

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 and affecting small business.

**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 and affecting small business. 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), 97.65, 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, pursuant to s. 93.07 (24) (e), Stats., to enforce the laws for the maintenance and operation of public pools, and the department has authority pursuant to ss. 97.67 (1) and (4), Stats., to adopt rules for public 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 pursuant to ss. 93.06 (7) and (8), and 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 pool resumes operations, pursuant to s. 97.65 (2), Stats.

Related Statutes and Rules

Since the transfer of several programs from the Wisconsin 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.

Reference to Wisconsin department of safety and professional services rules can also be found in ch. ATP 76 for new pool construction or pool modifications plan approval pursuant to ch. SPS 390.

Rules enforced by the Wisconsin department of natural resources are referenced in ch. ATP 76, pursuant to chs. NR 108, 811 and 812 for water supply standards.

Plain Language Analysis

A revised ch. ATP 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. ATP 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 Wisconsin 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.

After receiving public comment and based on Joint Committee for the Review of Administrative Rules (JCRAR) action, the department removed subchapter VII, relating to limited-use public pools. On April 26, 2022, JCRAR adopted a motion under s. 227.26 (2) (d), Stats., that suspended s. ATP 76.02 (1) (a) in part as it applies to a tourist rooming house. In response, the department has also removed tourist rooming houses and bed and breakfast establishments from s. ATP 76.02 (1) (a).

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 State has not had a license fee increase for pools and water attractions since 2007. In the revised ch. ATP 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 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, including a whirlpool, waterslide, and pool slide under six feet, 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.

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.

In the revised rule, Wisconsin will be the first 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 pursuant to 15 United States Code s. 8003 requires specific construction and placement of drain covers.

The United States centers for disease control and prevention, oversees the guidance, Model Aquatic Health Code. 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 Health Code, and although it is mandated by federal law, commenters expressed concerns with Virginia Graeme Baker Act and the Americans with Disabilities Act. 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, including construction and operation versus 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 Wisconsin 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, Ill. Admin. Code tit. 77, s. 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. Pool license fees are based on square footage and range from \$150 to \$650.

Iowa: Iowa's pool rule, 641 IAC Chapter 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 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 homeowners 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. Pool license fees range from \$170 to \$270.

Michigan: In Michigan, sections R 325.2191 through 325.2199 contain 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 ch. ATP 76. Telephone technology is not specified. Requirements for disinfection of whirlpools are less specific and are outcome-based. State pool license fees are \$70, but the local health department may charge an additional inspection fee, of approximately \$200 to \$300 more.

Minnesota: Minnesota's pool code, MINN. R. 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. State pool license fees for a pool are \$510.

Summary of Factual Data and Analytical Methodologies

Feedback on ch. ATP 76 was solicited from industry stakeholders, 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, the department, and local health department agent representatives, as well as the Wisconsin 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. ATP 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.

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 and one was chosen with input from industry. The model chosen with industry feedback contains a lower fee increase for a simple pool. The proposed 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 other types of pools to be associated with a Legionella outbreak, if the water chemistry is not carefully controlled. The proposed fee for a moderate pool license is \$300, an increase of \$150. The proposed fee category for a complex pool that includes large pools and water attractions is \$375, an increase of \$225.

The proposed fees are per pool basin and additional fees are applied if the pool basin is also equipped with features. 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, is currently \$425 per year to license. With the proposed fee structure, it will be complex with features and cost \$507, an increase of \$82.

Although, the department has proposed fee increases in the new rule, the department has also communicated with industry to find alternative methods that will reduce the overall cost to maintain a pool, whirlpool or water attraction. The following are examples of cost savings to pool operators:

By eliminating the need for a variance and allowing flexibility of operation, a pool operator could experience lower operating costs and a direct reduction in cost to operate a pool telephone. A pool operator may now provide a phone with a cellular 911 service option with an approximate \$400 one-time cost compared to the current land line requirement that costs as much as \$1000 to \$1800 per year.

For pool operators who fail to maintain active managerial control of risks at their pool, there would be a proposed cost of \$300 to \$500, to obtain pool operator certification. 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.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis is attached.

Effect on Small Business

See analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis section, above.

The Department's Regulatory Review Coordinator

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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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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 227.11
5 (2) (a), Stats., to prescribe rules for the maintenance and operation of public pools and water attractions for
6 enforcement by the department or its agent to protect public health and safety.

7 **ATCP 76.02 Scope. (1) APPLICABILITY.** This chapter applies to all public pools and water attractions.
8 Unless the context clearly indicates otherwise, references to “pool” in these rules means a public pool, or,
9 water attraction.

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

14 (a) *Procedure for variance request.* 1. Request for modification or waiver of a requirement of this
15 chapter shall be submitted in writing to the department or its agent, along with documentation specified in
16 subd. 4.

17 2. A local inspector shall review the request and forward it to the department with recommendations
18 for approval or disapproval.

19 3. On receipt of a complete variance request as specified in this section, the department shall review
20 the request and grant or deny the request in writing within 30 working days. A variance approved by the
21 department shall be made conditional for a defined period of time or shall expire 5 years from the date of
22 issuance. The department or its agent shall maintain a copy of the variance in the license holder's inspection
23 history file.

24 4. Documentation justifying a proposed variance from the requirements of this chapter shall include all
25 the following information: a. A statement of the proposed variance from this chapter requirement citing
26 relevant chapter location numbers.

27 b. The rationale for how the potential public health hazards and nuisances addressed by the relevant
28 chapter section will be alternatively addressed by the proposed variance.

29 (b) *Conformance with an approved variance.* If the department grants a variance as specified in sub.
30 (2), the license holder shall do all of the following: 1. Comply with the department's conditions for the
31 variance approval. ^P

32 2. Maintain a copy of the approved variance at the pool.

33 (c) *Transferability.* An approved variance is not transferable to any other pool, entity, or licensee.

34 (d) *Reissuance.* A license holder who wishes to continue a variance after its expiration shall do all of
35 the following: 1. File a request with the department for reissuance of the variance at least 30 days prior to
36 its expiration, unless permission for a later date has been granted by the department.

37 2. When a license holder has made timely and sufficient application for the reissuance of a variance in
38 reference to any activity of a continuing nature, the existing waiver does not expire until the application has
39 been finally acted upon by the department.

Note: To obtain a form for requesting a variance, email datcpdfsrec@wisconsin.gov or contact the bureau of food and recreational businesses at (608) 224-4702 or PO Box 8911, Madison, Wisconsin 53708-8911.

ATCP 76.03 Definitions. In this chapter:

(1) “AED” means automated external defibrillator.

(2) “Active managerial control” means that the risks at the pool are being managed so that the pool is in compliance pursuant to ch. ATCP 76, or conditions are monitored so that corrections necessary for compliance are in progress.

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

(4) “Administrative follow-up” means validation of a corrective action by the operator of a violation through electronic or other effective means by the department or its agent.

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

(6) “Agent” means the city, county, or village designated by the department pursuant to s. 97.615 (2), Stats., and ch. ATCP 74, to issue licenses to and make investigations or inspections of public pools and water attractions.

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

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

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

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

(11) “Basin” means any vessel constructed of manmade materials designed to hold or receive water, including the splash zone of an interactive play attraction, or a run-out slide.

(12) “Breakpoint chlorination” means to create a hygienic environment in the pool by raising the free

available chlorine level to 10 times the combined chlorine level to achieve the destruction of chloramines.

(13) “CPR” means cardiopulmonary resuscitation.

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

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

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

(c) An equivalent course approved by the department.

(15) “Change of operator” means an existing license holder that sells or otherwise transfers ownership or operation of a pool to another person.

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

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

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

(19) “Core item” means all of the following: (a) A provision in this rule that is not designated as a priority item or a priority foundation item.

(b) An item that usually relates to general sanitation, operational controls, sanitation standard operating procedures, facilities or structures, equipment design, or general maintenance.

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

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

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

(23) “Deep portion” means a portion of a pool having a design water depth greater than 5 feet or 1.5

90 meters.

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

92 (25) “Drop slide” means a slide where the terminus is located 20 inches or 50.8 centimeters or more
93 above the water level.

94 (26) “Electrical interconnection” means, in connection with a pool, where the recirculation pump and
95 the chemical feed unit are interconnected in such a way that when the recirculation pump power is
96 interrupted or lost, the power to the chemical feed unit is also disabled.

97 (27) “Enclosure” means the area within the barrier that separates the pool or water attraction area from
98 other areas of the building or premises.

99 (28) “Engineer” means a registered professional engineer licensed in Wisconsin.

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

101 (30) “Equipment” means all the necessary items for the operation of a public pool.

102 (31) “Erosion feeder” means a chemical feed device that contains powder, tablets, briquettes, or sticks
103 and allows a water stream to pass through it that erodes and dissolves the chemical.

104 (32) “Exercise pool” means a pool of 5 feet or 1.5 meters in depth or less that can operate with or without
105 a current.

106 (33) “Existing pool” means a pool operating with a license first issued by the department or its agent
107 on or before June 30, 2023.

108 (34) “Feature” means a pool with a depth greater than 16 feet, a pool with a surface area greater than
109 20,000 sq. ft., or a physical object permanently installed in a pool that is intended for recreational use
110 including, a pool slide, waterslide, pad walk, basketball hoop, diving board, wave generator, treadmill,
111 vortex pool, climbing wall, current pool, swim-up bar, vanishing edge pool, tethered or nontethered
112 floatable, or a spray feature.

113 (35) “Filter aid” means finely powdered diatomaceous earth or similar approved material used to coat
114 a septum type filter.

(36) “Flow Sensing” means an automatic safety mechanism designed to disable chemical delivery equipment in the event of a significant decrease, or lack of, a return water flow required for the proper dispersal of a chemical related to water disinfection.”

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

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

(39) “General public” means any person who patronizes a public pool.

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

(41) “Instructional Program” means 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, including a swimming class, an exercise class, or a water aerobics class.

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

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

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

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

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

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

(46) “Maximum flow” means the highest flow rate attainable by the pump without friction from the recirculation system.

(47) “NSF” means National Sanitation Foundation.

