gauze pads

1157 2. Adhesive bandages.

1158 3. Gauze roller bandage.

1159 4. Adhesive tape.

1160 5. Eye wash.

1161 6. Elastic bandage.

1162 7. Disposable surgical gloves.

1163 8. Resuscitation pocket face mask.

1164 9. Instant cold packs.

1165 **(2) BIOHAZARD KIT.** (a) *Location.* Biohazard safety equipment, including a blood and biohazard
1166 disposal kit shall be located at the first aid station or another location on the premises. ^{Pf}

1167 (b) *Contents.* A biohazard kit shall contain the following: ^{Pf} 1. Scoop & spatula

1168 2. Sanitizing hand wipes.

1169 3. Sanitizing surface wipes.

1170 4. Neoprene gloves.

1171 5. Paper toweling.

1172 6. Biohazard disposal bag at least 24" x 24"

1173 7. Twist tie or other effective means to close the bag.

1174 8. Biohazard sorbent.

1175 9. Storage case.

1176 **(3) EMERGENCY BLANKETS.** Two conventional or emergency blankets in good condition shall
1177 be available in the pool area or as approved by the department or its agent. ^{Pf}

1178 **ATCP 76.28 Food and drink. (1) LOCATION.** Food or drink service facilities may not be located
1179 within 12 feet of the water's edge of a pool, except for swim-up bars. ^{Pf}

1180 **(2) UTENSILS.** Only shatter-proof utensils for food and drink shall be used in the pool area, except
1181 for approved swim-up bars. ^{Pf}

1182 **ATCP 76.29 Posting pool rules.**

1183 **(1) GENERAL.** (a) *Posting of rules; all pools.* 1. The operator shall post pool use rules governing
1184 safety and sanitation and shall enforce those rules.

1185 2. Rules shall be conveyed using words with letters at least one inch high, or symbols that are at
1186 least 4 inches in height and clearly visible to patrons.

- 1187 3. A legible sign showing pool use rules shall be posted in a conspicuous place
- 1188 (b) *Signage contents.* 1. Pool signage shall contain the minimum information, as applicable:
- 1189 a. Do not enter the pool if you have a communicable disease or an open cut.
- 1190 b. Do not bring food, drink, gum or tobacco into the pool.
- 1191 c. Shower immediately before entering the pool and after use of a steam room, sauna or toilet facilities.
- 1192 d. Do not run or engage in rough play in the pool area.
- 1193 e. Do not bring animals into the pool area.
- 1194 f. Diaper changing on the pool deck is prohibited.
- 1195 g. Glass and shatterable items are prohibited in the pool area.
- 1196 h. Children under the age of 12 shall be supervised by an adult.

1197 (c) *“No Diving”;* signage. A pool that is 200 square feet in area or greater that does not have an

1198 approved diving well configuration shall have “NO DIVING” signs in at least 4 inch high letters

1199 included with the rules listed under par. (b).^{Pf}

1200 (d) *Maximum patron load; signage.* A sign showing the maximum patron load shall be conspicuously

1201 displayed near each pool. The maximum patron load pursuant to s. ATCP 76.25, may not be exceeded.

1202 (e) *Swim diapers.* If a person that wears a diaper is allowed in the pool they shall be required to wear a

1203 swim diaper.

1204 (2) POOL SLIDES AND WATERSLIDES AND OTHER WATERRIDES. (a) *Posting of rules;*

1205 *pool slides and waterslides.* For the plunge section of a pool, the pool use rules signage required under

1206 sub. (1), shall be provided. Additionally, the following rules shall be provided and be conspicuously

1207 posted at the entrance to the slide tower in at least one inch lettering:

- 1208 1. Do not use the slide while under the influence of alcohol or drugs.
- 1209 2. Follow the instructions of the attendant.
- 1210 3. Leave the plunge area immediately after using the slide.
- 1211 4. WARNING: Water depth is _____ feet.

1212 5. Follow any rule required by the manufacturer of the attraction.

1213 (b) *Special instruction.* The operator shall ensure that the patron is instructed using words, pictures,
1214 or symbols on how to position themselves and safely ride or otherwise participate in the attraction.

1215 (3) WHIRLPOOLS. For whirlpools, the signage required under sub. (1) shall also be conspicuously
1216 posted in the whirlpool area and include at a minimum, all of the following rules preceded by the word
1217 “WARNING” conspicuously printed in at least one inch letters: a. Persons suffering from heart disease,
1218 diabetes, or high or low blood pressure should consult their physician before using a whirlpool.

1219 b. Persons under the influence of alcohol or drugs may not use the whirlpool.

1220 c. Pregnant women should consult their physician regarding whirlpool usage.

1221 d. Lengthy exposure may be hazardous to your health and may result in nausea, dizziness or
1222 fainting.

1223 e. Minors under the age of 6 are not permitted in the whirlpool.

1224 (4) VORTEX POOL, CURRENT POOL AND OTHER RIDES THAT RAPIDLY MOVE OR
1225 CHANGE POSITION OF THE PATRON. For these pools, the signage required in sub. (1), shall also be
1226 conspicuously posted and include “Artificial Current; Strong Swimmers Only.” in 4 inch or larger letters.

1227 (5) COLD SOAK POOLS. For cold soak pools, the signage required under sub. (1), shall also be
1228 conspicuously posted in the cold soak area and include a sign that states the water temperature in
1229 Fahrenheit in at least 4 inch high letters.

1230 (6) INTERACTIVE PLAY ATTRACTIONS. The signage required under sub (1), shall also be
1231 conspicuously posted on the periphery of the interactive play attraction.

1232 **ATCP 76.30 Pool closing criteria.** Any of the following conditions or situations shall constitute sufficient
1233 reason for the operator or responsible supervisor to close a pool or for the department or its agent pursuant
1234 to s. ATCP 76.07 (3) to order that the pool be closed and posted with signage indicating closure:

1235 (1) The presence of a hazardous substance or object in the pool or the existence of any condition
1236 creating an immediate danger to health or safety, including fecal accident events. ^P

- 1237 (2) Failure to comply with the water quality requirements pursuant to s. ATCP 76.16. ^P
- 1238 (3) Failure to comply with the disinfectant or sanitizer residual levels pursuant to s. ATCP 76.14, or
- 1239 pH values that are less than 6.8 or equal to or greater than 8.0. ^P
- 1240 (4) A nonoperational circulation pump, filter, or disinfectant or sanitizer feeder. ^P
- 1241 (5) Failure to comply with the number of lifeguards or attendants pursuant to s. ATCP 76.23. ^P
- 1242 (6) Absence or non-availability of a responsible supervisor. ^P
- 1243 (7) Nonfunctional emergency phone. ^P
- 1244 (8) The pool is undergoing maintenance or repair. ^P
- 1245 (9) The pool gate or door is not equipped with a self-closing and latching mechanism, except when
- 1246 staffed by a lifeguard or attendant. ^P
- 1247 (10) A cyanuric acid level above 300 ppm. ^P

1248 **ATCP 76.31 Fecal accident, blood and vomit response. (1) GUIDELINES FOR RESPONSE.** In

1249 responding to a fecal accident, vomit or blood incident, the operator shall follow the guidelines for a fecal

1250 accident, vomit or blood incident in pools used for swimming published by the US centers for disease

1251 control and prevention. ^P

1252 **Note:** US Centers for Disease Control and Prevention guidelines for responding to fecal accidents and

1253 blood and vomit spills may be viewed at: [https://www.cdc.gov/healthywater/swimming/aquatics-](https://www.cdc.gov/healthywater/swimming/aquatics-professionals/fecalresponse.html#fecal-incident)

1254 [professionals/fecalresponse.html#fecal-incident](https://www.cdc.gov/healthywater/swimming/aquatics-professionals/fecalresponse.html#fecal-incident).

