

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

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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.

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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. ATCP 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. ATCP 76, pursuant to chs. NR 108, 811 and 812 for water supply standards.

### ***Plain Language Analysis***

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

The pool industry encompasses a broad variety of businesses from small motels and campgrounds, to homeowner associations, schools, healthcare, and municipal and resort waterparks. In order to ensure development of a rule that considers all the various niches within industry, robust representation from within the pool industry, public health, and the 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. ATCP 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. ATCP 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. ATCP 76, a pool is licensed using a modernized three-tier risk and complexity model that acknowledges the risks of the pool operation and the associated features. The proposed licensing model more clearly reflects the risks and complexity of the pool operation and more accurately reflects the time it takes for the department to perform its licensing and inspection responsibilities. This licensing model will promote fairness to small business owners by having the license fee reflect inspection time, and risk associated with their facilities. License fees will not be based on a one-size-fits-all model.

Significant input was received from industry and public health partners related to methods for the operation of a pool's recirculation system and methods for chemical testing. Much of the language is outdated,

including references that are no longer accurate or relevant. The input received ensured that the rule is updated to allow for new materials that perform more effectively in filtering pool water, and potentially 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. ATCP 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. ATCP 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. ATCP 76 from industry members to consider ways to minimize adverse impacts on small business.

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

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

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 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. <sup>P</sup>

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.

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

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

43 (1) “AED” means automated external defibrillator.

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

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

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

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

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

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

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

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

60 (10) “Barrier” means a fence, wall, or similar structure meeting the requirements pursuant to s. SPS  
61 390.18 (4).

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

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

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

66 (13) "CPR" means cardiopulmonary resuscitation.

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

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

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

71 (c) An equivalent course approved by the department.

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

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

77 (17) "Cold soak pool" means a pool that uses cold water for therapy.

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

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

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

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

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

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

89 (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.

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

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

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

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

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

125 (41) “Instructional Program” means an activity occurring in the water that is led by a person teaching  
126 a participant how to do an exercise, movement, skill, or similar activity, including a swimming class, an  
127 exercise class, or a water aerobics class.

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

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

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

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

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

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

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

145 (47) “NSF” means National Sanitation Foundation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

183 (c) An item that is denoted in this rule with a superscript Pf<sup>-Pf</sup>.

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

186 (b) An item that is denoted in this rule with a superscript P<sup>-P</sup>.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

245 (c) Compliance declaration, if applicable.

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

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

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

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

252 **(3) CHANGE OF OPERATOR.** For a pool constructed prior to July 1, 2023, pool construction plans  
253 are not required when a change of operator occurs and a new license is required pursuant to s. ATCP 76.05  
254 (1).

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

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

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

262 **(2)** Comply with the provisions of this chapter.

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

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

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

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

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

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

276 **ATCP 76.05 License to operate a pool. (1) LICENSE REQUIRED.** A license is required for a public  
277 pool if it serves or is installed for use by the state, a political subdivision of the state, a motel, a hotel, a  
278 resort, a camp, a campground, a club, an association, a housing development, an apartment complex with  
279 3 or more dwelling units, a condominium complex, or a housing complex having a homeowners'  
280 association, a school, a religious, charitable or youth organization, or an educational or rehabilitative  
281 facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

328 **Note:** To obtain a copy of the pool license application form, or to arrange for a preinspection, call (608)  
329 224-4923 or send an email to [datcpdfslicensing@wi.gov](mailto:datcpdfslicensing@wi.gov).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

370 (6) VOIDED LICENSE FOR FAILURE TO PAY FEES. (a) *Payment time frame*. If an applicant or  
371 operator fails to pay all applicable fees, late fees, and processing charges pursuant to s. ATCP 76.06, within  
372 45 days after the expiration of the license, the license is void.

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

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

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

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

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

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

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

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

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

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

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

405 **ATCP 76.06 Table A**

406 <b>Determining Factors for Pool License Category (per Basin)</b>	406 <b>Point Value</b>
407 A. Basin	1.0
408 B. The pool type is a whirlpool or therapy pool	1.0
409 C. Choose the applicable recirculation system	
410 1. Recirculation system is designated to a single pool basin	1.0
411 2. Recirculation system is shared with another pool basin	0.5
412 D. The basin is greater than 1999 square feet in area	1.0
413 E. The pool is defined as a water attraction	1.0

414 (c) *Fee schedule tables.*

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

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

417 <b>Type of</b>	417 <b>License</b>	417 <b>Preinspection</b>	417 <b>First</b>	417 <b>Second and</b>	417 <b>Late</b>
418 <b>Facility</b>	418 <b>Fee</b>	418 <b>Fee</b>	418 <b>Reinspection</b>	418 <b>Subsequent</b>	418 <b>Fee</b>
			419 <b>or</b>	419 <b>Reinspection or</b>	
			420 <b>Administrative</b>	420 <b>Administrative</b>	
			421 <b>Follow-Up Fee</b>	421 <b>Follow-Up Fee</b>	
				422 <b>Follow-Up Fee</b>	

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 Facility	License Fee	Preinspection Fee	First Reinspection or Administrative Follow-Up Fee	Second and Subsequent Reinspection or Administrative Follow-Up Fee	Late Fee
441						
442						
443						
444						
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.