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

(49) “Nontethered floatable” means a floatation device added to a pool that is not tethered to the pool basin, allowing movement of the device around the water, including floating pads or other similar items. A “Nontethered floatable” does not include a rubber tube in a leisure river or swim wings.

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

(51) “Oxidizer” means a chemical that can take away electrons from a molecule or atom, thereby destroying organic matter.

(52) “Owner” means the state, a political subdivision of the state, corporation, company, association, firm, partnership, or individual owning or controlling any pool.

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

(54) “Pathogen” means a microbial organism capable of causing disease.

(55) “Patron” means a human user of a pool.

(56) “Patron load” means the number of patrons in a body of water of a pool.

(57) “Peak flow” means the highest flow rate attainable by the pump within the pool’s recirculation system.

(58) “Person” means an individual, partnership, association, firm, company, corporation, municipality, county, town or state agency, whether tenant, owner, lessee, or licensee, or the agent, heir, or assignee of any of these.

(59) “Plunge pool” means a pool with a depth of greater than 24 inches or 61 centimeters, located at the exit end of a waterslide flume and intended and designed to receive a patron emerging from the flume.

(60) “Pool and water attraction area” means, in an indoor or outdoor facility, the pool or water attraction and the area within a continuous enclosure.

(61) “Pool or water attraction” means a public pool or water attraction if it serves or is installed for use by the state, a political subdivision of the state, a motel, a hotel, a resort, a camp, a campground, a club, an association, a housing development, an apartment complex with 3 or more dwelling units, a condominium complex, or a housing complex having a homeowners’ association, a school, a religious, charitable or youth organization, or an educational or rehabilitative facility.

(62) “Pool slide” means any slide where the drop from the slide terminus to water is less than 20 inches or 50.8 centimeters into greater than 24 inches of water and the flume carries less than 100 gallons of water per minute.

(63) “Priority foundation item” means all of the following: (a) A provision in this rule whose application supports, facilitates, or enables one or more priority items.

(b) An item that requires the purposeful incorporation of specific actions, equipment, or procedures by the operator such as personnel training, infrastructure, documentation, or record keeping.

(c) An item that is denoted in this rule with a superscript Pf^{—Pf}.

(64) “Priority item” means all of the following: (a) A provision in this rule directly related to health and safety that if not met or is missing could significantly contribute to an increased risk for injury or illness.

(b) An item that is denoted in this rule with a superscript P^{—P}.

(65) “Public Pool” (a) Means a structure, basin, chamber, or tank, and appurtenant buildings and equipment, used for wading, swimming, diving, water recreation, or therapy, including an exercise pool, mobile pool, whirlpool, cold soak pool, or water attraction.

(b) “Public Pool” does not include an inflated mobile structure, basin, chamber, or tank; a swim pond; an individual therapeutic pod, tub, or bath; a fixed or mobile structure, basin, chamber, or tank that serves fewer than 3 individual residences; or a fixed or mobile structure, basin, chamber, or tank that is used solely

for animal training, therapy, or exercise and the only individuals in the pool are the animal trainer or handler, animal health or wellness professional or the animal's individual owner.

(66) "Responsible supervisor" means a person designated by the operator to maintain compliance with regulations governing safety and sanitation of a pool.

(67) "Reverse flow pool" means a pool type that has a recirculation system, where surface water is drawn from the pool basin through the gutter system, skimmer, or similar device and is filtered, disinfected and returned to the basin through the main drain or floor water inlets.

(68) "Run-out slide" means a waterslide where the rider does not exit into a plunge pool, but has a deceleration area that permits the patron to stop before exiting the slide flume.

(69) "Safety data sheet" means written information that details the hazards associated with a chemical and gives information related to its safe use.

(70) "Shallow portion" means the part of the pool that is 5 feet or 1.5 meters in depth or less.

(71) "Slide terminus" means the last 10 feet or 3.1 meters of a slide flume discharging into a pool.

(72) "Spectator area" means a designated area for people to observe or watch an activity in a pool.

(73) "Splash zone" means the area where water falls on the floor of an interactive play attraction.

(74) "Superchlorination" means the addition of an oxidizing product such as chlorine to pool water to raise the level of oxidizer to at least 10 ppm. "Superchlorination" is sometimes referred to as superoxidation.

(75) "Swim-up bar" means an area of a pool that includes barstool type seating, a countertop, and often a serving area where patrons can order a beverage without leaving the pool.

(76) "Swim wings" means hollow, ring-shaped pieces of plastic, filled with air, that a patron wears on their arms while in the water to help them to float.

(77) "Tethered floatable" means a play item or floatation device that is affixed to the basin of a pool to restrict movement of the item.

(78) "Unauthorized access" means the entrance of a person into a restricted area without permission of the operator or the operator's designated representative.

(79) "Therapy pool" means a pool used for professionally administered physical therapy.

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

(81) “Vanishing edge pool” means a pool where the water flows over one or more edges, producing a visual effect of water with no boundary.

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

(83) “Wading pool” means a pool having a shallow portion that is a maximum depth of 24 inches or 61 centimeters and intended for children’s play.

(84) “Water attraction” means a pool with design and operational features that provide a patron recreational activity other than conventional swimming that involves partial or total immersion of the body, including an activity pool, interactive play attraction, leisure river, plunge pool, vortex pool, vanishing edge pool, waterslide, run-out slide, drop slide, pool slide, wave pool, zero-depth entry pool, and any public pool with features except wading pools.

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

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

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

(88) “Zero-depth entry pool” means a water attraction having a sloped entrance to where the water depth is 0 inches at the shallowest point.

ATCP 76.04 Plans and specifications for pools. (1) APPROVAL REQUIRED. An operator shall submit pool plans for new construction and obtain approval from the Wisconsin department of safety and professional services pursuant to ch. SPS 390. After July 1, 2023, the following documents shall be kept onsite and made available to the department or its agent upon request. (a) Approved pool plans.

(b) Engineering statements and reports, when applicable.

(c) Compliance declaration, if applicable.

(d) Conditional Wisconsin department of safety and professional services approvals, if applicable.

(e) Final Wisconsin department of safety and professional services inspection approval.

(f) Wisconsin department of safety and professional services or department variances, if applicable.

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

(3) CHANGE OF OPERATOR. For a pool constructed prior to July 1, 2023, pool construction plans are not required when a change of operator occurs and a new license is required pursuant to s. ATCP 76.05 (1).

ATCP 76.045 License holder qualifications. To qualify for a license, an applicant shall do all of the following: **(1) OWNER.** Be an owner of the pool or an officer of the legal entity owning the pool.

(2) PAYMENT OF FEES. Pay the applicable license fees at the time the application is submitted.

ATCP 76.046 License holder responsibilities. Upon acceptance of the license issued by the department or its agent, the license holder shall do all of the following in order to retain the license: **(1)** Allow an authorized representative of the department or its agent access to the pool and provide any required information to that authorized representative.

(2) Comply with the provisions of this chapter.

(3) Follow reporting requirements to the department or its agent, as applicable, as outlined in this chapter.

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

(5) Replace existing facilities and equipment that no longer comply with the criteria set forth in this chapter.

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

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

(8) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this chapter, and any other directive of the department or its agent, including deadlines for corrective actions specified in inspection reports, notices, orders, warnings, and other directives.

ATCP 76.05 License to operate a pool. (1) LICENSE REQUIRED. A license is required for a public pool if it serves or is installed for use by the state, a political subdivision of the state, a motel, a hotel, a resort, a camp, a campground, a club, an association, a housing development, an apartment complex with 3 or more dwelling units, a condominium complex, or a housing complex having a homeowners' association, a school, a religious, charitable or youth organization, or an educational or rehabilitative facility.

(a) *Conditions requiring a license.* No person may operate a pool without a license from the department or its agent, except as provided under sub. (c) 2. A separate license is required for each pool basin.

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

(c) *Transfer of ownership.* 1. If a license holder sells or otherwise transfers ownership or operation of a pool to another person, a new license is required pursuant to s. 97.67 (2) (a), Stats., and the pool may not be opened to the public until the department or its agent issues a new license.

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

license was issued has an ownership interest in the newly formed sole proprietorship or business entity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. The department or its agent shall not renew an existing pool license as provided under sub. (5) (b).

(5) DEPARTMENT OR AGENT ACTION ON LICENSE APPLICATION. (a) *Department decision on a license.* The department or its agent may not issue a new pool license or renew an existing pool license unless all of the following conditions are met: 1. The operator has corrected a condition for which the department or its agent has issued a written health or safety related order.

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

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

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

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

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

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

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

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

(d) *Granting or denial of a license.* 1. The department or its agent shall issue or deny a new pool license or shall renew an existing pool license within 30 days after the applicant meets all of the requirements pursuant to sub. (3) or (4), as applicable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Fee schedule tables.

ATCP 76.06 Table B Fee Schedule — SFY 2023

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

Type of Facility	License Fee	Preinspection Fee	First Reinspection or Administrative Follow-Up Fee	Second and Subsequent Reinspection or Administrative Follow-Up Fee	Late Fee
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423	Simple pool	\$200	\$200	\$100	\$150	\$40
424						
425	Simple pool	\$332	\$332	\$100	\$150	\$66
426	with features					
427						
428	Moderate pool	\$300	\$300	\$100	\$150	\$60
429						
430	Moderate pool	\$432	\$432	\$100	\$150	\$86
431	with features					
432						
433	Complex pool	\$375	\$375	\$100	\$150	\$75
434						
435	Complex pool	\$507	\$507	\$100	\$150	\$101
436	with features					
437						

438 **ATCP 76.06 Table C Fee Schedule — SFY 2025**

439 **For licenses issued on or after April 1, 2025**

440	Type of	License	Preinspection	First	Second and	Late
441	Facility	Fee	Fee	Reinspection	Subsequent	Fee
442				or	Reinspection or	
443				Administrative	Administrative	
444				Follow-Up Fee	Follow-Up Fee	
445						
446	Simple pool	\$208	\$208	\$100	\$150	\$42
447						
448	Simple pool	\$345	\$345	\$100	\$150	\$69
449	with features					
450						
451	Moderate pool	\$312	\$312	\$100	\$150	\$62
452						
453	Moderate pool	\$450	\$450	\$100	\$150	\$90
454	with features					
455						
456	Complex pool	\$390	\$390	\$100	\$150	\$78
457						
458	Complex pool	\$527	\$527	\$100	\$150	\$105
459	with features					
460						

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

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

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

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

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

Note: Anyone operating a pool without a license is also subject to a penalty pursuant to s. 97.72, Stats., and an injunction pursuant to s. 97.73, Stats.