1255 (2) **DOCUMENTATION.** The operator shall document each fecal, vomit or blood contamination

1256 incident as follows:

1257 (a) *Date and time.* The date and time of the event and the free available chlorine, cyanuric acid

1258 concentration and pH of the pool water at the time of the event and after the event, before reopening the pool

1259 to the public. ^{Pf}

1260 (b) *Stool description.* For fecal accident, whether the stool is formed or loose. ^{Pf}

1261 (c) *Procedures followed.* The procedures followed in responding to the fecal, vomit or blood

1262 contamination. ^{Pf}

1263 (d) *Patron count*. The number of patrons in the pool. ^{Pf}

1264 (e) *Duration*. Length of time between the occurrence, detection, and resolution of the incident. ^{Pf}

1265 **ATCP 76.315 Waterborne outbreak investigations. (1) HEALTH DEPARTMENT NOTIFICATION.**

1266 The operator shall contact the department or its agent for operational and testing guidance when notified
1267 of a suspected waterborne illness. ^P

1268 **(2) SUSPECTED WATERBORNE ILLNESS OUTBREAK.** In the event of a suspected waterborne
1269 illness outbreak, the operator shall close the pool to use and contact the department or its agent for
1270 instructions regarding sampling, corrective actions and reopening procedures. ^P

1271 **(3) FILTER MEDIA.** When *Pseudomonas aeruginosa*, *Staphylococcus aureus* or *Legionella*
1272 *pneumophila* is detected in any sample from a pool, the pool must be cleaned and sanitized and filter
1273 media must be changed, as applicable, or as directed by the department or its agent. ^P

1274 **ATCP 76.32 Reports and records. (1) OPERATING REPORTS.** The pool operator or responsible
1275 supervisor shall complete reports of the pool operation on forms provided by the department or agent to
1276 include verification and documentation of: (a) Chemical testing pursuant ATCP 76.14.

1277 (b) Backwashing completion.

1278 (c) Breakpoint chlorination.

1279 (d) Interlock testing.

1280 (e) Anti-entrapment system testing.

1281 (f) Water temperature.

1282 (g) Safety and rescue equipment maintained pursuant to s. ATCP 76.26 AND ATCP 76.27.

1283 If monthly reports are requested by the department or its agent, they shall be submitted no later than the
1284 tenth day of the following month. ^{Pf}

1285 **Note:** To obtain copies of the form for monthly reporting of daily public pool operations, or to
1286 determine which agent to contact to obtain copies, contact the Bureau of Food and Recreational
1287 Businesses at (608) 224-4682 or PO Box 8911, Madison, Wisconsin 53708-8911.

1288 (2) DEATH, INJURY, OR ILLNESS REPORTS. The operator shall report incidents resulting
1289 in death, or serious injury or illness that requires assistance from emergency medical personnel, by
1290 the end of the next working day following the incident by phone, email or fax to the department or
1291 agent. ^{Pf}

1292 **Note:** Report deaths, injuries, or illnesses to the Bureau of Food and Recreational Businesses by
1293 calling (608) 224-4682, e-mailing at DATCPDFRSREC@wisconsin.gov or faxing to (608)
1294 224-4710.

1295 (3) FILES. (a) *Files permanently maintained on the premises.* The operator shall permanently
1296 maintain on the premises a copy of each of the following:

- 1297 1. A copy of the most current version of ch. ATCP 76.
- 1298 2. For pools constructed after July 1, 2023, a copy of DSPS approved pool constructions plans,
1299 including Virginia Graeme Baker Act (VGBA) plan approvals.
- 1300 3. The manufacturer's pump performance curve. ^{Pf}
- 1301 4. The manual of operations for any secondary anti-entrapment device or system, as
1302 applicable. ^{Pf}
- 1303 5. The manual of instruction on filter operation.
- 1304 6. Instructions for operation and maintenance of all equipment,
- 1305 7. Instructions and other pertinent information on pool operation and maintenance.
- 1306 8. The most recent US centers for disease control and prevention (CDC) recommendations for
1307 fecal accidents or another plan in response to fecal accidents that is consistent with CDC's fecal
1308 accident response recommendations.
- 1309 9. VGBA main drain and equalizer cover replacement receipts or similar documentation. ^{Pf}

1310 (b) *File retention period.* The following operational tests and reports shall be kept for a
1311 minimum of 2 years. 1. Anti-entrapment device or system test results as required by manufacturer
1312 and corrective actions taken, if needed. ^{Pf}

- 1313 2. Any laboratory bacteriological report. ^{Pf}
- 1314 3. Any fecal accident report made pursuant to s. ATCP 76.31. ^{Pf}
- 1315 4. Any other reports required by the department or agent.
- 1316 5. Daily inspections and operational tests for water attractions. ^{Pf}
- 1317 (c) *Access*. All of the documents under par. (a) and (b), shall be accessible to the department or agent
- 1318 upon request.

1319 **ATCP 76.33 Facility maintenance, repair and sanitation. (1) POOL AREA.** (a) Basin. 1. Each

1320 pool shall be routinely brushed or vacuumed to keep the basin and surrounding appurtenances free of

1321 sediment, lint, hair, debris, algae and slime growth and discoloration.

1322 2. Cracks or other defects shall be repaired and the pool interior shall be refinished as necessary to

1323 maintain it in a cleanable condition.

1324 3. The pool and water area shall be maintained in a clean and sanitary condition.

1325 4. Glass and shatterable plastic items shall be prohibited in the pool area, except for pool test kit

1326 contents while in use to test pool water according to manufacturer's instructions and in drink preparation

1327 areas of a swim up bar. ^{Pf}

1328 (b) Deck maintenance and cleaning. 1. Deck areas and appurtenances, including safety pads, Shall be:

1329 a. Maintained in good repair, and

1330 b. Rinsed as needed to prevent microbial growth.

1331 2. Indoor pool decks shall be disinfected at least weekly.

1332 3. Disinfecting agents are used to manufacturer's directions.

1333 4. Outdoor pool decks shall be cleaned as needed.

1334 **Note:** It is recommended to avoid the use of an ammonia-based disinfectant as this can contribute to

1335 an increased level of chloramines in the pool water.

1336 5. Depth markings along the edge of the pool shall be maintained to be clearly visible and readable. ^{Pf}

1337 6. The deck shall be kept unobstructed except for easily portable furniture and equipment. ^{Pf}

1338 (c) Walls, ceilings and floors. The walls, ceilings and floors in the pool area shall be maintained in a
1339 clean and sanitary condition.

1340 (d) Hosing. 1. Hosing shall be provided in adequate lengths to flush the entire pool deck.

1341 2. All hose bibbs shall be protected against backsiphonage by the proper installation of an approved
1342 backflow prevention device pursuant to s. SPS 390.16 (4) (b).^P

1343 (e) Equipment. Pool equipment, including equipment on the deck, shall be properly: 1. Located.

1344 2. Installed.

1345 3. Maintained.

1346 4. Repaired, as necessary.

1347 (f) Spectator areas. 1. The spectator area shall be maintained in a clean condition.

1348 2. Spectator areas with tables, chairs and other obstructions may not block the deck.^{Pf}

1349 (g) Drinking fountain. 1. A drinking fountain shall be provided pursuant to s. SPS 390.19.^P

1350 2. The drinking fountain shall be maintained in clean and sanitary condition.