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

469 (d) *Reinspection or administrative follow-up fee.* If the department or its agent conducts a reinspection  
470 or administrative follow-up of a pool pursuant to s. ATCP 76.07 (1) (b) 1. or 4., the operator shall pay to the  
471 department or its agent the applicable reinspection or administrative follow-up fee pursuant to s. ATCP  
472 76.06 Table B or C. The department or its agent shall assess an additional fee pursuant to s. ATCP 76.06  
473 Table B or C, for any second or subsequent reinspection or administrative follow-up conducted pursuant to  
474 s. ATCP 76.07 (1) (b) 4.

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

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

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

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

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

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

491 certified draft, or money order.

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

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

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

497 3. To determine compliance with previously written violation orders.

498 4. To secure samples or specimens.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

541 (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.

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

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

570 3. The date compliance will be achieved.

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

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

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

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

585 **Note:** A request for hearing shall be submitted to the DATCP Secretary via email at  
586 [datcappelleals@wisconsin.gov](mailto:datcappelleals@wisconsin.gov), faxed to (608) 224-5034, mailed to PO Box 8911, Madison, Wisconsin  
587 53708-8911, or hand delivered to 2811 Agriculture Drive, Madison, Wisconsin 53718. The hearing may be  
588 conducted by the department secretary or designee.

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

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.

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

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

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

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

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

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

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

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

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

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

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

### 651 Subchapter III

#### 652 Water Treatment Systems and Water Quality

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

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

658 (2) SKIMMERS AND RECIRCULATION FLOW. Skimmers and recirculation flow shall meet all of  
659 the following: (a) *Skimmer flow*. 1. The flow through each skimmer shall be adjusted as often as necessary  
660 to maintain a vigorous skimming action at each skimmer. <sup>Pf</sup>

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

665 b. For pools with skimmers, approximately 80 percent of the recirculation flow shall be through  
666 skimmers and 20 percent through the main drain. <sup>Pf</sup>

667 c. For reverse flow pools, 100 percent of the required recirculation shall be through the gutter or  
668 skimmer. <sup>Pf</sup>

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

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

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

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

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

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

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

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

680 (4) PUMPS. Pump operation shall meet all of the following: (a) *Operational specification.* The pump  
681 manufacturer's maintenance and operating instructions shall be followed. <sup>Pf</sup>

682 (b) *Continuous operation.* Recirculation pumps shall continuously achieve the designed pool water  
683 recirculation rate except during maintenance operations. <sup>Pf</sup>

684 (c) *Turnover rate.* The turnover time for pools shall be pursuant to s. ATCP 76.11 Table A and B. <sup>Pf</sup>

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

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

688 <b>Pool Type</b>	<b>Turnover Time (in hours)</b>
689 Swimming	6
690 Diving	6
691 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	<b>Pool Temperature in</b>	<b>Load (gals/person)</b>	<b>Maximum</b>
704	<b>°F. (°C.)</b>	<b>Turnover Time (hours)</b>	
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 **(5) 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. <sup>Pf</sup>

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 (6) 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. <sup>Pf</sup>

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. <sup>Pf</sup>

726 2. High-rate sand filters. <sup>Pf</sup>

727 3. Vacuum sand filters. <sup>Pf</sup>

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. <sup>Pf</sup>

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. <sup>Pf</sup>

733 3. Diatomaceous earth wastewater separation tanks, where installed, shall be cleaned according to  
734 manufacturer instructions. <sup>Pf</sup>

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. <sup>P</sup>

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. <sup>P</sup>

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.

743 b. The concentration of solution may not exceed 5 percent by weight. <sup>Pf</sup>

744 c. The diatomite slurry feeder head and lines shall be flushed as recommended by the manufacturer to  
745 assure proper and continuous operation. <sup>Pf</sup>

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

747 e. If connection is to a potable water supply line, the supply line shall be equipped with an approved  
748 backflow or backsiphonage prevention device. <sup>P</sup>

749 f. Diatomite slurry tank agitators shall run continuously. <sup>Pf</sup>

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

751 1. Removed and cleaned as recommended by the manufacturer. <sup>Pf</sup>

752 2. Replaced when plugged or damaged. <sup>Pf</sup>

753 3. A duplicate set of replacement cartridges shall be available on-site and used when removing a soiled  
754 cartridge from the filter for cleaning. <sup>Pf</sup>