(f) *Duplicate license.* The department or its agent may charge the operator of a pool \$15.00 for the request of a duplicate license.

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

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

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

certified draft, or money order.

ATCP 76.07 Enforcement. (1) INSPECTIONS AND ACCESS TO THE PREMISES. (a) *Inspections.*

Pursuant to ss. 97.615 (2) and 97.65 (1), Stats., an authorized employee of the department or its agent, upon presenting proper identification, may enter any pool or equipment area, and any other associated area at any reasonable time, for any of the following purposes: 1. To inspect the pool.

2. To determine if there has been a violation of this chapter or s. 97.67, Stats.

3. To determine compliance with previously written violation orders.

4. To secure samples or specimens.

5. To examine and copy relevant documents and records related to the operation of the pool.

6. To obtain photographic or other evidence needed to enforce this chapter.

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

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

3. The department or its agent shall assess a reinspection or administrative follow-up fee for the reinspection or administrative follow-up pursuant to s. ATCP 76.06 Table B or C.

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

(2) GENERAL ORDERS TO CORRECT VIOLATIONS. (a) *Written orders.* If upon inspection of a pool, the department or its agent finds that the pool is not designed, constructed, equipped, or operated

pursuant to ch. SPS 390 and this chapter, the department or its agent shall issue a written order to correct the violation. The order shall specify the correction needed for compliance and the time period within which the correction shall be made. The time period specified in the order may be extended at the discretion of the department or its agent as specified in par. (c).

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

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

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

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

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

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

(b) *Duration of a temporary order; actions prohibited.* 1. A temporary order shall take effect upon

542 delivery to the operator or responsible supervisor. Except as provided in par. (c), the temporary order shall
543 remain in effect for 14 days from the date of its delivery, but a temporary order may be reissued for one
544 additional 14 day period if necessary to complete any analysis or examination of samples, specimens, or
545 other evidence.

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

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

561 (d) *Failure to comply with a temporary order.* Any person who fails to comply with a temporary order
562 issued by the department or its agent shall forfeit \$50 for each day of noncompliance after the order is served
563 upon or directed to them pursuant to s. 97.12 (5); and, pursuant to s. 97.65 (5) (a), Stats., may be fined not
564 more than \$10,000 or imprisoned not more than one year in the county jail, or both. A person may appeal
565 a forfeiture or penalty pursuant to s. ATCP 76.09.

(4) ACTION PLANS. (a) When required by the department or its agent, the operator shall develop, on a form provided by the department or its agent, an action plan for compliance. The action plan shall include all of the following: 1. A description of the violation and code citation.

2. The steps the operator will take to correct the violation.

3. The date compliance will be achieved.

(b) The pool is placed on a conditional license pursuant to s. ATCP 76.05 (5) (c).

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

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

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

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

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

Subchapter II

592 **Standards for Pools**

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

596 **ATCP 76.106 Inspections (1) REFUSED INSPECTION; PROCESS.** If a person denies access to the
597 department or its agent to the licensed pool, the department or its agent shall inform the person of all the
598 following: (a) *Department access.* The license holder is required to allow access to the department or its
599 agent pursuant to s. 97.65 (1), Stats.

600 (b) *License condition.* Access is a condition of the acceptance and retention of a pool license pursuant
601 to s. ATCP 76.046 (1).

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

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

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

611 **(4) INSPECTION DOCUMENTATION.** The department or its agent shall document all of the
612 following on an inspection report form: (a) *Establishment information.* Administrative information about
613 the pool's legal identity, street and mailing addresses, type of establishment and operation, inspection date,
614 and other information such as type of water supply and sewage disposal, status of the license, and personnel
615 certificates that may be required at the pool.

(b) *Inspection findings.* The conditions or other violations from this chapter that require corrective action by the license holder. An accompanying narrative shall contain all of the following: 1. A factual description of the violation observed, including location of the observed violation.

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

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

4. Unless otherwise indicated on the inspection report, each violation shall have a corrective action deadline. The corrective action deadline shall be based on the following criteria: a. The nature of the potential hazard involved and the complexity of the corrective action needed. The department or its agent may agree to or specify additional time, not to exceed 72 hours after the inspection, for the license holder to correct violations of a priority item.

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

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

(5) ISSUING A REPORT AND OBTAINING ACKNOWLEDGMENT OF RECEIPT. At the conclusion of the inspection, an authorized representative of the department or its agent shall sign the completed inspection report. The department or its agent shall then perform an exit interview and obtain a signature on the inspection report from the license holder's designated person in charge. A copy of the inspection report shall be left with the person in charge at the completion of the inspection, emailed, or otherwise presented within 2 business days after completion of the inspection.

(6) REFUSAL TO SIGN INSPECTION REPORT. If the license holder's designated person in charge refuses to sign the inspection report, the department or its agent shall do all of the following: (a) *Receipt of inspection report*. Inform the person who declines to sign the inspection report that a written acknowledgment of receipt is not an agreement with findings.

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

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

(7) POSTING OF INSPECTION REPORTS. The department or its agent shall make inspection reports available to the public on the internet.

Subchapter III

Water Treatment Systems and Water Quality

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

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

(2) SKIMMERS AND RECIRCULATION FLOW. Skimmers and recirculation flow shall meet all of the following: (a) *Skimmer flow*. 1. The flow through each skimmer shall be adjusted as often as necessary to maintain a vigorous skimming action at each skimmer. ^{Pf}

2. The pool water level shall be maintained at an elevation so that continuous effective surface skimming is accomplished through skimmers or over the gutter lip. ^{Pf} a. For gutter pools, approximately 75 percent of the required recirculation flow shall be through the gutter and 25 percent through the main drain during normal operation. ^{Pf}

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

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

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

2. Skimmers, skimmer weirs, and overflow gutters shall be repaired or replaced as needed.

3. Skimmer covers shall be securely seated on deck.

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

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

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

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

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

(4) PUMPS. Pump operation shall meet all of the following: (a) *Operational specification.* The pump manufacturer's maintenance and operating instructions shall be followed. ^{Pf}

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

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

(d) *Alternative pool type; turnover rate.* If a pool is used as an alternate type of pool including a whirlpool used as a pool, the recirculation shall follow the stricter turnover time.

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

692	Activity	2
693	Interactive play attraction	0.5
694	Leisure river	2
695	Plunge	1
696	Runout slide	1
697	Vortex	1
698	Wading pool	1
699	Whirlpool	0.5
700	Therapy and Exercise pools	See s. ATCP 76.11 Table B
701	Cold soak	4

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

703	Pool Temperature in	Load (gals/person)	Maximum
704	°F. (°C.)	Turnover Time (hours)	
705			
706	<72–93 (22–33 °C.)	> 2,500	4
707	<72–93 (22–33 °C.)	> 450	2
708	<72–93 (22–33 °C.)	< 450	1
709	>93–104 (33–40 °C.)	N/A	0.5

710 N/A = not applicable.

711 FLOWMETERS, VALVES, AND GAUGES. Flowmeters, valves, and gauges shall be all of the
712 following: (a) *Maintained*. Maintained in operating condition.

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

714 **(5m) PIPING.** Piping shall comply with all of the following: (a) *Identification*. Water treatment system
715 piping shall have permanent labels, numbered tags, or a color coding system that identifies valves, piping,
716 and the direction of water flow.

717 (b) *Readable chart*. Labels, tags, or color coding shall correspond to a conspicuously posted, easily

718 read chart that explains the system.

719 (5) FILTERS. (a) *General requirements*: 1. The manufacturer's data plate shall be visible on all filters.

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

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

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

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

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

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

727 3. Vacuum sand filters. ^{Pf}

728 (c) *Diatomaceous earth filters*. Diatomaceous earth filters shall meet all of the following:

729 1. Pressure and vacuum type diatomaceous earth filters shall be backwashed as recommended by the
730 manufacturer. ^{Pf}

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

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

735 4. Positive displacement feeder suction intake shall meet all of the following: a. Suspended at least 6
736 inches above any sludge layer in the solution tank. ^P

737 b. In labeled tanks for mixing and distribution of slurry.

738 c. Mixing and distribution tanks shall be covered with a screened vent.

739 d. Installed and maintained to prevent backflow of water into the tanks and to prevent the slurry from
740 being siphoned out of the tanks into the pool recirculation system. ^P

741 5. Diatomaceous earth slurry feeders shall meet all of the following: a. The lowest effective
742 concentration of solution shall be used in a diatomaceous earth slurry feeder.

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

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

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

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

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

(d) *Cartridge filters*. Cartridge filters shall meet all of the following:

1. Removed and cleaned as recommended by the manufacturer. ^{Pf}

2. Replaced when plugged or damaged. ^{Pf}

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

(e) *Activated filter media, filter ball media, and glass filter media*. Activated filter media, filter ball media, and glass filter media shall be maintained and backwashed according to the manufacturer specifications. ^{Pf}

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

ATCP 76.12 Labeling, storing, mixing, and handling chemicals, including gaseous chlorine. All labeling, storing, mixing, and handling of chemicals must be in compliance with applicable local, state, and federal regulations. ^{Pf} **(1) LABELING.** (a) *Chemical container*. Except as provided in par. (b), all chemicals used in the operation and maintenance of pools, and bulk storage tanks containing the chemicals, shall be conspicuously labeled with all the following information: ^{Pf} 1. Name of the product. ^{Pf}

2. Manufacturer's name and address. ^{Pf}

3. Active ingredients. ^{Pf}

4. Directions for use. ^{Pf}

5. Hazardous ingredient warning. ^{Pf}

6. For chemicals used for the primary purpose of controlling microbial or algal growth, the United States environmental protection agency registration number. ^{Pf}

(b) *Erosion Feeders*. For chemicals used with erosion feeders, only the name of the chemical need be provided on the label.