1351 **(2) SHOWER, TOILET AND DRESSING FACILITIES.** (a) *Walls and floors.* The walls, partitions

1352 and floors of showers, toilet rooms and dressing areas shall be 1. Maintained in good repair, and

1353 2. Cleaned and disinfected daily or more frequently, if necessary to provide clean and sanitary

1354 conditions.

1355 **Note:** See s. SPS 390.19 for additional information.

1356 (b) *Showers.* Showers shall be maintained in an operable condition.

1357 **Note:** To minimize the risk of *Legionella* growth and other diseases associated with water, adequate

1358 provisions should be made to ensure that all water systems (e.g., sink faucets, drinking fountains, and

1359 showers) are safe, any water aged over 3 weeks is potentially viable for growing *Legionella* colonies. It is

1360 strongly advised that each pool operator develop and implement a water management program as

1361 recommended by the CDC Water Management Program Toolkit. The toolkit can be found at

1362 <https://www.cdc.gov/legionella/wmp/toolkit/index.html>.

1363 (c) *Toilet rooms and diaper changing areas.* Toilet room fixtures and diaper changing stations shall be:

1364 1. Kept clean, and
1365 2. Maintained in good repair.

1366 (d) *Lockers and furniture.* Lockers and furniture shall be: 1. Cleaned as needed, and
1367 2. Maintained in good repair.

1368 (e) *Soap and soap dispensers.* 1. Soap shall be continually provided at each hand washing sink and
1369 shower in permanently installed dispensing devices. ^{Pf}
1370 2. The dispensers shall be maintained in operating condition.

1371 (f) *Hand drying devices.* Individual towels in dispensers or hot air dryers shall be provided at hand
1372 washing sinks. ^{Pf}

1373 (g) *Toilet tissue.* A continuous supply of toilet tissue shall be provided in permanently installed
1374 dispensing devices. ^{Pf}

1375 (h) *Bathing suits provided.* If bathing suits or towels or caps are furnished to patrons: 1. They shall be
1376 thoroughly laundered with detergent and machine dried after each use.
1377 2. Clean suits, towels and caps shall be stored separately from unlaundered articles.

1378 (i) *Hose bibbs.* Hose bibbs shall be conveniently located so floors in the shower, dressing, and toilet
1379 facilities can be adequately rinsed.

1380 **(3) GARBAGE AND REFUSE.** (a) *Approved storage container.* All garbage and refuse shall be
1381 stored in metal or rigid plastic containers having tight-fitting lids.

1382 (b) *Sufficient in number.* A sufficient number of containers shall be provided for all garbage and refuse
1383 generated.

1384 (c) *Stored to prevent harborage conditions.* Filled containers of garbage or refuse shall be covered
1385 and stored in a manner to prevent: 1. Harborage of rodents, insect attraction and breeding areas, ^{Pf}
1386 2. Odors, ^{Pf}
1387 3. Environmental pollution, ^{Pf} and
1388 4. Accidents. ^{Pf}

1389 (d) *Disposal as needed.* The contents of the containers shall be disposed of as needed and in a sanitary
1390 manner.

1391 (e) *Clean Condition.* All containers shall be kept clean.

1392 (f) *Good repair.* Containers shall be maintained in good repair.

1393 **(4) WATER HEATERS, VENTILATION, ELECTRICAL.** (a) *Operating condition.* Water heaters
1394 and heat exchangers shall be maintained in operating condition.

1395 (b) *Air movement.* Heating, ventilation, and exhaust equipment shall be maintained and operated to
1396 provide air movement pursuant to chs. SPS 361 to 365, to prevent any excessive condensation and air
1397 quality problems in indoor enclosures, as enforced by the department of safety and professional services.

1398 (c) *Maintained in good repair.* Electrical equipment and lighting shall be maintained in good repair
1399 and in operating condition.

1400 (d) *Carbon monoxide alarms (CO).* The operator shall install functioning CO alarms, as applicable. 1.

1401 A pool equipment room that has a fuel burning appliance shall install and maintain a CO alarm. ^P

1402 2. For indoor pools, a CO alarm shall be installed and maintained in the pool area, if there is a fuel
1403 burning appliance in the equipment room that is also located within the pool area. ^P

1404 **Note:** Refer to s. SPS 390.16 for department of safety and professional services installation
1405 requirements.

1406 **76.335 Dog swims. (1) OPERATION.** (a) *Water level.* Before the event, the water level shall be adjusted
1407 so that the pool water in the basin does not enter the recirculation system. ^P

1408 (b) *Disinfectant residual.* Initial disinfectant residual must be 4 ppm free chlorine (8 ppm if cyanuric
1409 acid present). ^P

1410 (c) *Registration.* Registration of the dog and caretaker are required. ^{Pf}

1411 (d) *Rabies Vaccination.* All dogs shall be 6 months of age or older and the owner shall provide proof
1412 of a current rabies vaccination. ^P

1413 (e) *Prohibited*, Splash pads, spray features, play structures, whirlpools, diving boards and slides are
1414 prohibited from operation. ^{Pf}

1415 (f) *Relief area*. Grass or an alternate area shall be provided and accessible to patrons with their dogs
1416 with adequate space and trash receptacles. ^{Pf}

1417 (g) *Waste water*. Pool water shall be drained by bypassing the filtration system. ^P

1418 (h) *Post-event cleaning*. 1. Pool shall be scrubbed and cleaned after draining. ^P

1419 2. The pool shall be superchlorinated before startup occurs during the following season. ^P

1420 (i) *Restrooms and showers available*. Locker rooms may be closed but restrooms with handwashing
1421 facilities, and showers must be conveniently located. ^{Pf}

1422 (j) *Responsible supervisor*. The responsible supervisor or designee shall be present at the pool before,
1423 during and after the dog swim event. ^P

1424 (k) *Duration*. Event shall be limited to 3 hours total from time when first dogs enter water. ^{Pf}

1425 **(2) RULES**. The following rules must be conveyed to patrons: (a) Only dogs are allowed in the pool,
1426 except in the event of an emergency.

1427 (b) A dog must be capable of swimming, unassisted by a human, in the depth and type of pool used
1428 for the dog swim.

1429 (c) A dog must be willing and comfortable participating in the swim.

1430 (d) A dog exhibiting aggression must be removed immediately.

1431 (e) A dog with an open cut or sore may not enter the water.

1432 (f) A dog with loose stools may not enter the water.

1433 (g) A patron bringing a dog must supervise the dog at all times.

1434 (h) The patron must clean up any feces immediately and dispose of waste properly.

1435 **(3)** Dog swims shall comply with all applicable sections pursuant to s. ATCP 76.

1436 **Subchapter VI**

1437 **Pool Construction and Design**

1438 **ATCP 76.34 Pool design. (1) HAZARDOUS CONDITIONS**. Any object or material not specifically

1439 approved pursuant to this chapter or ch. SPS 390 that may cause a hazardous condition or interfere with
1440 the safe and efficient operation of a pool, pool slide, waterslide, and deck is not permitted in the pool area.
1441 ^P

1442 **(2) GATES AND DOORS MAINTAINED.** (a) *Maintained.* All gates and doors into the pool area
1443 shall be maintained and checked for proper operation. ^P

1444 (b) *Mechanism location.* A self-closing latching and lockable mechanism shall be installed at least 54
1445 inches from the bottom of the gate or door. ^P

1446 (c) *Locked.* Gates and doors shall be locked when the pool is not open to the public or is not in use. ^P

1447 **(3) POOL ENCLOSURE HEIGHT.** All pool enclosures shall be at least 5 feet high, unless
1448 previously approved by the department or its agent.