755 (e) *Activated filter media, filter ball media, and glass filter media*. Activated filter media, filter ball  
756 media, and glass filter media shall be maintained and backwashed according to the manufacturer  
757 specifications. <sup>Pf</sup>

758 (f) *Other media types*. Other media types as approved by the department shall be maintained and  
759 backwashed according to the manufacturer specifications. <sup>Pf</sup>

760 **ATCP 76.12 Labeling, storing, mixing, and handling chemicals, including gaseous chlorine.** All

761 labeling, storing, mixing, and handling of chemicals must be in compliance with applicable local, state, and  
762 federal regulations. <sup>Pf</sup> **(1) LABELING.** (a) *Chemical container*. Except as provided in par. (b), all chemicals

763 used in the operation and maintenance of pools, and bulk storage tanks containing the chemicals, shall be  
764 conspicuously labeled with all the following information: <sup>Pf</sup> 1. Name of the product. <sup>Pf</sup>

765 2. Manufacturer's name and address. <sup>Pf</sup>

766 3. Active ingredients. <sup>Pf</sup>

767 4. Directions for use. <sup>Pf</sup>

768 5. Hazardous ingredient warning. <sup>Pf</sup>

769 6. For chemicals used for the primary purpose of controlling microbial or algal growth, the United  
770 States environmental protection agency registration number. <sup>Pf</sup>

771 (b) *Erosion Feeders*. For chemicals used with erosion feeders, only the name of the chemical need be  
772 provided on the label. <sup>P</sup>

773 (2) CHEMICAL STORAGE AND CHEMICAL STORAGE AREAS. Chemical storage and chemical  
774 storage areas shall meet all of the following: (a) *Original container*. Chemicals shall be stored in the original  
775 or a properly labeled container. <sup>Pf</sup>

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

778 (c) *Separation*. Oxidizers shall be stored separately from acids. <sup>P</sup>

779 (d) *Access*. Only authorized personnel shall have access to a chemical storage area. <sup>P</sup>

780 (e) *Chlorine gas*. Chemicals shall not be stored in a chlorine gas storage area. <sup>P</sup>

781 (f) *Food*. Food may not be stored in a chemical storage area. <sup>Pf</sup>

782 (g) *Smoking*. Smoking is prohibited in a chemical storage area. <sup>P</sup>

783 (h) *Ventilation*. Ventilation in chemical storage areas shall comply pursuant to ch. SPS 364, as enforced  
784 by the Wisconsin department of safety and professional services. <sup>Pf</sup>

785 (i) *Doors*. Doors to chemical storage areas shall be locked and marked to indicate entry is for authorized  
786 personnel only. <sup>Pf</sup>

787 (j) *Emergency telephone numbers*. A list of emergency telephone numbers shall be in the chemical  
788 storage area or be readily accessible. <sup>Pf</sup>

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

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

793 (b) *Separately added*. Each chemical or chemical solution shall be separately added to the water. <sup>P</sup>

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

795 pool basin. <sup>P</sup>

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. <sup>P</sup>

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. <sup>Pf</sup>

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. <sup>Pf</sup>

804 3. Staff shall be trained in the use of the safety data sheet and where they are located. <sup>Pf</sup>

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: <sup>Pf</sup> 1. Automatic. <sup>Pf</sup>

809 2. Easily adjustable. <sup>Pf</sup>

810 3. Capable of providing the required chemical residuals. <sup>Pf</sup>

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 <sup>P</sup>

814 1. The interlock device shall meet all of the following requirements: a. If power to the recirculation  
815 pump is interrupted, the chemical feed stops. <sup>Pf</sup>

816 b. Except as provided in subd. 5., if flow in the recirculation system is interrupted, the chemical feeds  
817 stops. <sup>Pf</sup>

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

821 b. Describes how the chemical feeder electrical interlock functions. <sup>P</sup>

822 c. Describes how the system flow sensing interlock functions, if applicable. <sup>P</sup>

823 d. Describes how monthly testing is performed. <sup>P</sup>

824 e. Describes what safety measures that must be employed during monthly testing. <sup>P</sup>

825 3. Once monthly, challenge testing of the chemical feeder system shall be conducted to assess the

826 interlock pursuant to subd. 1. <sup>P</sup>

827 4. A log of the monthly test shall be kept and meet all of the following: a. Documented with the date,

828 results, and the name of the person performing the test. <sup>P</sup>

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

830 5. The system flow sensing interlock requirement does not apply to pools constructed before February

831 2009, unless the pool has been involved in a chemical release incident in which the installation of a flow

832 sensing interlock would have prevented the chemical release.