(2) CHEMICAL STORAGE AND CHEMICAL STORAGE AREAS. Chemical storage and chemical storage areas shall meet all of the following: (a) *Original container*. Chemicals shall be stored in the original or a properly labeled container. ^{Pf}

(b) *Location*. Chemicals shall be covered and kept in a clean, dry, well ventilated, and locked area away from flammables, incompatible chemicals, and heat sources. ^P

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

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

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

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

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

(h) *Ventilation*. Ventilation in chemical storage areas shall comply pursuant to ch. SPS 364, as enforced by the Wisconsin department of safety and professional services. ^{Pf}

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

(j) *Emergency telephone numbers*. A list of emergency telephone numbers shall be in the chemical storage area or be readily accessible. ^{Pf}

Note: For pools with liquid disinfectant and acid it is strongly encouraged to provide secondary containment in the chemical storage area.

(3) MIXING OF CHEMICALS. The mixing of chemicals shall meet all of the following: (a) *Added to water*. A chemical solution shall be added to water, not by adding water to the chemical. ^P

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

(c) *Restriction of patrons*. Patrons shall not be in the pool when chemicals are added directly into the

795 pool basin. ^P

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

798 (b) *Safety data sheet*. 1. For each chemical used, a safety data sheet shall be readily accessible to staff
799 and the department or its agent. ^{Pf}

800 **Note:** For example, the operator may keep the safety data sheet in a binder or on a computer as long as the
801 operator or designated representative has immediate access to the information without leaving the pool area.

802 2. A paper back-up of the safety data sheet shall be available for rapid access in the case of a power
803 outage or other emergency. ^{Pf}

804 3. Staff shall be trained in the use of the safety data sheet and where they are located. ^{Pf}

805 **ATCP 76.13 Chemical feeders and filter aid equipment. (1) GENERAL.** Chemical feeders and filter aid
806 equipment shall be all of the following: (a) *Installed*. Installed according to the manufacturer's directions.

807 (b) *Used*. Chemical feeders shall only be used with the disinfectant or sanitizer recommended by the
808 manufacturer and be all of the following: ^{Pf} 1. Automatic. ^{Pf}

809 2. Easily adjustable. ^{Pf}

810 3. Capable of providing the required chemical residuals. ^{Pf}

811 (c) *Interlocked*. All recirculation systems shall be equipped with a chemical feed interlock pursuant to
812 ch. SPS 390.17 (2) (c) and (d), as enforced by the Wisconsin department of safety and professional services.

813 1. The interlock device shall meet all of the following requirements: a. If power to the recirculation
814 pump is interrupted, the chemical feed stops. ^{Pf}

815 b. Except as provided in subd. 5., if flow in the recirculation system is interrupted, the chemical feeds
816 stops. ^{Pf}

817 2. The operator or their designee shall demonstrate knowledge to the department or its agent on the
818 pools interlock system in all the following areas: a. Describes the location of chemical feed connections
819 and system flow sensing interlocks in the recirculation system. ^P

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

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

d. Describes how monthly testing is performed. ^P

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

3. Once monthly, challenge testing of the chemical feeder system shall be conducted to assess the interlock pursuant to subd. 1. ^P

4. A log of the monthly test shall be kept and meet all of the following: a. Documented with the date, results, and the name of the person performing the test. ^P

b. Made available to the department or its agent upon request.

5. The system flow sensing interlock requirement does not apply to pools constructed before February 2009, unless the pool has been involved in a chemical release incident in which the installation of a flow sensing interlock would have prevented the chemical release.

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

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

(3) REPAIRS. Only personnel trained and licensed in handling gas chlorine by a certifying agency such as the federal occupational health and safety administration may repair gas chlorinators. ^{Pf}

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

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

(2) CHEMICAL USE REQUIREMENTS. (a) *Disinfectant or sanitizer-producing chlorine and bromine and other chemicals.* Disinfectant or sanitizer—producing chlorine or bromine and any supplemental or alternative chemical used shall meet all the following requirements: 1. Registered with the United States environmental protection agency as a disinfectant or sanitizer, except algaecides shall be registered as algaecide. ^{Pf}

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

3. Has an effective residual that can be measured easily and accurately by an approved field test procedure. ^{Pf}

4. Is compatible for use with other chemicals normally used in the water treatment or is clearly identified as having a use limitation. ^{Pf}

5. Does not impart toxic properties to the patrons in the water when used according to the manufacturer's directions. ^P

6. Does not create an undue safety hazard when handled, stored, or used according to the manufacturer's directions. ^P

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

(c) *Cyanuric acid.* Cyanuric acid-containing disinfectant or sanitizer may not be used at an indoor pool, therapy pool, or whirlpool, beginning 2 years after the [LRB inserts effective date].

(3) GAS CHLORINATION CYLINDERS. Gas chlorination cylinders shall be all the following:

(a) *Upright.* A cylinder shall be in an upright position and other container types shall be placed per manufacturer's instructions. ^{Pf}

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

(c) *Moving cylinders*. Cylinders may not be moved unless the protection cap is secured over the valve.

Pf

(d) *Tagged*. An empty cylinder shall be tagged to indicate they are empty. Pf

(e) *Valve*. The cylinder valve shall be closed when in storage or empty. Pf

(4) CHEMICAL FEEDING. Disinfectant or sanitizer and filter aid feeding shall be conducted as follows: (a) *Positive displacement disinfectant or sanitizer feeding*. 1. Liquid chemicals shall be fed into water circulation piping or a surge tank or vacuum filter by means of a positive displacement feeder either at full strength or diluted.

2. A 2-tank system shall be used, if calcium hypochlorite or another chemical that forms a residue is used. One tank shall be used for mixing the solution and settling the precipitate. The clear liquid shall be decanted or siphoned into the second tank for distribution. Pf

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

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

(5) CHEMICAL CONCENTRATIONS AND RESIDUALS. (a) *Minimum disinfectant or sanitizer residuals*. Minimum disinfectant or sanitizer residuals shall meet the requirements pursuant to s. ATCP 76.14 Table A. P

(b) *Cyanurates*. All the following apply: 1. The water cyanuric acid concentration may not exceed 30 ppm. Pf

2. The pool shall be closed pursuant to s. ATCP 76.30 (1) (j), if the cyanuric acid level is above 300 ppm. P

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

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

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

2. The plan shall contain all the following components: ^{Pf} a. The combined chlorine action level, taking into account monochloramine in the source water.

Note: It is recommended that an action level of 0.4 ppm be used for combined chlorine for either breakpoint chlorination or water replacement or a combination of both to occur.

b. Volume of pool.

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

d. Description of showering requirements and how communicated to patrons.

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

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

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

s. ATCP 76.14 Table A

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

928	Whirlpool, Exercise, Therapy Pools		
929	Whirlpool, Exercise, or Therapy Pool	3.0 ppm	4.0 ppm
930	Whirlpool, Exercise, or Therapy Pool	6.0 ppm	N/A
931	with Stabilizer		
932			
933	Whirlpool, Exercise, or Therapy Pool	3.0 ppm (with or without stabilizer)	4.0 ppm
934	with Electronic Monitoring Devices		
935	Present and Properly Functioning		
936	Water Attractions Other Than Those Specified		
937	Water Attraction Other Than Those Specified	1.0 ppm	3.0 ppm
938			
939	Water Attraction Other Than Those Specified	2.0 ppm	N/A
940	with Stabilizer		
941			
942	Water Attraction Other Than	1.0 ppm (with or without stabilizer)	3.0 ppm
943	Those Specified with Electronic		
944	Monitoring Devices Present and		
945	Properly Functioning		
946			
947	Plunge Pools and Wave Pools		
948			
949	Plunge and Wave Pool	2.0 ppm	3.0 ppm
950			
951	Plunge and Wave Pool with Stabilizer	4.0 ppm	N/A
952			
953	Plunge and Wave Pool with Electronic	1.0 ppm (with or without stabilizer)	3.0 ppm
954	Monitoring Devices Present and Properly		
955	Functioning		
956			
957	Interactive Play Attractions		
958			
959	Interactive Play Attraction	2.0 ppm	3.0 ppm
960			
961	Interactive Play Attraction with Stabilizer	4.0 ppm	N/A
962			
963	Interactive Play Attraction with Electronic	1.0 ppm (with or without stabilizer)	3.0 ppm
964	Monitoring Devices Present and Properly		
965	Functioning		
966			
967	Waterslides and Pool Slides		
968			
969	Waterslides and Pool Slides	2.0 ppm	3.0 ppm
970			
971	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

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

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

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

(1) CHLORINE GENERATORS. (a) *NSF 50*. Chlorine generators, including salt systems, shall be certified and installed to NSF 50 and manufacturer instructions. ^{Pf}

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

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

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

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

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

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

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

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

(3) WATER SAMPLING. (a) *Sample collection and analysis.* The department or its agent may collect samples of pool water for microbiological analysis in evaluating water quality. The analysis of water samples shall be performed by a laboratory accredited by the department. These monitoring activities may be supplemented with additional microbiological analysis, which shall be performed by an accredited laboratory certified in those methods. ^{Pf}

Note: A list of accredited laboratories may be obtained by calling the department at (608)224-4712 or by email at www.datep.state.wi.us.

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

1. When bacteriological analysis of total *coliforms*, *Staphylococcus aureus*, *Pseudomonas aeruginosa* or *Legionella pneumophila* is performed, no detectable levels are present in a 100 milliliter sample. ^P Any approved method for each analyte may be reported as either colony forming units or most probable number.

2. When bacteriological analysis is performed for the heterotrophic plate count, the total count may not exceed 200 colony forming units per milliliter (CFU/mL) in a 100 milliliter sample. ^{Pf}

3. If a pool is closed due to a water sample that contains total *coliforms* pursuant to s. ATCP 76.30 (1) (b), the pool can be reopened when the pool system is properly working, the disinfectant or sanitizer

concentration is maintained pursuant to s. ATCP 76.14 Table A, and any fecal accidents have been treated pursuant to s. ATCP 76.31.

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

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

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

Note: *Operators who do not want to use a pH meter and are using a test kit with a pH accuracy of +/- 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 of error in many available test kits for pH, it is strongly encouraged to use a pH meter, with an accuracy greater than 0.1 or better, to determine the PH reading on the higher and lower end. If the Taylor test kit is used and natural light is not available, the Taylor light box should be used as instructed in the manufacturer's directions.