1449 **(4) ENCLOSURES AND ENTRANCES.** (a) *Gates and doors.* All pool areas shall be enclosed ^P and
1450 have gates and doors that are:

1451 1. Self-closing. ^P

1452 2. Latching. ^P

1453 3. Lockable. ^P

1454 4. Gates and doors shall not require a key, code or other electronic method to exit a pool enclosure. ^P

1455 5. For a lifeguarded pool area. a. If gates and doors are not self-closing and latching, the gates and
1456 doors shall be locked unless the entrance to the pool is staffed with an attendant and at least one lifeguard
1457 is present. ^P

1458 b. Documentation for staffing shall be included in the lifeguard staffing plan. ^{Pf}

1459 6. This section does not apply to emergency doors that cannot be opened from the outside of the pool
1460 enclosure.

1461 **Note:** A primary entrance to a pool enclosure in which multiple doors must be passed through is
1462 considered to have a self-closing, latching and lockable gate or door, if any of doors in the sequence are
1463 self-closing, latching or lockable.

1464 (5) SIGNAGE. During closed hours, a sign shall be conspicuously posted stating that the pool, pool
1465 slide, water slide, and deck are closed.

1466 **Note:** See s. SPS 390.18 (4) for additional rules relating to the outdoor pool enclosure.

1467 (6) LANDSCAPING. (a) *Restrictions*. Landscaping planters, pots or other plant containers may not
1468 be placed on the required deck area.

1469 (b) *Separation*. Landscaping features such as bark, gravel, shrubs, or flowers may be located within
1470 the pool enclosure but shall be separated from the pool by an additional 5 feet of impervious area or
1471 maintained lawn.

1472 (c) *Maintenance*. Landscaped areas within a pool enclosure shall be continually maintained to
1473 prevent debris from entering the water.

1474 (d) *Trees*. Trees used as landscaping features may not overhang the required deck area.

1475 (e) *Sand*. Sand may not be located within a pool enclosure unless the sand area is made inaccessible
1476 from the pool area by the location of a security-type barrier that is at least 42 inches high.

1477 **ATCP 76.35 Waterslide and pool slide design.**

1478 (1) DESIGNED AND INSTALLED. All waterslides and pool slides shall be designed, installed and
1479 lubricated pursuant to s. SPS 390.31. ^{Pf}

1480 (2) CONTINUOUSLY SEPARATED. The portion of the pool water surface that is used as a plunge
1481 area for a drop slide or waterslide shall be continuously separated from other areas of the pool in a manner
1482 approved by the department or its agent, as long as the slide is in use. ^P

1483 **ATCP 76.36 Water attraction, play features, and slide design. (1) GENERAL.** (a) *Design and*
1484 *construction*. Water attractions and play features shall be designed, assembled, constructed and maintained
1485 in accordance with recognized safe practices pursuant to s. SPS 334.01 (15), and so that maximum
1486 patron loads do not stress any part of the water attraction beyond recognized safe practices. ^{Pf}

1487 (b) *Free from hazardous projections*. Interior and exterior parts of all water attractions a patron may
1488 come into contact with shall be free of abrasives and splinters, sharp edges and corners, protruding studs,

1489 bolts, screws, and other hazardous projections. ^P

1490 (c) *Padding*. Padding or other means to minimize injury due to patron impact resulting from the
1491 action of the water attraction shall be provided in accordance with recognized safe practice, pursuant to s.
1492 SPS 334.01 (15). ^P

1493 (d) *Enclosure of hazardous parts*. All hazardous parts, including pinch points and shear points of
1494 water attractions and play features, shall be enclosed, barricaded or otherwise arranged to effectively
1495 prevent injury in accordance with recognized safe practice, pursuant to s. SPS 334.01 (15). ^P

1496 (e) *Guards*. Guards removed for any purpose shall be replaced before normal operation of the water
1497 attraction is resumed. ^P

1498 (f) *Wheels and levers*. Wheels and levers used by patrons in the control of the action of the water
1499 attraction shall be designed and maintained to prevent pinches, strains, abrasions, and body actions that
1500 could result in injuries. Wheels and levers shall be padded. Wheels shall have a solid center in lieu of
1501 spokes. ^{Pf}

1502 (g) *Fences and barriers*. Water attractions shall be fenced, barricaded or otherwise arranged in
1503 accordance with recognized safe practice, pursuant to s. SPS 334.01 (15), so that the public is effectively
1504 prevented from entering hazardous areas. ^P

1505 (h) *Fence design and construction*. Fences shall be constructed to meet all of the following
1506 requirements: 1. Fences shall be at least 42 inches above the surface on which the spectators or patrons
1507 stand. ^{Pf}

1508 2. Fences shall be constructed to reject a 4 inch ball at all openings, including between the bottom of
1509 the fence and the surface upon which it rests. ^P

1510 3. Fences shall be designed, constructed and erected to inhibit overturning by spectators or patrons. ^P

1511 4. Where used, gates shall open away from the water attraction unless equipped with a self-closing
1512 latching device. ^{Pf}

1513 (i) *Gate opening*. Gates shall be designed such that, if opened during the water attraction's operation, the

1514 gate will not contact the water attraction or cause a hazard to patrons. ^P

1515 (j) *Separation*. Fences and gates shall be constructed to inhibit spectator contact with the water
1516 attraction and patron contact with fences or gates. ^{Pf}

1517 **Note:** Horizontal members in a fence or gate may be used to improve construction or efficiency, but
1518 should be minimized to reduce the ease of climbing.

1519 (k) *Loading and unloading areas*. Loading and unloading areas which are an integral part of the water
1520 attraction shall be separated from moving parts by barriers or guardrails. ^P

1521 (l) *Preventing access*. A flexible barrier, such as a rope or chain, may be used to prevent access to the
1522 passenger-carrying devices, provided the barrier is no longer than necessary and is controlled by an
1523 authorized attendant. ^{Pf}

1524 (m) *Moving sweeps*. Water attractions with moving sweeps shall be guarded by a standard guardrail or a
1525 center cover designed and maintained to safely support a minimum load of 200 pounds. ^{Pf}

1526 (n) *Spectator area*. Where a spectator area is provided, it shall be separated by a railing or other barrier
1527 from the water area. ^{Pf}

1528 **(2) INTERACTIVE PLAY ATTRACTIONS**. All interactive play attractions shall comply with all of
1529 the following requirements:

1530 (a) *Attendant requirements*. If access to the interactive play attraction is not restricted by an
1531 enclosure, an attendant shall be present to provide periodic supervision. ^P

1532 (b) *Water drains*. Water drains shall be in good working condition. ^{Pf}

1533 (c) *Tree and vegetation prohibited*. Trees and vegetation may not be allowed in the interactive
1534 play attraction area.

1535 (d) *Daily opening procedures*. Water spray features shall be activated for 30 minutes before the
1536 daily opening of the interactive play attraction. ^{Pf}

1537 **Note:** A ring buoy and shepherd's crook are not required to be present for an interactive play
1538 attraction.

1539 **ATCP 76.37 Maintenance, repair, and modifications of water attractions. (1) GENERAL.**

1540 (a) *Maintained safe.* Water attractions shall be maintained, repaired and modified in accordance
1541 with recognized safe practice pursuant to s. SPS 334.01 (15).^P

1542 (b) *Closure.* Improperly maintained, repaired or modified water attractions may not be opened
1543 to the public.^P

1544 (c) *Maintenance.* 1. Defective, improper, worn, or missing parts shall be replaced or repaired.