833 **(2) EQUIPMENT MAINTENANCE.** (a) *Maintenance hazards.* All maintenance that presents a danger

834 to the patrons, including changing chlorine gas tanks and testing interlocks, shall be performed when the

835 pool is not in use or is closed to public use. <sup>P</sup>

836 (b) *Maintenance signage.* When access to a pool or pool area cannot be restricted, signage shall be in

837 place indicating that the pool is closed, and the area shall be monitored to ensure the pool is not in use. This

838 would include a pool area that contains more than one pool, but not all of the pools are closed. This applies

839 to hotels with pools built before February 1, 2017, with access to the pool area through the guest room. <sup>P</sup>

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

841 as the federal occupational health and safety administration may repair gas chlorinators. <sup>Pf</sup>

842 **(4) EVACUATION DURING CHEMICAL FEED INCIDENT.** If the interlock is activated stopping

843 flow from the chemical feeders, or the water recirculation pump is stopped manually or unexpectedly for

844 any reason and duration, including power outages, all patrons shall be evacuated from the pool until manual

845 evaluation of the cause for interlock activation or recirculation pump interruption is completed by the

846 responsible supervisor or pool operator. <sup>P</sup>

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

850 (2) CHEMICAL USE REQUIREMENTS. (a) *Disinfectant or sanitizer-producing chlorine and*  
851 *bromine and other chemicals.* Disinfectant or sanitizer-producing chlorine or bromine and any supplemental  
852 or alternative chemical used shall meet all the following requirements: 1. Registered with the United States  
853 environmental protection agency as a disinfectant or sanitizer, except algaecides shall be registered as  
854 algaecide. <sup>Pf</sup>

855 2. The product label is registered with the department. <sup>Pf</sup>

856 3. Has an effective residual that can be measured easily and accurately by an approved field test  
857 procedure. <sup>Pf</sup>

858 4. Is compatible for use with other chemicals normally used in the water treatment or is clearly identified  
859 as having a use limitation. <sup>Pf</sup>

860 5. Does not impart toxic properties to the patrons in the water when used according to the  
861 manufacturer's directions. <sup>P</sup>

862 6. Does not create an undue safety hazard when handled, stored, or used according to the  
863 manufacturer's directions. <sup>P</sup>

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

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

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

869 (a) *Upright.* A cylinder shall be in an upright position and other container types shall be placed  
870 per manufacturer's instructions. <sup>Pf</sup>

871 (b) *Chained.* A cylinder shall be chained or strapped to a rigid support. <sup>Pf</sup>

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

873 <sup>Pf</sup>

874 (d) *Tagged*. An empty cylinder shall be tagged to indicate they are empty. <sup>Pf</sup>

875 (e) *Valve*. The cylinder valve shall be closed when in storage or empty. <sup>Pf</sup>

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

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

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

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

887 (5) CHEMICAL CONCENTRATIONS AND RESIDUALS. (a) *Minimum disinfectant or sanitizer*  
888 *residuals*. Minimum disinfectant or sanitizer residuals shall meet the requirements pursuant to s. ATCP  
889 76.14 Table A. <sup>P</sup>

890 (b) *Cyanurates*. All the following apply: 1. The water cyanuric acid concentration may not exceed 30  
891 ppm. <sup>Pf</sup>

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

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

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

898 (e) *Combined chlorine*. 1. The operator shall develop and implement a plan to minimize combined  
899 chlorine in the pool. <sup>Pf</sup>

900 2. The plan shall contain all the following components: <sup>Pf</sup> a. The combined chlorine action level, taking  
901 into account monochloramine in the source water.

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

904 b. Volume of pool.

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

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

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

909 (f) *Maximum chlorine residual*. The maximum chlorine residual in any pool may not exceed 10 ppm.  
910 <sup>P</sup>

911 (g) *Maximum total bromine*. The maximum total bromine in a pool may not exceed 10 ppm. <sup>P</sup>

912 **s. ATCP 76.14 Table A**

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

914 <b>Swimming and Activity Pools</b>	915 <b>Minimum Free Chlorine Residual</b>	916 <b>Total Bromine</b>
917 Swimming and Activity Pool	1.0 ppm	3.0 ppm
918 Swimming and Activity Pool with Stabilizer	2.0 ppm	N/A
919 Swimming and Activity Pool with Electronic Monitoring Devices Present and Properly Functioning	1.0 ppm (with or without stabilizer)	3.0 ppm
920		
	<b>Wading Pools</b>	
925 Wading Pool	2.0 ppm	4.0 ppm
926 Wading Pool with Stabilizer	4.0 ppm	N/A
927 Wading Pool With Electronic Monitoring Devices Present and Properly Functioning	1.0 ppm (with or without stabilizer)	3.0 ppm
928		

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

973  
974 Waterslides and Pool Slides with Electronic 1.0 ppm (with or without stabilizer) 3.0 ppm  
975 Monitoring Devices Present and Properly  
976 Functioning