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

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

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

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

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

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

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

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

(b) *Combined chlorine*. If chlorine is used, the water shall also be tested at least twice a week for the combined chlorine level. ^{Pf}

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

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

(2) WHIRPOOL, THERAPY, AND EXERCISE POOLS. (a) *pH and disinfectant or sanitizer*. Except as provided under sub. (3), water shall be tested for pH and disinfectant or sanitizer residual at the following times: 1. Before the pool is open to the public or before the pool is in use and at least 4 times daily. ^{Pf}

2. Two of the tests shall be during the day's peak patron load. ^{Pf}

(b) *Combined chlorine*. When chlorine is used, the water shall be tested at least once daily for the combined chlorine level. ^{Pf}

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

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

(3) ELECTRONIC MONITORING DEVICE. For a properly maintained electronic monitoring device installed to control pH and disinfectant or sanitizer, the operator shall: (a) *Frequency*. Manually tested the pool at least once a day for pH and disinfectant or sanitizer residual with an approved test kit pursuant to s. ATCP 76.17 Table A. ^{Pf}

(b) *Maintenance*. Periodically monitor the device to determine if it meets operating criteria pursuant to s. ATCP 76.14 (5). ^{Pf}

(4) INCREASED TESTING. The department or its agent may require more frequent testing if the testing logs are not maintained and the operator demonstrates a lack of active managerial control. ^{Pf}

ATCP 76.19 Water supply and temperature. (1) WATER SUPPLY PROTECTION. A minimum air gap of 2 pipe diameters or 6 inches, whichever is less, shall exist between the potable water supply inlet and the overflow point of any pool, makeup tank, surge tank, solution tank, or slurry tank unless another approved backflow and backsiphonage prevention device is provided. ^P

(2) WATER SOURCE. The water supplied to a pool shall be from a source approved by the Wisconsin department of natural resources pursuant to ch. NR 108, 811, or 812. ^P

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

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

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

(4) WATER TEMPERATURE. (a) *Thermometer accuracy and location*. 1. An accurate thermometer shall be located in the pool water return line. ^{Pf}

2. The thermometer shall be accessible for observation by the operator. ^{Pf}

(b) *Pool water temperature*. 1. Except as provided in par. (d), the water temperature of an indoor pool

shall be between 70°F. or 21°C. and 90°F. or 32°C. ^P

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

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

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

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

Subchapter IV

Staffing Pools

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

(b) *Operator responsibilities.* Each operator shall be responsible for pool operation and maintenance including equipment shut-down, backwashing, daily maintenance and vacuuming, and maintenance of water quality pursuant to ch. ATCP 76. ^{Pf}

(2) POOL OPERATOR CERTIFICATION. (a) *Pool operator certification required.* 1. Each water attraction or multiple water attractions on the same premise shall have at least one certified operator. ^{Pf}

2. An owner of a pool who demonstrates a lack of active managerial control over the pool operation by having 2 or more reinspections in a 3-year period is required to have a certified operator. ^{Pf}

3. Pool operator certification for a water attraction shall be obtained within 90 days of receiving a new license or a pool meeting the conditions under subd. 2. ^{Pf} a. A pool that is required to have a certified operator under subd. 2, may contract with a certified operator.

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

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

(b) *Certified operator duties.* A certified operator is responsible for all of the following: 1. The certified

operator will perform service related to water quality parameters pursuant to ss. ATCP 76.14, 76.16, and 76.19.

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

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

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

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

(c) *Duties.* The responsible supervisor shall ensure all of the following: 1. Order is maintained. ^P

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

3. Pool use regulations are enforced. ^P

4. Sanitation and water testing is performed. ^P

5. Monthly interlock testing is performed.

6. Monthly secondary anti-entrapment device testing is performed, if applicable. ^P

7. Records are maintained. ^P

8. Chemical safety training is provided to staff. ^P

9. The rope separating the shallow and deep portions of the pool is in place during required times.

^P

10. The pool is closed pursuant to s. ATCP 76.30. ^P

11. A pool cover or blanket, if provided, does not pose a safety hazard to patrons. ^P

ATCP 76.22 Lifeguards and attendants. (1) LIFEGUARD AND ATTENDANT STAFFING PLANS. A pool that is not required to have an attendant or lifeguard is not required to have a lifeguard or attendant

1155 staffing plan. (a) *Staffing plan requirements.* The owner or operator of a pool, including a whirlpool over 4
1156 feet deep and a pool with a visual obstruction, shall have a written lifeguard and attendant staffing plan. ^{Pf}

1157 (b) *Plan criteria.* The written lifeguard and attendant staffing plan shall include all of the following:

1158 1. The square footage of the pool. ^{Pf}

1159 2. The maximum and average patron load. ^{Pf}

1160 3. The hours of operation. ^{Pf}

1161 4. The location of each lifeguard station, lifeguard roaming or walking patrol ensuring that glare
1162 conditions are assessed from each location to determine if the bottom and objects in the pool are clearly
1163 visible. ^{Pf}

1164 5. The location of each first aid station. ^{Pf}

1165 6. The number of lifeguards or attendants on duty pursuant to s. ATCP 76.23. ^{Pf}

1166 7. Diagrams shall be provided with the following information for each use of the pool, for both average
1167 and maximum capacity: a. The placement of attendants. ^{Pf}

1168 b. The placement of lifeguards. ^{Pf}

1169 c. The location of the lifeguard roaming area or walking patrol. ^{Pf}

1170 d. Location of lifeguard chairs or stations. ^{Pf}

1171 e. Location of each obstruction. ^{Pf}

1172 8. A method of communication when 2 or more attendants or lifeguards are required. ^{Pf}

1173 9. If applicable, the method that will be used for periodic supervision within a pool enclosure that
1174 contains a combination of lifeguarded and non-lifeguarded pools. ^{Pf}

1175 (c) *Availability.* The owner or operator shall keep a copy of the written lifeguard and attendant staffing
1176 plan at the pool and make it available to the department or its agent upon request, for review and approval.

1177 (2) **QUALIFICATIONS.** A lifeguard shall be required to have current certifications in all of the
1178 following: (a) *Certification requirements.* A copy of each certification held by lifeguard staff shall be
1179 maintained at the pool and shall be made available for inspection by the department or its agent. ^P
1180 Certifications required include all of the following:

1. Lifeguarding certification as defined under s. ATCP 76.03 (45).^P

2. First aid certification.^P

3. CPR with AED certification.^P

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

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

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

3. A whistle.^P

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

ATCP 76.23 Lifeguard and attendant placement and staffing requirements.

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

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

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

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

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

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

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

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

s. ATCP 76.23 Table A

Required Number of Lifeguards Based on Square Footage

Actual Patron Load*	Lifeguards for a Pool or Water Attraction with a Surface Area of 2,000 to 4,999 sq. ft.	Lifeguards for a Pool or Water Attraction with a Surface Area of 5,000 to 9,999 sq. ft.	Lifeguards for a Pool or Water Attraction with a Surface Area of 10,000 or more sq. ft.
1 – 60	1	2	3
61 – 136	2	3	4
137 – 236	3	4	5
237 – 336*	4	5	6

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

s. ATCP 76.23 Table B

Required Number of Lifeguards and Attendants Based on Pool Type

Pool Type	Pool or Slide Details	Lifeguard and Attendant Staffing Requirements
Activity Pool.	Pool contains one of the following: 1. A pad walk. 2. A tethered floatable more than 18	At least one lifeguard is required.

1237		inches long in 2 directions. An	
1238		appendage such as alligator feet	
1239		should not be included in	
1240		determining the length.	
1241			
1242		3. A nontethered floatable. A nontethered	
1243		floatable does not include a tire inner	
1244		tube used in a leisure river or	
1245		waterslide.	
1246			
1247	Leisure River or any		At least one lifeguard,
1248	feature that convey a rider		more based on square
1249	seated or standing.		footage pursuant to s.
1250			ATCP 76.23 Table A.
1251			
1252	Vortex Pool.		At least one lifeguard is
1253			required.
1254			
1255	Current Pool; Pool with	Whenever the pool is occupied by a	At least one lifeguard is
1256	Treadmill.	patron and the current or treadmill is	required.
1257		operating.	
1258			
1259	Vanishing Edge Pool.		At least one lifeguard
1260			regardless of square
1261			footage, unless the
1262			vanishing edge pool is
1263			limited for adult usage
1264			only.
1265			
1266	Wave Pool or any pool that		At least one lifeguard
1267	involves patron interacting		is required regardless of
1268	with moving water or is		the square footage of
1269	designed to allow patron to		the pool. Additional
1270	fall into water.		lifeguard staffing shall be
1271			based on the patron load
1272			requirements pursuant to s.
1273			ATCP 76.23 Table A.
1274			
1275	Pool with a Visual	The pool has a visual obstruction larger	At least one attendant
1276	Obstruction, except for	than 10 feet in length by 6 feet in height	is required.
1277	Wading Pool.	by 5 feet in width or if the visual	
1278		obstruction covers more than 20 percent	
1279		of the pool's basin.	
1280			
1281			
1282	Wading Pool with a Visual	If a variance is not obtained	At least one attendant is
1283	Obstruction.	from the department for an alternate	required.
1284		method of coverage.	
1285			
1286	Pool Type	Pool or Slide Details	Lifeguard and Attendant
1287			Staffing Requirements