1545 2. Maintenance, repair, and replacement parts shall be of a quality equal to or better than the
1546 original parts.^P

1547 3. All work shall be performed by a competent qualified mechanic capable of understanding
1548 the function of the parts and the proper installation.^{Pf}

1549 4. Non-graded bolts, nails, fasteners, and wire shall be used only for their intended purposes.^{Pf}

1550 5. Rotted, split, or otherwise structurally unsound material shall be replaced.^{Pf}

1551 **(2) INSPECTIONS AND TESTING.** (a) *General.* 1. The owner shall arrange for all water
1552 attractions to be periodically inspected and for operational tests to be performed as specified in this
1553 subsection.

1554 2. Such inspections and tests shall be documented by written records and the records shall be
1555 kept pursuant to s. ATCP 76.32 (3) (b).

1556 (b) *Daily inspection and operational testing.* 1. Water attractions shall be inspected and their
1557 operation tested each day before use by patrons.^P

1558 2. The inspection and operational test shall include the operation of all control devices and
1559 safety equipment.^P

1560 (c) *Waterslide inspection.* Every 5 years, all waterslides 6 feet and higher shall be evaluated by
1561 an engineer for the structural stability and integrity of the slide and platform. A copy of a report
1562 signed by the engineer shall be kept on site as pursuant to s. ATCP 76.32.^P

1563 **ATCP 76.38 Virginia Graeme Baker Act (VGBA) (1) GENERAL.** (a) *Requirements.* 1. New pool
1564 construction. For a newly constructed pool, the operator shall have approved plans from DSPS and shall
1565 maintain the pool plans onsite. ^P

1566 2. Existing pools. For a pool constructed before the effective date of this rule, the operator shall
1567 provide at a minimum, the pump curve and the drain cover specification. ^P

1568 **(2) DOCUMENTATION.** (a) *Log maintenance.* The operator shall maintain a log that can be used to
1569 evaluate the drain covers.

1570 (b) *Components.* The log shall include the following components related to the drain cover: 1. Make.
1571 ^{Pf}

1572 2. Model. ^{Pf}

1573 3. Gallons per minute rating. ^{Pf}

1574 4. Life span. ^{Pf}

1575 5. Installation date. ^{Pf}

1576 (c) *Receipts or affidavits.* In lieu of a log, receipts or affidavits from a pool service company shall be
1577 acceptable documentation as long the information required in par. (2) (b), is provided. ^{Pf}

1578 (d) *Provided upon request.* Documents shall be provided to the department or agent upon request. ^{Pf}

1579 **Subchapter VII**

1580 **Limited Use Public Pool**

1581 **ATCP 76.39 Applicability.** A limited use pool is exempt from the requirements pursuant to ss. ATCP
1582 76.04 to 76.06 and 76.11 to 76.38.

1583 **ATCP 76.40 License to operate a limited use public pool. (1) LICENSE REQUIRED.**

1584 (a) *Conditions requiring a license.* No person may operate a limited use public pool without a license
1585 from the department or its agent. Except as provided under par. (b) 2., a separate license is required for
1586 each pool basin.

1587 (b) *Transfer of ownership.* 1. If a license holder sells or otherwise transfers ownership or operation
1588 of a limited use public pool to another person, a new license is required. The limited use public pool may
1589 not be operated until the department or its agent has issued a new license.

1590 2. An individual may transfer a license to an immediate family member, if the individual is
1591 transferring operation of the limited use public pool. A sole proprietorship that reorganizes as a business
1592 entity, pursuant to s. 179.70 (1), Stats., or a business entity that reorganizes as a sole proprietorship or a
1593 different type of business entity may transfer a license to the newly formed business entity or sole
1594 proprietorship if the pool remains at the location for which the license was issued and at least one
1595 individual who had an ownership interest in the sole proprietorship or business entity to which the license
1596 was issued has an ownership interest in the newly formed sole proprietorship or business entity.

1597 3. Except as provided in this paragraph, no license issued under this chapter is transferable from one
1598 premise to another or from one person or entity to another.

1599 4. A person who wishes to transfer a license under par. (c), shall notify the department or its agent
1600 prior to operation of the limited use public pool.

1601 **Note:** To notify the department of a transfer of ownership, call (608) 224-4923 or send an e-mail to
1602 datcpdfslicensing@wi.gov.

1603 (c) *Preinspection required.* Before the department or its agent may issue a license to operate a
1604 limited use public pool under sub. (1), the department or agent shall conduct a preinspection. A
1605 preinspection is not required for a transfer of a license under par. (b) 2.

1606 **(2) LICENSE DURATION AND RENEWAL.** (a) *Expiration.* Each license issued under this chapter
1607 expires on June 30, except that a license initially issued during the period beginning on April 1 and ending
1608 on June 30 expires on June 30 of the following year.

1609 (b) *Annual Renewal.* Each license shall be renewed annually as provided in sub. (4) (b).

1610 **(3) NEW LICENSE.** (a) *Application.* To apply for a new license, the applicant shall apply on an
1611 application form provided by the department or its agent. The completed application shall be accompanied
1612 by all of the following:

1613 1. The applicable fees pursuant to s. ATCP 76.41, and any fees previously due to the department or its
1614 agent.

1615 2. Information, as determined by the department or its agent, indicating that the pool will be
1616 maintained and operated in compliance Subchapter VII.

1617 **Note:** To obtain a copy of the pool operator license application form, or to determine which agent to
1618 contact for an application form, call (608) 224-4923 or send an e-mail to datcpdfslicensing@wi.gov.

1619 (b) *Requests for preinspection.* The operator shall contact the department or its agent and arrange a
1620 time for the preinspection pursuant to s. ATCP 76.40 (1) (c), before operating a limited use public pool to
1621 the general public.

1622 **Note:** To obtain a copy of the pool operator license application form, or to arrange for a
1623 preinspection, call (608) 224-4923 or send an e-mail to datcpdfslicensing@wi.gov.

1624 (4) LICENSE RENEWAL. (a) *Renewal fee.* To renew a license, the operator shall pay the department
1625 or its agent the applicable license fee pursuant to s. ATCP 76.41, before the license expires. If payment to
1626 renew a license fee is not received by the department or its agent before the expiration date of the license,
1627 the late fee pursuant to s. ATCP 76.41(2) (e), shall be paid in addition to the license fee. An application
1628 for a renewal license is not required.

1629 (b) *Department action on a license renewal.* 1. The department or its agent may refuse to renew a
1630 license as provided under sub. (5) (a) 1.

1631 2. The department or its agent shall refuse to renew a license as provided under sub. (5) (b).

1632 (5) DEPARTMENT OR AGENT ACTION ON LICENSE APPLICATION. (a) *Department or agent*
1633 *decision on a license.* 1. The department or its agent may not issue a new license or renew an existing license
1634 for a limited use public pool unless all of the following conditions are met:

1635 a. The operator has corrected a condition for which the department or agent has issued a written
1636 health or safety-related order.

1637 b. The operator, applicant, or license holder has provided the department or its agent with the
1638 information required under sub. (3) (a) 2.

1639 c. The department or its agent has determined that the operator, applicant or license holder is not in
1640 violation of ch. 97, Stats., or has only a minor violation pursuant to s. 227.04 (1) (a), Stats.

1641 (b) *License prohibited.* The department or its agent shall refuse to issue a new license or renew an
1642 existing license to operate a limited use public pool under any of the following circumstances:

1643 1. A fully and accurately completed, signed and dated application has not been received by the
1644 department or its agent.

1645 2. The department or its agent has not conducted the preinspection pursuant to s. ATCP 76.40 (1) (c).