977  
978 (6) ELECTRONIC MONITORING DEVICES. (a) *Water potential*. When oxidation potential  
979 controllers are used the water potential shall be kept between 650–900 mV. In addition to the requirements  
980 pursuant to s. ATCP 76.18 (3), if the water potential reads below 650 mV or above 900 mV, the operator  
981 shall manually test the pool water with an approved test kit. <sup>Pf</sup>

982 (b) *Free chlorine, or bromine*. For a pool equipped with an approved and properly maintained electronic  
983 monitoring device to control the disinfectant or sanitizer level and pH, the available disinfectant or sanitizer  
984 residual shall meet the minimum requirements pursuant to s. ATCP 76.14 Table A, and be tested pursuant  
985 to s. ATCP 76.18 (3). <sup>Pf</sup>

986 **ATCP 76.15 Alternative or supplemental disinfection systems**. Any one of the following alternative or  
987 supplemental systems may be added to a pool if an automated disinfection system is in place and on line to  
988 maintain the disinfectant or sanitizer residuals pursuant to s. ATCP 76.14 Table A. <sup>Pf</sup>

989 (1) CHLORINE GENERATORS. (a) *NSF 50*. Chlorine generators, including salt systems, shall be  
990 certified and installed to NSF 50 and manufacturer instructions. <sup>Pf</sup>

991 (b) *Disinfectant system on line*. An additional disinfection system shall remain on line and able to  
992 automatically provide the capacity to superchlorinate the water and maintain the required sanitizer residual.  
993 <sup>P</sup>

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

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

999 (c) *Maximum ambient ozone level*. Off-gassing of ozone may not result in ozone levels in the equipment  
1000 room or pool area exceeding 0.1 ppm. <sup>P</sup>

1001 (3) ULTRAVIOLET LIGHT. Ultraviolet light units shall be certified to NSF 50, and tested and  
1002 approved for use in water disinfection systems and installed pursuant to NSF 50 requirements. <sup>P</sup>

1003 (4) OTHER TECHNOLOGIES. Other technologies that inactivate or kill pathogens shall be certified  
1004 and installed pursuant to NSF 50, manufacturer instructions, and have an EPA registration number, if  
1005 applicable. <sup>P</sup>

1006 **ATCP 76.16 Water quality. (1) GENERAL REQUIREMENT.** Pool water shall be free of chemical,  
1007 physical, and microbial substances known to be, or suspected of being, capable of creating toxic reactions  
1008 or skin or membrane irritations. <sup>P</sup>

1009 (2) WATER CLARITY. Pool water shall be transparent and free from cloudiness. The main drain  
1010 grating shall be readily visible from the pool deck, including the outline of the main drain and the main  
1011 drain cover pattern. <sup>P</sup>

1012 (3) WATER SAMPLING. (a) *Sample collection and analysis.* The department or its agent may collect  
1013 samples of pool water for microbiological analysis in evaluating water quality. The analysis of water samples  
1014 shall be performed by a laboratory accredited by the department. These monitoring activities may be  
1015 supplemented with additional microbiological analysis, which shall be performed by an accredited  
1016 laboratory certified in those methods. <sup>Pf</sup>

1017 **Note:** A list of accredited laboratories may be obtained by calling the department at (608)224-4712 or by  
1018 email at [www.datcp.state.wi.us](http://www.datcp.state.wi.us).

1019 (b) *Bacteriological standards.* Water quality shall be maintained to meet the following standards:

1020 1. When bacteriological analysis of total *coliforms*, *Staphylococcus aureus*, *Pseudomonas aeruginosa*  
1021 or *Legionella pneumophila* is performed, no detectable levels are present in a 100 milliliter sample. <sup>P</sup> Any  
1022 approved method for each analyte may be reported as either colony forming units or most probable number.

1023 2. When bacteriological analysis is performed for the heterotrophic plate count, the total count may not  
1024 exceed 200 colony forming units per milliliter (CFU/mL) in a 100 milliliter sample. <sup>Pf</sup>

1025 3. If a pool is closed due to a water sample that contains total *coliforms* pursuant to s. ATCP 76.30 (1)  
1026 (b), the pool can be reopened when the pool system is properly working, the disinfectant or sanitizer

1027 concentration is maintained pursuant to s. ATCP 76.14 Table A, and any fecal accidents have been treated  
1028 pursuant to s. ATCP 76.31.<sup>P</sup>

1029 (4) ALGAE CONTROL. An algaecide may be used in a pool pursuant to ss. ATCP 76.14 (2) and 29.50  
1030 (4) (b) 1., according to the manufacturer's label directions.<sup>P</sup>

1031 **ATCP 76.17 Water test kits. (1) APPROVED.** A test kit of a type approved by the department shall be  
1032 maintained for testing the pool water pH; the disinfectant or sanitizer residual; the combined chlorine level,  
1033 when chlorine is used; the total alkalinity; and the cyanuric acid concentration. The test kits shall meet the  
1034 following specifications, as described in s. ATCP 76.17 Table A.<sup>Pf</sup>