1288			
1289	Medical, Rehabilitation	If medical, rehabilitation or training	No lifeguard or attendant
1290	or Training Facility, and	staff are trained in CPR, AED, first	is required.
1291	Therapy Pools, including	aid, and have received training	
1292	those with current or	for safely extricating a patient	
1293	treadmill.	from the water if a rescue is	
1294		needed.	
1295			
1296	Pool with Diving Board	For every 2 diving boards or platforms	At least one lifeguard is
1297	or Platform.	in the same pool.	required.
1298			
1299	Pool with a climbing wall		At least one lifeguard is
1300			required.
1301			
1302	Wading Pool.		No lifeguard or attendant
1303			is required.
1304			
1305	Whirlpool.	If a whirlpool is located within a	At least one attendant shall
1306		water attraction complex.	provide periodic supervision
1307			of the whirlpool.
1308			
1309		All other whirlpools	A sign shall be posted that
1310			states in letters that are at
1311			least 4 inches high: "No
1312			Lifeguard on Duty".
1313			
1314	Pools with Slide.	Children's Slide.	No attendant is required.
1315			
1316		Pool slide: Less than 6 feet in height	No lifeguard or attendant
1317		that drops into water 4 feet or less in	is required.
1318		depth.	
1319			
1320		Pool slide: Less than 6 feet in height	At least one lifeguard.
1321		with an obstructed view of slide	
1322		terminus and the obstruction is more	
1323		than 43 inches high.	
1324			
1325		Pool slide: That drops into water	At least one lifeguard.
1326		greater than 4 feet deep.	
1327			
1328		Run-out slide: 6 feet or greater in	At least one attendant
1329		height with a clear view of the	on top platform.
1330		slide terminus.	
1331			
1332		Run-out slide: 6 feet or greater in height	At least one attendant on
1333		with an obstructed view of the slide	top platform and one
1334		terminus.	attendant at bottom
1335			of run-out slide.
1336			
1337		Run-out slide: Less than 6 feet with a	No lifeguard or attendant is

1338		clear view of slide terminus.	Required.
1339			
1340		Run-out slide: Less than 6 feet with an	At least one attendant.
1341		obstructed view of slide terminus.	
1342			
1343		Waterslide or Drop slide: 6 feet or	At least one attendant on
1344		greater in height.	top of the platform or slide
1345			and one lifeguard at bottom
1346			of slide. A means of 2-way
1347			communication between
1348			attendant and lifeguard.
1349			
1350		Waterslide or Drop slide: Less than	At least one lifeguard.
1351		6 feet with a clear view of slide terminus	
1352		and no obstructions around slide.	
1353			
1354	Pool Type	Pool or Slide Details	Lifeguard and Attendant
1355			Staffing Requirements
1356			
1357	Interactive Play Attraction	An interactive play attraction not	At least one attendant on
1358	(Splash Pads).	restricted by an enclosure.	the premises. The attendant
1359			shall provide periodic
1360			supervision of the water
1361			attraction as specified
1362			in the staffing plan.
1363			
1364	Swim-up bar.	When open.	Shall have a written plan
1365			that addresses all of the
1366			following:
1367			1. Supervision of the swim
1368			up bar.
1369			2. Patrons who are ill.
1370			3. Patrons who are
1371			adversely affecting
1372			sanitation.
1373			4. Patrons who are engaging
1374			in dangerous behavior.
1375			5. Patrons who are
1376			injured.
1377			
1378	Any pool or water attraction	A pool that is used for an activity	At least one lifeguard
1379	with instructional program.	occurring in the water that is led by a	when the instructional
1380		person teaching a participant how to	program is in session.
1381		do an exercise, movement, skill, or	
1382		similar activity.	If the coach or instructor
1383			that provides instruction
1384			during the program is a
1385			lifeguard, the requirement
1386			of this subsection is met
1387			provided the coach or

1388 instructor can supervise the
1389 entire group. A pool that
1390 normally requires a
1391 lifeguard and that is open to
1392 the public during an
1393 instructional program
1394 session shall be supervised
1395 by an additional lifeguard or
1396 attendant pursuant to s.
1397 ATCP 76.23.
1398

1399 **ATCP 76.24 Patron safety during pool maintenance. (1) MAINTENANCE OPERATIONS.** The
1400 operator shall ensure that no patrons are in the pool during pool maintenance operations. ^P

1401 **(2) RECIRCULATION SYSTEM INTERRUPTION.** Patrons shall be removed from the pool when the
1402 pool recirculation system is interrupted. Once the recirculation system is restored, patrons shall not reenter
1403 the pool until chemical levels are determined to be within acceptable ranges. ^P

1404 **Subchapter V**

1405 **Operation and Management**

1406 **ATCP 76.25 Maximum patron load. (1) WATER ATTRACTIONS.** The maximum number of patrons
1407 permitted to be in an individual water attraction at any one time shall be calculated on the basis of allowing
1408 one patron for every 15 square feet of water surface area. The splash zone of any water attraction shall be
1409 included in the calculation of the water surface. ^{Pf}

1410 **(2) POOLS. (a) Pools used for swimming.** The maximum number of patrons permitted to be in the water
1411 of a pool used for swimming at any one time shall be computed on the basis of allowing one patron for every
1412 15 square feet of the shallow portion of the pool and one patron for every 25 square feet of the deep portion
1413 of the pool. ^{Pf}

1414 **(b) Whirlpools.** The maximum number of patrons permitted to be in the water of a whirlpool at any one
1415 time shall be computed on the basis of allowing one patron for every 10 square feet of whirlpool surface
1416 area. ^{Pf}

1417 **(c) Wading pools.** The maximum number of patrons permitted to be in the water of a wading pool at any
1418 one time shall be computed on the basis of allowing one patron for every 15 square feet of wading pool

1419 surface area. ^{Pf}

1420 (d) *Therapy and exercise pools.* The maximum number of patrons permitted to be in the water of a
1421 therapy or exercise pool at any one time shall be computed on the basis of allowing one patron every 15
1422 square feet of the shallow portion of the pool and one patron for every 25 square feet of the deep portion of
1423 the pool. ^{Pf}

1424 **ATCP 76.26 Rescue equipment.** Rescue equipment shall meet all of the following: **(1) REQUIRED**
1425 **EQUIPMENT.** (a) *Good repair and accessible.* 1. All rescue equipment shall be maintained in good repair.
1426 ^P

1427 2. Rescue equipment shall be mounted or positioned in a conspicuous place and shall be readily
1428 accessible. ^{Pf}

1429 (b) *Shepherd's crook, ring buoy, and rescue tube.* 1. a. For each basin of water over 10 feet in length and
1430 over 2 feet deep, an intact shepherd's crook-type pole shall be provided. ^P

1431 b. For non-guarded pools, the shepherd's crook shall be long enough to effect a rescue in the deepest
1432 part of the pool. ^P

1433 c. If the shepherd's crook is not one continuous pole, the pieces shall be securely connected with durable
1434 nuts and bolts or similar hardware. ^P

1435 2. For each lifeguard chair, or for a pool 30 feet or more in width that does not have lifeguard chairs, at
1436 least one of the following shall be provided: a. A ring buoy having a minimum outside diameter of 20 inches.
1437 Each ring buoy shall be attached to a 1/4 inch rope having a length not less than 1-1/2 times the maximum
1438 width of the pool or 50 feet, whichever is less. ^P

1439 b. A rescue tube. ^P

1440 (c) *Safety rope.* 1. If applicable, a safety rope shall be provided pursuant to s. SPS 390.18 (1). ^{Pf}

1441 2. The safety rope shall remain in place except during a lifeguarded activity or adult-only lap swim. ^{Pf}

1442 3. The safety rope and floats shall be maintained in good repair and working order. ^{Pf}

1443 (d) *Spine board.* A spine board with straps and head immobilizer in good condition shall be available at
1444 a pool where a lifeguard is required pursuant to s. ATCP 76.23. ^P

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

(b) *Other technologies.* Telecommunication technology, other than a landline telephone, may be used if, in the pool area, the telecommunication device is equipped with all of the following: 1. A permanent continuous power supply with battery backup.

2. A reliable service connection. ^P

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

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

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

(b) *Contents.* The first aid kit shall contain all of the following items: ^{Pf} 1. Gauze pads.

2. Adhesive bandages.

3. Gauze roller bandage.

4. Adhesive tape.

5. Eye wash.

6. Elastic bandage.

7. Disposable surgical gloves.

8. Resuscitation pocket face mask.

9. Instant cold packs.

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

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

2. Sanitizing hand wipes.

3. Sanitizing surface wipes.

4. Neoprene gloves.

1471 5. Paper toweling.

1472 6. Biohazard disposal bag at least 24" x 24".

1473 7. Twist tie or other effective means to close the bag.

1474 8. Biohazard sorbent.

1475 9. Storage case.

1476 (3) EMERGENCY BLANKETS. Two conventional or emergency blankets in good condition shall be
1477 available in the pool area or as approved by the department or its agent. ^{Pf}

1478 **ATCP 76.28 Food and drink. (1) LOCATION.** Food or drink service facilities may not be located within
1479 12 feet of the water's edge of a pool, except for swim-up bars. ^{Pf}

1480 **(2) UTENSILS.** Only shatter-proof utensils for food and drink shall be used in the pool area, except
1481 for approved swim-up bars. ^{Pf}

1482 **ATCP 76.29 Posting pool rules.**

1483 **(1) GENERAL. (a) *Posting of rules; all pools.*** 1. The operator shall post pool use rules governing
1484 safety and sanitation and shall enforce those rules.

1485 2. Rules shall be conveyed using words with letters at least one inch high, or symbols that are at least
1486 4 inches in height and clearly visible to patrons.

1487 3. A legible sign showing pool use rules shall be posted in a conspicuous place.

1488 **(b) *Signage contents.*** 1. Pool signage shall contain the minimum information, as applicable:

1489 a. Do not enter the pool if you have a communicable disease or an open cut.

1490 b. Do not bring food, drink, gum, or tobacco into the pool.

1491 c. Shower immediately before entering the pool and after use of a steam room, sauna, or toilet facilities.

1492 d. Do not run or engage in rough play in the pool area.

1493 e. Do not bring animals into the pool area.

1494 f. Diaper changing on the pool deck is prohibited.

1495 g. Glass and shatterable items are prohibited in the pool area.

(c) *Supervision of children under the age of 12.* For a non-lifeguarded pool, a statement indicating that children under the age of 12 shall be supervised by an adult shall be added the signage requirements in par. (b).

(d) *“No Diving”; signage.* A pool that is 200 square feet in area or greater that does not have an approved diving well configuration shall have “NO DIVING” signs in at least 4 inch high letters included with the rules listed under par. (b). ^{Pf}

(e) *Maximum patron load; signage.* A sign showing the maximum patron load shall be conspicuously displayed near each pool. The maximum patron load pursuant to s. ATCP 76.25, may not be exceeded.

(f) *Breath holding; prohibition.* The operator of a pool shall provide signage or otherwise communicate to patrons that activities involving prolonged breath holding are prohibited.