1646 3. The operator has not paid all of the applicable fees pursuant to s. ATCP 76.06.

1647 4. The operator has maintained the pool in a manner that is not in accordance with what the
1648 department or its agent recognizes as safe practice as outlined in this chapter.

1649 5. The owner or any occupant of the residence with a limited use public pool is listed on the
1650 Wisconsin or national sex offender website.

1651 (c) *Conditional license.* Except, pursuant to s. 93.135, Stats., the initial issuance, renewal, or
1652 continued validity of a license may be conditioned upon the requirement that the license holder correct a
1653 violation of this chapter, s. 97.67, Stats., or ordinances adopted pursuant to s. 97.615 (2) (g), Stats., within
1654 a specified period of time. If the condition is not satisfied within the specified time or after an extension
1655 of time approved by the department, the license is void. No person may operate a limited use public pool
1656 after a license has been voided. Any person who does so shall be subject to the penalties pursuant to ss.
1657 97.72 and 97.73, Stats., and fees pursuant to s. ATCP 76.41 (2) (e). An operator whose license is voided
1658 under this paragraph may appeal the decision pursuant to s. ATCP 76.09.

1659 (d) *Granting or denial of a license.* 1. The department or its agent shall issue or deny a new license or
1660 shall renew a license for a limited use public pool within 30 days after the applicant meets all of the
1661 requirements under subs. (3) or (4), as applicable.

1662 2. If the department or its agent denies an application for a license, the applicant shall be given
1663 reasons, in writing, for the denial and information regarding appeal rights pursuant to s. ATCP 79.09.

1664 (6) VOIDED LICENSE FOR FAILURE TO PAY FEES. (a) *Payment time frame.* If an applicant or
1665 operator fails to pay all applicable fees, late fees and processing charges pursuant to s. ATCP 76.41,
1666 within 45 days after the expiration of the license, whichever occurs first, the license is void.

1667 (b) *Notice of insufficiency.* If the department receives a notice of an insufficiency pursuant to s. ATCP
1668 76.06 (3), the applicant or operator shall have 15 days after receipt of notice from the department of the
1669 insufficiency to pay all applicable fees and processing charges or the license is void.

1670 (c) *Appeal rights.* An operator whose license is voided under this subsection may appeal the decision
1671 pursuant to s. ATCP 76.09. The burden is on the license applicant or operator to show that all applicable
1672 fees, late fees and processing charges have been paid. During any appeal process concerning a payment
1673 dispute, operation of the pool is deemed to be operation without a license and is subject to the fees
1674 pursuant to s. ATCP 76.06 (2) (e), in addition to the fees otherwise due, unless the applicant or owner
1675 meets its burden of proof under this subsection.

1676 (7) LICENSE POSTING. A license shall be posted in a place visible to the public. A license may not
1677 be altered or defaced.

1678 **ATCP 76.41 Department fees. (1). FEE SCHEDULE.** Pursuant to s. 97.67 (5), Stats., no license may be
1679 issued until all applicable fees have been paid. The fee schedule pursuant to s. ATCP 76.41 Table A,
1680 applies to limited use public pool licenses issued by the department or its agent under this chapter for each
1681 basin.

1682 **Note:** Pursuant to s. 97.615 (2) (d), Stats., a local health department can establish and collect fees for
1683 license. For a license issued by a local health department, contact the local health department for its
1684 license fee schedule.

1685 **s. ATCP 76.41 Table A Fee Schedule — SFY 2023**

Type of Facility	Permit Fee	Preinspection Fee	1 st . Reinspection or Administrative	2 nd . and Subsequent Reinspection or	Late Fee
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			Follow-up Fee	Administrative Follow-up Fee	
Limited Use	\$150	\$150	\$100	\$150	\$30
Public Pool					

1686

1687 **(2) TYPES OF FEES.** (a) *Preinspection fee.* The operator shall pay the applicable preinspection fee
1688 pursuant to s. ATCP 76.41 Table A, to the department or its agent before a new license is issued pursuant
1689 to s. ATCP 76.40 (3).

1690 (b) *License fee.* The operator shall pay the applicable license fee pursuant to s. ATCP 76.41
1691 Table A, to the department or its agent for each limited use public pool for which the operator
1692 applies for a new or renewal license.

1693 (c) *Late fee.* If the license fee for a license renewal is not paid before the expiration date of the
1694 license, the operator of the limited use public pool shall pay to the department or its agent a late fee
1695 pursuant to s. ATCP 76.41 Table A, and s. 93.21(5) (b), Stats., in addition to the renewal license fee.

1696 (d) *Reinspection or administrative follow-up fee.* If the department or its agent conducts a
1697 reinspection or administrative follow-up of a limited use public pool pursuant to s. ATCP 76.07 (1) (b)
1698 1. or 4., the operator shall pay to the department or its agent the applicable reinspection or
1699 administrative follow-up fee pursuant to s. ATCP 76.41 Table A. The department or its agent shall
1700 assess an additional fee pursuant to s. ATCP 76.41 Table A, for any second or subsequent
1701 reinspection or administrative follow-up conducted pursuant to s. ATCP 76.07 (1) (b) 4.

1702 (e) *Fees for operating without a license.* If a limited use public pool is found to be operating
1703 without a license, the operator shall pay to the department or its agent a fee of \$749.00, in addition to all
1704 applicable fees and any processing charges under sub (3).

1705 **Note:** Anyone operating a limited use public pool without a license is also subject to the
1706 penalties pursuant to ss. 97.72 and 97.73, Stats.

1707 (f) *Duplicate license.* The department or its agent may charge the operator of a limited use public
1708 pool \$15 for the request of a duplicate license.

1709 (g) *Fees for special condition inspections.* For inspection or consultation activities that are not
1710 directly related to the department's responsibilities for issuing licenses, the department or its agent shall
1711 charge the operator or the entity requesting the inspection or consultation \$175.00.

1712 (3) PENALTIES FOR INSUFFICIENCY OF PAYMENT. If the payment for a new or renewal
1713 license is by check or other draft drawn upon an account containing insufficient funds, the applicant or
1714 operator shall, within 15 days after receipt of notice from the department of the insufficiency, pay all
1715 applicable fees pursuant to sub. (1), and the financial institution's processing charges by cashier's check,
1716 other certified draft, or money order.

1717 **ATCP 76.42 Inspections. (1) REFUSED INSPECTION; PROCESS.** If a person denies access to the
1718 department or its agent, the department or its agent shall inform the person of all the following:

1719 (a) *Department access.* The license holder is required to allow access to the department or its agent
1720 pursuant to s. 97.12, Stats.

1721 (b) *License condition.* Access is a condition of the acceptance and retention of a limited use public
1722 pool license to operate pursuant to s. ATCP 76.40.

1723 (c) *Denied access.* If the limited use public pool license holder denies access to an authorized
1724 representative of the department or its agent, the department or its agent may apply for an inspection
1725 warrant to allow access as provided in law pursuant to s. 66.0119, Stats.

1726 (2) REPORTING OF REFUSED ACCESS. If the person in charge continues to refuse access after
1727 the department or its agent presents credentials, provides the explanation in sub. (1), and makes a final
1728 request for access, the department or its agent shall document details of the denial of access on an
1729 inspection report form.

1730 (3) FREQUENCY OF INSPECTION. The department or its agent shall inspect a limited use public
1731 pool at frequency as determined by the department.