1035 **s. ATCP 76.17 Table A Required Test Kit Accuracy and Increment**

	<b>Minimum Accuracy</b> <sup>Pf</sup>	<b>Maximum Increment</b> <sup>Pf</sup>
1037 <b>Chlorine and combined chlorine</b>	+/- 0.2 ppm	0.2 ppm
1038 <b>pH</b>	+/- 0.2 pH unit*	0.2 units
1039 <b>Alkalinity</b>	+/- 25 percent	10 ppm
1040 <b>Cyanuric</b>	+/- 20 percent	20 ppm
1041 <b>Bromine</b>	+/- 10 percent	0.5 ppm

1042 **Note:** \*Operators who do not want to use a pH meter and are using a test kit with a pH accuracy of +/- 0.2  
1043 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  
1044 many available test kits for pH, it is strongly encouraged to use a pH meter, with an accuracy greater than  
1045 0.1 or better, to determine the PH reading on the higher and lower end. If the Taylor test kit is used and  
1046 natural light is not available, the Taylor light box should be used as instructed in the manufacturer's  
1047 directions.

1048 (2) TEST REAGENTS USE AND STORAGE. Test kit reagents shall meet all of the following: (a)  
1049 *Stored.* Stored in the original container or per manufacturer directions.<sup>Pf</sup>

1050 (b) *Replaced.* Replaced as recommended by the manufacturer.<sup>Pf</sup>

1051 (c) *Temperature range.* Stored within the temperature range specified by the manufacturer for storage.<sup>Pf</sup>

1052 (d) *Use.* Used and properly disposed of before the expiration date.<sup>Pf</sup>

1053 (3) TESTING REAGENT TECHNOLOGIES. The disinfectant or sanitizer testing reagent shall use  
1054 one of the following technologies: (a) *Method*. Diethyl-p-phenylene diamine or DPD in powder or liquid  
1055 form. A test kit using the titrimetric method, ferrous ammonium sulfate and diethyl-p-phenylene diamine  
1056 or FAS-DPD for chlorine and bromine testing and colorimetric comparators used for additional water  
1057 testing shall be approved by the department and shall provide for accurate comparison in the required range  
1058 for each test pursuant to s. ATCP 76.14 Table A. <sup>Pf</sup>

1059 (b) *Alternatives*. Other photometric, electronic, or other technology that achieves the accuracy as  
1060 described in s. ATCP 76.17 Table A, and measures analytes within the range pursuant to s. ATCP 76.14  
1061 Table A. <sup>Pf</sup>

1062 **ATCP 76.18 Water testing frequency. (1) ALL POOLS, EXCEPT WHIRLPOOLS, THERAPY, AND**  
1063 **EXERCISE POOLS. (a) *pH and disinfectant or sanitizer*.** Except as provided under sub. (3), water shall  
1064 be tested for pH and disinfectant or sanitizer residual at the following times: 1. Daily before the pool is open  
1065 to the public or before the pool is in use. <sup>Pf</sup>

1066 2. At least one other time during the day's peak patron load. <sup>Pf</sup>

1067 (b) *Combined chlorine*. If chlorine is used, the water shall also be tested at least twice a week for the  
1068 combined chlorine level. <sup>Pf</sup>

1069 (c) *Alkalinity*. Water shall also be tested at least once a week for total alkalinity. <sup>Pf</sup>

1070 (d) *Cyanuric acid*. If cyanuric acid is used in the water basin, the cyanuric acid concentration in the  
1071 water shall be tested at least once a week. <sup>Pf</sup>

1072 (2) WHIRLPOOL, THERAPY, AND EXERCISE POOLS. (a) *pH and disinfectant or sanitizer*. Except  
1073 as provided under sub. (3), water shall be tested for pH and disinfectant or sanitizer residual at the following  
1074 times: 1. Before the pool is open to the public or before the pool is in use and at least 4 times daily. <sup>Pf</sup>

1075 2. Two of the tests shall be during the day's peak patron load. <sup>Pf</sup>

1076 (b) *Combined chlorine*. When chlorine is used, the water shall be tested at least once daily for the  
1077 combined chlorine level. <sup>Pf</sup>

1078 (c) *Alkalinity*. Water shall be tested at least once a week for total alkalinity. <sup>Pf</sup>

1079 (d) *Cyanuric acid*. When cyanuric acid is used in the water basin, the cyanuric acid concentration in  
1080 the water shall be tested at least once a week. <sup>Pf</sup>

1081 (3) ELECTRONIC MONITORING DEVICE. For a properly maintained electronic monitoring device  
1082 installed to control pH and disinfectant or sanitizer, the operator shall: (a) *Frequency*. Manually tested the pool  
1083 at least once a day for pH and disinfectant or sanitizer residual with an approved test kit pursuant to s. ATCP  
1084 76.17 Table A. <sup>Pf</sup>