(2) POOL SLIDES AND WATERSLIDES AND OTHER WATERRIDES. (a) *Posting of rules; pool slides and waterslides.* For the plunge section of a pool, the pool use rules signage required under sub. (1), shall be provided. Additionally, the following rules shall be provided and be conspicuously posted at the entrance to the slide tower in at least one inch lettering:-1. Do not use the slide while under the influence of alcohol or drugs.

2. Follow the instructions of the attendant.

3. Leave the plunge area immediately after using the slide.

4. WARNING: Water depth is _____ feet.

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

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

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

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

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

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

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

(4) VORTEX POOL, CURRENT POOL, AND OTHER RIDES THAT RAPIDLY MOVE OR CHANGE POSITION OF THE PATRON. For vortex pool, current pool and other rides that rapidly move or change position of the patron, the signage required in sub. (1), shall be conspicuously posted and include “Artificial Current; Strong Swimmers Only.” in 4 inch or larger letters.

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

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

ATCP 76.30 Pool closing criteria. (1) REASONS FOR CLOSURE. The operator or responsible supervisor shall close a pool for any of the following: (a) The presence of a hazardous substance or object in the pool or the existence of any condition creating an immediate danger to health or safety, including fecal accident events. ^P

(b) Failure to comply with the water quality requirements pursuant to s. ATCP 76.16. ^P

(c) Failure to comply with the disinfectant or sanitizer residual levels pursuant to s. ATCP 76.14, or pH values that are less than 6.8 or equal to or greater than 8.0. ^P

(d) A nonoperational circulation pump, filter, or disinfectant or sanitizer feeder. ^P

(e) Failure to comply with the number of lifeguards or attendants pursuant to s. ATCP 76.23. ^P

(f) Absence or non-availability of a responsible supervisor. ^P

(g) Nonfunctional emergency phone. ^P

(h) The pool is undergoing maintenance or repair. ^P

(i) The pool gate or door is not equipped with a self-closing and latching mechanism, except when staffed by a lifeguard or attendant. ^P

(j) A cyanuric acid level above 300 ppm. ^P

(2) ACTIONS BY THE DEPARTMENT OR ITS AGENT. The department or its agent pursuant to s. ATCP 76.07 (3) shall order that the pool be closed and posted with signage indicating closure for any criteria identified in sub. (1).

ATCP 76.31 Fecal accident, vomit, and blood response. (1) GUIDELINES FOR RESPONSE. In responding to a fecal accident, vomit, and blood incident, the operator shall follow the guidelines for a fecal accident, vomit, and blood incident in pools used for swimming published by the United States centers for disease control and prevention. ^P

Note: United States centers for disease control and prevention guidelines for responding to fecal accidents, vomit, and blood spills may be viewed at: <https://www.cdc.gov/healthywater/swimming/aquatics-professionals/fecalresponse.html#fecal-incident>.

(a) DOCUMENTATION. The operator shall document each fecal, vomit and blood contamination incident as follows: (a) *Date, time, and chemical concentrations when the event occurred.* Record the date and time of the event, and the free available chlorine or bromine concentration, cyanuric acid concentration, and pH of the pool water. ^{Pf}

(b) *Date, time, and chemical concentrations after clean-up has occurred.* Record the date and time after clean-up has occurred, and the free available chlorine concentration, cyanuric acid concentration, and pH of the pool water before reopening the pool to the public. ^{Pf}

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

(d) *Procedures followed.* The procedures followed in responding to the fecal, vomit or blood contamination. ^{Pf}

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

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

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

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

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

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

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

(b) Backwashing completion.

(c) Breakpoint chlorination.

(d) Interlock testing.

(e) Anti-entrapment system testing.

(f) Water temperature.

(g) Safety and rescue equipment maintained pursuant to ss. ATCP 76.26 and ATCP 76.27.

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

Note: To obtain copies of the form for monthly reporting of daily public pool operations, or to determine which agent to contact to obtain copies, contact the bureau of food and recreational businesses at (608) 224-4682 or PO Box 8911, Madison, Wisconsin 53708-8911.

(2) DEATH, INJURY, OR ILLNESS REPORTS. The operator shall report any incident resulting in death, serious injury, or illness that requires assistance from emergency medical personnel, by the end of the

next working day following the incident by phone, email, or fax to the department or its agent. ^{Pf}

Note: Report deaths, injuries, or illnesses to the bureau of food and recreational businesses by calling (608) 224-4682, emailing to datcpdfsrec@wisconsin.gov or faxing to (608) 224-4710.

(3) FILES. (a) *Files permanently maintained on the premises.* The operator shall permanently maintain on the premises a copy of each of the following: 1. A copy of the most current version of ch. ATP 76.

2. For pools constructed after July 1, 2023, a copy of the Wisconsin department of safety and professional services approved pool constructions plans, including Virginia Graeme Baker Act plan approvals.

3. The manufacturer's pump performance curve. ^{Pf}

4. The manual of operations for any secondary anti-entrapment device or system, as applicable. ^{Pf}

5. The manual of instruction on filter operation.

6. Instructions for operation and maintenance of all equipment.

7. Instructions and other pertinent information on pool operation and maintenance.

8. The most recent United States centers for disease control and prevention recommendations for fecal accidents or another plan in response to fecal accidents that is consistent with the United States centers for disease control and prevention's fecal accident response recommendations.

9. The Virginia Graeme Baker Act main drain and equalizer cover replacement receipts or similar documentation. ^{Pf}

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

2. Any laboratory bacteriological report. ^{Pf}

3. Any fecal accident report made pursuant to s. ATP 76.31. ^{Pf}

4. Any daily inspections and operational tests. ^{Pf}

5. Any other reports required by the department or its agent.

(c) *Access*. All of the documents under pars. (a) and (b), shall be accessible to the department or its agent upon request.

ATCP 76.33 Facility maintenance, repair, and sanitation. (1) POOL AREA. (a) *Basin*. The pool basin area shall meet all of the following and be:

1. Routinely brushed or vacuumed to keep the basin and surrounding appurtenances free of sediment, lint, hair, debris, algae, and slime growth and discoloration.

2. Maintained free of cracks or other defects and repaired or refinished as necessary to maintain it in a cleanable condition.

3. Maintained in a clean and sanitary condition.

4. Free of glass and shatterable plastic items, except for pool test kit contents while in use to test pool water according to manufacturer's instructions and in drink preparation areas of a swim up bar. ^{Pf}

(b) *Deck maintenance and cleaning*. 1. Deck areas and appurtenances, including safety pads, shall meet all of the following and be:

- a. Maintained in good repair.

- b. Rinsed as needed to prevent microbial growth.

2. Disinfected at least weekly for indoor pool decks with disinfecting agents according to the manufacturer's directions.

Note: It is recommended to avoid the use of an ammonia-based disinfectant as this can contribute to an increased level of chloramines in the pool water.

3. Cleaned as needed for outdoor pool decks.

4. Maintained so that depth markings along the edge of the pool are clearly visible and readable. ^{Pf}

5. Kept unobstructed except for easily portable furniture and equipment. ^{Pf}

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

(d) *Hosing*. Hosing shall meet all of the following

1. Provided in adequate lengths to flush the entire pool deck.

2. Protected against backsiphonage by the proper installation of an approved backflow prevention device pursuant to s. SPS 390.16 (4) (b). ^P

(e) *Equipment*. Pool equipment, including equipment on the deck, shall be all of the following and properly:

1. Located.

2. Installed.

3. Maintained.

4. Repaired, as necessary.

(f) *Spectator areas*. Spectator areas shall be all of the following:

1. Maintained in a clean condition.

2. Set up and arranged so that tables, chairs, and other obstructions do not block the deck. ^{Pf}

(g) *Drinking fountain*. Drinking fountains shall be all of the following:

1. Be provided pursuant to s. SPS 390.19. ^P

2. Maintained in clean and sanitary condition.

(2) SHOWER, TOILET AND DRESSING FACILITIES. (a) *Walls and floors*. The walls, partitions, and floors of showers, toilet rooms, and dressing areas shall be all of the following:

1. Maintained in good repair.

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

Note: See s. SPS 390.19 for additional information.

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

Note: To minimize the risk of *Legionella* growth and other diseases associated with water, adequate provisions should be made to ensure that all water systems, including sink faucets, drinking fountains, and showers are safe. Any water aged over 3 weeks is potentially viable for growing *Legionella* colonies. It is strongly advised that each pool operator develop and implement a water management program as recommended by the United States centers for disease control and prevention Water Management Program Toolkit. The toolkit can be found at <https://www.cdc.gov/legionella/wmp/toolkit/index.html>.

(c) *Toilet rooms and diaper changing areas*. Toilet room fixtures and diaper changing stations shall be all of the following:

1. Kept clean.

1673 2. Maintained in good repair.

1674 (d) *Lockers and furniture*. Lockers and furniture shall be all of the following: 1. Cleaned as needed.

1675 2. Maintained in good repair.

1676 (e) *Soap and soap dispensers*. Soap and dispensers shall be all of the following: 1. Soap is continually
1677 provided at each hand washing sink and shower in permanently installed dispensing devices. ^{Pf}

1678 2. The dispensers shall be maintained in operating condition.

1679 (f) *Hand drying devices*. Individual towels in dispensers or hot air dryers shall be provided at hand
1680 washing sinks. ^{Pf}

1681 (g) *Toilet tissue*. A continuous supply of toilet tissue shall be provided in permanently installed
1682 dispensing devices. ^{Pf}

1683 (h) *Bathing suits provided*. If bathing suits, towels, or caps are furnished to patrons they shall meet all
1684 of the following: 1. Be thoroughly laundered with detergent and machine dried after each use.

1685 2. Clean suits, towels, and caps shall be stored separately from unlaundered articles.

1686 (i) *Hose bibbs*. Hose bibbs shall be conveniently located so floors in the shower, dressing, and toilet
1687 facilities can be adequately rinsed.

1688 **(3) GARBAGE AND REFUSE**. Garbage and refuse shall meet all of the following: (a) *Approved*
1689 *storage container*. All garbage and refuse shall be stored in metal or rigid plastic containers having tight-
1690 fitting lids.