1732 (4) INSPECTION DOCUMENTATION. The department or its agent shall document all of the
1733 following on an inspection report form:

1734 (a) *Establishment Information.* Administrative information about the limited use public pool's legal
1735 identity, street and mailing addresses, type of establishment and operation, inspection date, and other
1736 information such as type of water supply and sewage disposal, and status of the license.

1737 (b) *Inspection findings.* The conditions or other violations from this chapter that require corrective
1738 action by the license holder. An accompanying narrative shall contain all of the following:

1739 1. A factual description of the violation observed, including location of the observed violation.

1740 2. Citation and a brief description of the statute, administrative rule, or local ordinance for the
1741 observed violation.

1742 3. A statement indicating what corrective action the license holder has taken, or shall take, to regain
1743 compliance with the administrative rule, statute, or local ordinance.

1744 4. Unless otherwise indicated on the inspection report, each violation shall have a corrective action
1745 deadline. The corrective action deadline shall be based on the following criteria: a. The nature of the
1746 potential hazard involved and the complexity of the corrective action needed. The department or its agent
1747 may agree to or specify additional time, not to exceed 72 hours after the inspection, for the license holder
1748 to correct violations of a priority item as defined in ch. ATCP 76.

1749 b. The license holder has a maximum time of 10 calendar days after the inspection for the license
1750 holder to correct violations of a priority foundation item.

1751 c. The license holder shall correct core items, as defined in ch. ATCP 76, by a deadline agreed to or
1752 specified by the department or its agent, but no later than 90 calendar days after the inspection. The
1753 department or its agent may approve a written compliance schedule that extends beyond 90 calendar days,
1754 if the license holder submits a written schedule of compliance and no health hazard exists, or will result,
1755 from allowing an extended schedule for compliance.

1756 (5) ISSUING A REPORT AND OBTAINING ACKNOWLEDGMENT OF RECEIPT. At the
1757 conclusion of the inspection, an authorized representative of the department shall sign the completed

1758 inspection report. The department or its agent shall then perform an exit interview and obtain a signature
1759 on the inspection report from the license holder's designated person in charge. A copy of the inspection
1760 report shall be left with the person in charge at the completion of the inspection or emailed or otherwise
1761 presented within 2 business days after completion of the inspection.

1762 **(6) REFUSAL TO SIGN INSPECTION REPORT.** If the license holder's designated person in charge
1763 refuses to sign the inspection report, the department or its agent shall do all of the following:

1764 (a) *Receipt of inspection report.* Inform the person who declines to sign the inspection report that a
1765 written acknowledgment of receipt is not an agreement with findings.

1766 (b) *License holder's obligations.* Inform the person that refusal to sign the inspection report will not
1767 affect the license holder's obligation to correct the violations noted in the inspection report by the
1768 deadlines specified.

1769 (c) *Refusal documentation.* Document the refusal to sign in the inspection report.

1770 **(7) POSTING OF INSPECTION REPORTS.** The department and its agents shall make inspection
1771 reports available to the public on the internet.

1772 **ATCP 76.43 Recirculation system. (1) GENERAL.** Each limited use public pool shall have a water
1773 recirculation system with disinfection treatment and filtration equipment.

1774 **(2) CONTINUOUS OPERATION.** The system shall be operated continuously except for seasonal
1775 closing or during periods of necessary maintenance.

1776 **ATCP 76.44 Chemical handling and feed. (1) STORAGE.** (a) *Physical location.* Chemicals shall be:

- 1777 1. Stored in the original labeled container.
- 1778 2. Separated as much as reasonably possible.
- 1779 3. Kept covered in a clean, dry, well ventilated area.
- 1780 4. Stored in containers maintained in good condition.
- 1781 5. Accessible only to authorized personnel.

1782 **(2) MIXING.** (a) *Special instruction.* The method of adjusting water chemistry shall be by adding a
1783 chemical to pool water, not by adding water to a chemical.

1784 (b) *Chemicals added separately.* Each chemical or chemical solution shall be added separately to the
1785 water.

1786 (c) *Patrons prohibited.* Patrons shall not be in the limited use public pool, when chemicals are added
1787 directly into the pool basin.

1788 (3) HANDLING (a) *Safety data sheet.* Safety data sheets for each chemical used shall be: 1. Readily
1789 accessible to the department or its Agent, and

1790 2. Provided in a binder that is available to guests, patrons or emergency responders, and

1791 3. Available to the responsible supervisor. The responsible supervisor shall: a. Be trained in the use of
1792 the safety data sheets, and

1793 b. Know where safety data sheets are located.

1794 (4) CHEMICAL FEEDER INSTALLATION. (a) *Installation.* Devices used for chemical feeding
1795 shall be installed and used according to the manufacturer's directions.

1796 (b) *Use.* Used only with the disinfectant or sanitizer recommended by the manufacturer and meet all
1797 of the following requirements:

1798 1. Easily adjustable.

1799 2. Capable of providing the required chemical residuals.

1800 (c). *Interruption of return water flow.* If a liquid chemical feed pump is used, the pump shall stop
1801 when the flow of return water is interrupted by installing: 1. Electrical interconnection.

1802 2. Flow sensing.

1803 **ATCP 76.45 Water chemistry. (1) CHEMICAL CONCENTRATIONS AND RESIDUALS.** (a)

1804 *Disinfectant or sanitizer residuals.* 1. A limited use public pool disinfected with chlorine shall have a free
1805 chlorine residual of: a. 1 ppm to 10 ppm.

1806 b. If cyanuric acid is used (if tri-chlor or di-chlor briquettes are used), the cyanuric acid level shall be
1807 2 ppm to 10 ppm.

1808 2. If bromine is used as a disinfectant, the minimum level of bromine shall be 3 ppm to 10 ppm.

1809 3. If a disinfectant or sanitizer is used other than chlorine or bromine: a. It shall be designed for use in

1810 a swimming pool, and

1811 b. The manufacturer's directions for use shall be followed.

1812 (b) *Cyanurates*. The water cyanuric acid concentration may not exceed 30 ppm. A cyanuric acid level
1813 above 300 ppm is considered a hazardous substance in the pool.

1814 (c) *pH control*. The water's pH shall be maintained within a range of 7.2 to 7.8.

1815 (d) *Alkalinity*. The total alkalinity of pool water shall be maintained between 60 and 180 ppm as
1816 calcium carbonate unless it can be shown by the operator that another level of total alkalinity produces
1817 chemically-balanced water based on calculations approved by the department.

1818 (e) *Combined chlorine*. 1. The operator shall conduct breakpoint chlorination or water replacement or
1819 a combination of both when the combined chlorine is 0.4 ppm or higher.

1820 **Note:** if the source water contains combined chlorine, that amount may be subtracted from the
1821 combined chlorine reading.

1822 **ATCP 76.46 Water temperature. (1) POOL WATER TEMPERATURE.** The pool water shall not
1823 exceed 90° F.

1824 **(2) WHIRLPOOL WATER TEMPERATURE.** The whirlpool water may not exceed 104° F.

1825 **ATCP 76.47 Visibility. (1) WATER CLARITY.** The grating of the main drain shall be readily visible
1826 from the pool deck. If there is not a main drain on the bottom of the pool, the floor of the pool must be
1827 clearly visible.

1828 **(2) ILLUMINATION.** Artificial lighting shall be provided so that all areas of a pool, including the
1829 bottom, shall be visible when the pool is used during periods of low illumination.

1830 **ATCP 76.48 Water testing. (1) WATER TESTING FREQUENCY.** Water shall be tested as follows: (a)
1831 Daily before the limited use public pool is open to the public or before the limited use public pool is in
1832 use and in-between each user group for pH and available disinfectant.