1085 (b) *Maintenance*. Periodically monitor the device to determine if it meets operating criteria pursuant to  
1086 s. ATCP 76.14 (5). <sup>Pf</sup>

1087 (4) INCREASED TESTING. The department or its agent may require more frequent testing if the  
1088 testing logs are not maintained and the operator demonstrates a lack of active managerial control. <sup>Pf</sup>

1089 **ATCP 76.19 Water supply and temperature. (1) WATER SUPPLY PROTECTION.** A minimum air gap  
1090 of 2 pipe diameters or 6 inches, whichever is less, shall exist between the potable water supply inlet and the  
1091 overflow point of any pool, makeup tank, surge tank, solution tank, or slurry tank unless another approved  
1092 backflow and backsiphonage prevention device is provided. <sup>P</sup>

1093 (2) WATER SOURCE. The water supplied to a pool shall be from a source approved by the Wisconsin  
1094 department of natural resources pursuant to ch. NR 108, 811, or 812. <sup>P</sup>

1095 (3) WATER LEVEL. Proper water level shall be maintained at all times when the pool is open. <sup>Pf</sup>

1096 (a) *Skimmers*. Water levels in pools with skimmers shall be maintained at a level such that the weir is  
1097 half submerged or in the case of a floating weir, used according to manufacturer's directions. <sup>Pf</sup>

1098 (b) *Gutters*. Pools designed with gutters shall have a continuous water supply over the gutter to provide  
1099 effective skimming. <sup>Pf</sup>

1100 (4) WATER TEMPERATURE. (a) *Thermometer accuracy and location*. 1. An accurate thermometer  
1101 shall be located in the pool water return line. <sup>Pf</sup>

1102 2. The thermometer shall be accessible for observation by the operator. <sup>Pf</sup>

1103 (b) *Pool water temperature*. 1. Except as provided in par. (d), the water temperature of an indoor pool

1104 shall be between 70°F. or 21°C. and 90°F. or 32°C. <sup>P</sup>

1105 2. The minimum water temperature for an outdoor pool shall be 65°F. or 18°C. <sup>P</sup>

1106 (c) *Whirlpool water temperature.* The water temperature in a whirlpool shall be greater than 90°F or  
1107 32°C., and may not exceed 104°F. or 40°C. <sup>P</sup>

1108 (d) *Cold soak pool water temperature.* 1. Cold soak pools may be operated at a lower temperature than  
1109 specified under par. (b).

1110 2. The pool shall post the water temperature on signage pursuant to s. ATCP 76.29 (5). <sup>Pf</sup>

1111 **Subchapter IV**

1112 **Staffing Pools**

1113 **ATCP 76.20 Operator. (1) POOLS.** (a) *General requirement.* Each pool shall be under the supervision of  
1114 at least one operator, except that if multiple pools are located on the same premise, and licensed by the same  
1115 person, they may be supervised by one operator. <sup>Pf</sup>

1116 (b) *Operator responsibilities.* Each operator shall be responsible for pool operation and maintenance  
1117 including equipment shut-down, backwashing, daily maintenance and vacuuming, and maintenance of  
1118 water quality pursuant to ch. ATCP 76. <sup>Pf</sup>

1119 **(2) POOL OPERATOR CERTIFICATION.** (a) *Pool operator certification required.* 1. Each water  
1120 attraction or multiple water attractions on the same premise shall have at least one certified operator. <sup>Pf</sup>

1121 2. An owner of a pool who demonstrates a lack of active managerial control over the pool operation by  
1122 having 2 or more reinspections in a 3-year period is required to have a certified operator. <sup>Pf</sup>

1123 3. Pool operator certification for a water attraction shall be obtained within 90 days of receiving a new  
1124 license or a pool meeting the conditions under subd. 2. <sup>Pf</sup> a. A pool that is required to have a certified  
1125 operator under subd. 2, may contract with a certified operator.

1126 b. The certified operator shall be able to respond within 3 hours.

1127 4. The owner of a pool shall replace a certified operator within 90 days after a certified operator's  
1128 departure. <sup>Pf</sup>

1129 (b) *Certified operator duties.* A certified operator is responsible for all of the following: 1. The certified

1130 operator will perform service related to water quality parameters pursuant to ss. ATCP 76.14, 76.16, and  
1131 76.19.

1132 2. The certified operator shall ensure that equipment is properly functioning pursuant to ss. ATCP  
1133 76.11, 76.13, 76.15, and 76.17.