1691 (b) *Sufficient in number*. A sufficient number of containers shall be provided for all garbage and refuse
1692 generated.

1693 (c) *Stored to prevent harborage conditions*. Filled containers of garbage or refuse shall meet all of the
1694 following and be covered and stored in a manner to prevent: 1. Harborage of rodents, insect attraction, and
1695 breeding areas. ^{Pf}

1696 2. Odors. ^{Pf}

1697 3. Environmental pollution. ^{Pf}

1698 4. Accidents. ^{Pf}

1699 (d) *Disposal as needed.* The contents of the containers shall be disposed of as needed and in a sanitary
1700 manner.

1701 (e) *Clean Condition.* All containers shall be kept clean.

1702 (f) *Good repair.* Containers shall be maintained in good repair.

1703 **(4) WATER HEATERS, VENTILATION, ELECTRICAL.** Water heaters, ventilation, and electrical
1704 shall meet the following: (a) *Operating condition.* Water heaters and heat exchangers shall be maintained in
1705 operating condition.

1706 (b) *Air movement.* Heating, ventilation, and exhaust equipment shall be maintained and operated to
1707 provide air movement pursuant to chs. SPS 361 to 365, to prevent any excessive condensation and air
1708 quality problems in indoor enclosures, as enforced by the Wisconsin department of safety and professional
1709 services.

1710 (c) *Maintained in good repair.* Electrical equipment and lighting shall be maintained in good repair and
1711 in operating condition.

1712 (d) *Carbon monoxide alarms.* The operator shall install functioning carbon monoxide alarms, as
1713 applicable and meet all of the following: 1. A pool equipment room that has a fuel burning appliance shall
1714 install and maintain a carbon monoxide alarm. ^P

1715 2. For indoor pools, a carbon monoxide alarm shall be installed and maintained in the pool area, if there
1716 is a fuel burning appliance in the equipment room that is also located within the pool area. ^P

1717 **76.335 Dog swims.** A pool operator shall ensure all of the following during dog swim events: **(1)**
1718 **OPERATION.** (a) *Water level.* Before the dog swim event, the water level shall be adjusted so that the pool
1719 water in the basin does not enter the recirculation system. ^P

1720 (b) *Disinfectant residual.* Initial disinfectant residual must be 4 ppm free chlorine or 8 ppm if cyanuric
1721 acid present. ^P

1722 (c) *Registration.* Registration of the dog and caretaker are required. ^{Pf}

1723 (d) *Rabies Vaccination*. All dogs shall be 6 months of age or older and the owner shall provide proof
1724 of a current rabies vaccination. ^P

1725 (e) *Prohibited*. Splash pads, spray features, play structures, whirlpools, diving boards, and slides are
1726 prohibited from operation. ^{Pf}

1727 (f) *Relief area*. Grass or an alternate area shall be provided and accessible to patrons with their dogs
1728 with adequate space and trash receptacles. ^{Pf}

1729 (g) *Waste water*. Pool water shall be drained by bypassing the filtration system. ^P

1730 (h) *Post-event cleaning*. 1. Pool shall be scrubbed and cleaned after draining. ^P

1731 2. The pool shall be superchlorinated before startup occurs during the following season. ^P

1732 (i) *Restrooms and showers available*. Locker rooms may be closed, but restrooms with handwashing
1733 facilities and showers must be conveniently located. ^{Pf}

1734 (j) *Responsible supervisor*. The responsible supervisor or designee shall be present at the pool before,
1735 during, and after the dog swim event. ^P

1736 (k) *Duration*. Event shall be limited to 3 hours total from time when the first dog enters the water. ^{Pf}

1737 **(2) RULES**. The following rules must be conveyed to patrons: (a) Only dogs are allowed in the pool,
1738 except in the event of an emergency.

1739 (b) A dog must be capable of swimming, unassisted by a human, in the depth and type of pool used for
1740 the dog swim.

1741 (c) A dog must be willing and comfortable participating in the swim.

1742 (d) A dog exhibiting aggression must be removed immediately.

1743 (e) A dog with an open cut or sore may not enter the water.

1744 (f) A dog with loose stools may not enter the water.

1745 (g) A patron bringing a dog must supervise the dog at all times.

1746 (h) The patron must clean up any feces immediately and dispose of waste properly.

1747 **(3) NUMBER OF DOGS PER PATRON**. A maximum of one dog per person may participate in a dog
1748 swim event.

1749 **Subchapter VI**

1750 **Pool Construction and Design**

1751 **ATCP 76.34 Pool design. (1) HAZARDOUS CONDITIONS.** Any object or material not specifically
1752 approved pursuant to this chapter or ch. SPS 390 that may cause a hazardous condition or interfere with the
1753 safe and efficient operation of a pool, pool slide, waterslide, or deck is not permitted in the pool area. ^P

1754 **(2) GATES AND DOORS MAINTAINED.** (a) *Maintained.* All gates and doors into the pool area shall
1755 be maintained and checked for proper operation. ^P

1756 (b) *Self-closing latching and lockable mechanism; location.* A self-closing latching and lockable
1757 mechanism shall be installed at least 54 inches from the bottom of the gate or door. ^P

1758 (c) *Locked.* Gates and doors shall be locked when the pool is not open to the public or is not in use. ^P

1759 **(3) POOL FENCE OR BARRIER HEIGHT.** A pool fence or barrier shall meet all of the following:

1760 (a) Be at least 5 feet high and enclose the pool area.

1761 (b) A pool with a fence or barrier less than 5 feet in height that was previously approved by the
1762 department is acceptable, including at a change of operator, if maintained in good repair. If more than 20
1763 feet of a fence needs replacement, plan review is required by the Wisconsin department of safety and
1764 professional services.

1765 **(4) ENCLOSURES AND ENTRANCES.** Enclosures and entrances shall meet all of the following:

1766 (a) *Gates and doors.* Except as provided under subd. 5. And sub. (b), of this section, all pool areas
1767 shall be enclosed ^P and have gates and doors that are all of the following: 1. Self-closing. ^P

1768 2. Latching. ^P

1769 3. Lockable. ^P

1770 4. Not require a key, punch code, or electronic method to exit a pool enclosure. ^P

1771 5. This section does not apply to emergency doors that cannot be opened from the outside of the pool
1772 enclosure.

1773 **Note:** A primary entrance to a pool enclosure in which multiple doors must be passed through is considered
1774 to have a self-closing, latching, and lockable gate or door, if any of doors in the sequence are self-closing,

latching, or lockable.

(b) *Gates and doors in a lifeguarded pool area shall meet all of the following:* 1. If gates and doors are not self-closing and latching, the gates and doors to the pool shall be staffed with an attendant and at least one lifeguard shall be present. ^P

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

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

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

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

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

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

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

(e) *Sand.* Sand may not be located within a pool enclosure unless the sand area is made inaccessible from the pool area by a barrier that is at least 42 inches high. Alternatively there may be controlled entrances to the pool area if the entrances are controlled and provided with showers.

ATCP 76.35 Waterslide and pool slide design.

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

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

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

(b) *Free from hazardous projections.* Interior and exterior parts of any water attractions a patron may come into contact with shall be free of abrasives and splinters, sharp edges and corners, protruding studs, bolts, screws, and other hazardous projections. ^P

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

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

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

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

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

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

2. Constructed to reject a 4 inch ball at all openings, including between the bottom of the fence and the surface upon which it rests. ^P

3. Be designed, constructed, and erected to inhibit overturning by spectators or patrons. ^P

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

(i) *Gate opening.* Gates shall be designed such that, if opened during the water attraction's operation, the gate will not contact the water attraction or cause a hazard to patrons. ^P

(j) *Separation.* Fences and gates shall be constructed to inhibit spectator contact with the water attraction and patron contact with fences or gates. ^{Pf} Horizontal members in a fence or gate may be used to improve construction or efficiency, but should be minimized to reduce the ease of climbing.

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

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

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

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

(2) INTERACTIVE PLAY ATTRACTIONS. Interactive play attractions shall meet all of the following requirements: (a) *Attendant requirements.* If access to the interactive play attraction is not restricted by an enclosure, an attendant shall be present to provide periodic supervision. ^P

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

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

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

(e) *Ring buoy and shepherd's crook.* A ring buoy and shepherd's crook are not required to be present for an interactive play attraction.

ATCP 76.37 Maintenance, repair, and modifications of water attractions. (1) GENERAL. (a) *Maintained safe.* Water attractions shall be maintained, repaired, and modified in accordance with recognized safe practice as defined in s. SPS 334.01 (15). ^P

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

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

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

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

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

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

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

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

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

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

(c) *Waterslide inspection.* Every 5 years, all waterslides 6 feet and higher shall be evaluated by an

engineer for the structural stability and integrity of the slide and platform. A copy of a report signed by the engineer shall be kept on site as pursuant to s. ATCP 76.32. ^P

ATCP 76.38 Virginia Graeme Baker Act. The operator shall ensure all the following for compliance with the Virginia Graeme Baker Act: **(1) GENERAL.** (a) *Requirements.* 1. For a newly constructed pool, the operator shall have approved plans from the Wisconsin department of safety and professional services and shall maintain the pool plans onsite. ^P

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

(2) DOCUMENTATION. Documentation shall include all of the following: (a) *Log maintenance.* The operator shall maintain a log that can be used to evaluate the drain covers.

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

2. Model. ^{Pf}

3. Gallons per minute rating. ^{Pf}

4. Life span. ^{Pf}

5. Installation date. ^{Pf}

(c) *Receipts or affidavits.* In lieu of a log, receipts or affidavits from a pool service company shall be acceptable documentation as long as the make and model are indicated. ^{Pf}

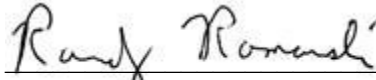
(d) *Available.* Documents shall be provided to the department or its agent upon request. ^{Pf}

SECTION 2. EFFECTIVE DATE. This rule shall take effect 90 days following publication in the Wisconsin administrative register, as provided pursuant to s. 227.22 (2) (intro), Stats.

(END OF RULE TEXT)

Dated this 5 day of May, 2022

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

A handwritten signature in dark ink, reading "Randy Romanski". The signature is written in a cursive style with a horizontal line extending from the end of the name.

By: Randy Romanski, Secretary