1833 (b) If chlorine is used, the water shall also be tested at least twice a week for the combined chlorine
1834 level.

1835 (c) Water shall be tested at least once a week for total alkalinity.

1836 (d) If cyanuric acid is used in the water basin, the cyanuric acid concentration in the water shall be
1837 tested at least once a week.

1838 (e) A log shall be kept and indicate that the recirculation system is working properly, the level of
1839 disinfectant, water clarity, time and date of test, water temperature, the results of any other testing
1840 performed and the name of the person performing the tests.

1841 **(2) TEST KIT, USE.** (a) *Availability.* A test kit shall be provided to perform the tests required
1842 pursuant to sub. (1), of this section, for any chemicals used in the limited use public pool.

1843 (b) *Test kit chemicals.* 1. Test kit chemicals shall be used within their expiration date.

1844 2. Stored according to manufacturer's directions.

1845 **ATCP 76.49 Responsible supervisor. (1) RESPONSIBILITIES.** (a) *Supervision.* Each limited use public
1846 pool shall be under the supervision of at least one responsible supervisor at all times when the pool is
1847 open to the public.

1848 (b) *Availability.* 1. The responsible supervisor, when notified, shall provide direction to the caller and
1849 if necessary, have the caller remove the occupants from the pool until the responsible supervisor can
1850 respond to the unsafe or unsanitary condition.

1851 2. The responsible supervisor shall routinely monitor the pool.

1852 (c) *Duties.* The responsible supervisor shall perform all of the following: 1. Ensure that safety and
1853 rescue equipment is in place.

1854 2. Ensure sanitation and water testing.

1855 3. Maintain records.

1856 4. Ensure pumps, disinfectant and recirculation systems are in working order.

1857 5. Close the pool as necessary to protect health and safety.

1858 6. Ensure that current CDC guidelines are followed in responding to a fecal or vomit incident.

1859 **ATCP 76.50 License holder responsibility. (1) INFORMATIONAL MATERIALS.** The license holder
1860 of a limited use public pool shall provide the following information to users in a binder or by other
1861 written means: (a) *Safety warnings.* Main drain, wall drain, and skimmer safety warning information, as

1862 applicable.

1863 (b) *Safety data sheets*. Safety data sheets.

1864 (c) *Personal floatation devices*. A statement indicating that personal floatation devices will not be
1865 provided.

1866 (d) *Pre-rental checklist*. The license holder shall provide a pre-rental checklist to the principle renter
1867 indicating the following areas shall be checked before use of the pool or whirlpool: 1. The main drain or
1868 bottom of the limited use public pool is clearly visible.

1869 2. A phone capable of calling 911 is available.

1870 3. Recirculation system is functioning (water flowing out at inlets).

1871 4. No floating debris is present.

1872 5. No obvious hazards, including spills, exist.

1873 6. First aid kit is available.

1874 7. Phone number and contact information for the owner and responsible supervisor is available.

1875 **(2) APPLICABLE RULES**. Comply with the provisions of this chapter and ch. ATCP 76.

1876 **(3) RECORD KEEPING**. Follow record keeping requirements as outlined in this chapter.

1877 **(4) CLOSURE AND NOTIFICATION**. Immediately discontinue operations directly related to an
1878 imminent health hazard, and notify the department or its agent.

1879 **(5) CORRECTIVE ACTIONS**. Comply with directives of the department or its agent including
1880 deadlines for taking corrective actions specified in inspection reports, notices, orders, warnings, and other
1881 directives issued by the department or its agent for the license holder's pool or in response to community
1882 emergencies.

1883 **(6) NOTICES**. Accept notices issued and served by the department or its agent according to law.

1884 **(7) PENALTIES**. Be subject to the administrative, civil, injunctive, and criminal remedies authorized
1885 in law for failure to comply with ch. ATCP 76, and any other directive of the department or its agent,
1886 including deadlines for corrective actions specified in inspection reports, notices, orders, warnings, and
1887 other directives.

1888 **ATCP 76.51 Reports and paperwork.** Before the limited use public pool is open to the public or before
1889 the pool is in use and in-between each user group the license holder or responsible supervisor shall
1890 document the following information: **(1) TESTING LOGS.** Water testing shall be performed pursuant to
1891 ATCP 76.48 (1) (e). (a) *Results.* The results shall be documented in a log.

1892 (b) *Retention.* The log shall be kept for a minimum of 3 years and made available to the department or
1893 its agent upon request.

1894 **(2) FECAL AND VOMIT INCIDENT LOG.** Record date, time and action taken in responding to a
1895 fecal or vomit incident.

1896 **ATCP 76.52 Signage. (1) REQUIRED.** The following shall be provided and posted at the limited use
1897 public pool. (a) *Maximum patron load.* The maximum patron load shall be posted and shall: 1. Allow for
1898 20 square feet per person in a pool, and

1899 2. Allow for 10 square feet per person in a whirlpool.

1900 (b) *General safety. A sign shall be provided with the following:* 1. No lifeguard on duty.

1901 2. Swim at your own risk.

1902 3. No diving.

1903 4. Do not swim if you can't see the bottom of the pool.

1904 5. Drains can be a source of injury or entrapment, please avoid.

1905 6. Persons with open sores shall not use the pool or whirlpool.

1906 7. Keep children under the age of 6 out of the whirlpool.

1907 8. Leave the pool if a fecal or vomit incident occurs and call the responsible supervisor.

1908 (c) *Responsible supervisor.* Signage with the address of the pool location and the contact information
1909 for the responsible supervisor shall be provided.

1910 **ATCP 76.53 First aid, rescue and safety supplies.** Rescue equipment shall be mounted in a conspicuous
1911 place and shall be readily accessible. **(1) SHEPHERD'S CROOK.** Except for a whirlpool, an intact
1912 shepherd's crook shall be provided at the pool in case a non-swimmer needs to rescue someone in the
1913 water.

1914 (2) FIRST AID SUPPLIES. A standard first aid kit plus ice packs shall be available at the pool area.

1915 (3) EMERGENCY BLANKETS. Two conventional or emergency blankets in good condition shall be
1916 available in the pool area.

1917 (4) FECAL ACCIDENT KIT. A fecal accident cleanup kit must be on premises and include the
1918 following: A bucket and cleanup items (scoop, spatula, biohazard bag, disposable gloves, antiseptic hand
1919 wipes and paper towels).

1920 **ATCP 76.54 Limited use public pool area. (1) GENERAL.** The pool basin, stairs, ladders, deck
1921 and furniture shall be: (a) Maintained clean, and

1922 (b) Maintained in good repair.

1923 (2) TOILET ROOM. (a) At least one toilet room shall be available.

1924 (b) The toilet room shall be maintained clean.

1925 (c) The toilet room shall be maintained in good repair.

1926 (3) RESTRICTED ACCESS. For a tourist rooming house or bed and breakfast establishment,
1927 when the limited use public pool is not under a rental agreement with the guests, the limited use
1928 public pool shall be secured (locked cover or fencing with gate, or door) to prevent access, when
1929 rented.

1930 **ATCP 76.55 Registration. (1) REGISTRATION LOG.** The license holder shall keep a registration log
1931 with the following information: (a) *Date and time.* The Date and time the limited use public pool was
1932 rented.

1933 (b) *Principle renter information.* The name and phone number of the principle renter.

1934 (2) RECORDS. Registration records may be written or electronic.

1935 (3) RETENTION. Registration records shall be kept for a minimum of 3 years and made available to
1936 the department or its agent as requested.

(END OF RULE TEXT)

Dated this _____ day of _____, 2022

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By: Randy Romanski, Secretary