1134 (c) *Documentation of certification.* A current copy of the certified operator's certification shall be  
1135 maintained at the pool. <sup>Pf</sup>

1136 **ATCP 76.21 Responsible supervisor. (1) RESPONSIBILITIES.** (a) *Supervision.* Each pool shall be under  
1137 the supervision of at least one responsible supervisor at all times when the pool is in use or is open to the  
1138 public. <sup>P</sup>

1139 (b) *Availability.* The responsible supervisor shall be on the premises or immediately available via a phone  
1140 number posted by the emergency phone and shall respond to an unsafe or unsanitary condition within 15  
1141 minutes, at any time the pool is open for use. <sup>P</sup>

1142 (c) *Duties.* The responsible supervisor shall ensure all of the following: 1. Order is maintained. <sup>P</sup>

1143 2. Safety and rescue equipment is in place. <sup>P</sup>

1144 3. Pool use regulations are enforced. <sup>P</sup>

1145 4. Sanitation and water testing is performed. <sup>P</sup>

1146 5. Monthly interlock testing is performed.

1147 6. Monthly secondary anti-entrapment device testing is performed, if applicable. <sup>P</sup>

1148 7. Records are maintained. <sup>P</sup>

1149 8. Chemical safety training is provided to staff. <sup>P</sup>

1150 9. The rope separating the shallow and deep portions of the pool is in place during required times.

1151 <sup>P</sup>

1152 10. The pool is closed pursuant to s. ATCP 76.30. <sup>P</sup>

1153 11. A pool cover or blanket, if provided, does not pose a safety hazard to patrons. <sup>P</sup>

1154 **ATCP 76.22 Life guards and attendants. (1) LIFEGUARD AND ATTENDANT STAFFING PLANS.** A  
1155 pool that is not required to have an attendant or lifeguard is not required to have a lifeguard or attendant

1156 staffing plan. (a) *Staffing plan requirements.* The owner or operator of a pool, including a whirlpool over 4  
1157 feet deep and a pool with a visual obstruction, shall have a written lifeguard and attendant staffing plan. <sup>Pf</sup>

1158 (b) *Plan criteria.* The written lifeguard and attendant staffing plan shall include all of the following:

1159 1. The square footage of the pool. <sup>Pf</sup>

1160 2. The maximum and average patron load. <sup>Pf</sup>

1161 3. The hours of operation. <sup>Pf</sup>

1162 4. The location of each lifeguard station, lifeguard roaming or walking patrol ensuring that glare  
1163 conditions are assessed from each location to determine if the bottom and objects in the pool are clearly  
1164 visible. <sup>Pf</sup>

1165 5. The location of each first aid station. <sup>Pf</sup>

1166 6. The number of lifeguards or attendants on duty pursuant to s. ATCP 76.23. <sup>Pf</sup>

1167 7. Diagrams shall be provided with the following information for each use of the pool, for both average  
1168 and maximum capacity: a. The placement of attendants. <sup>Pf</sup>

1169 b. The placement of lifeguards. <sup>Pf</sup>

1170 c. The location of the lifeguard roaming area or walking patrol. <sup>Pf</sup>

1171 d. Location of lifeguard chairs or stations. <sup>Pf</sup>

1172 e. Location of each obstruction. <sup>Pf</sup>

1173 8. A method of communication when 2 or more attendants or lifeguards are required. <sup>Pf</sup>

1174 9. If applicable, the method that will be used for periodic supervision within a pool enclosure that  
1175 contains a combination of lifeguarded and non-lifeguarded pools. <sup>Pf</sup>

1176 (c) *Availability.* The owner or operator shall keep a copy of the written lifeguard and attendant staffing  
1177 plan at the pool and make it available to the department or its agent upon request, for review and approval.

1178 (2) **QUALIFICATIONS.** A lifeguard shall be required to have current certifications in all of the  
1179 following: (a) *Certification requirements.* A copy of each certification held by lifeguard staff shall be

1180 maintained at the pool and shall be made available for inspection by the department or its agent. <sup>P</sup>

1181 Certifications required include all of the following:

1182 1. Lifeguarding certification as defined under s. ATCP 76.03 (45).<sup>P</sup>

1183 2. First aid certification.<sup>P</sup>

1184 3. CPR with AED certification.<sup>P</sup>

1185 (b) *Attendants*. Attendants may staff water attractions, waterslides, or pool slides to assist patrons,  
1186 pursuant to s. ATCP 76.23. Attendants may not be used in place of lifeguards.

1187 **(3) LIFEGUARD IDENTIFICATION AND ASSIGNMENT.** (a) *Identification and equipment*. At all  
1188 times when on duty a lifeguard shall have all the following: 1. Clothing or equipment that is conspicuously  
1189 marked “Lifeguard” or “Guard”.

1190 2. A rescue tube with a harness as instructed in national certification courses.<sup>P</sup>

1191 3. A whistle.<sup>P</sup>

1192 (b) *Assigned duties*. A lifeguard who is assigned to supervise a pool may not be assigned duties that  
1193 may distract the lifeguard’s attention from observing a patron in the pool or that may hinder the lifeguard’s  
1194 ability to provide immediate assistance to a patron.<sup>P</sup>

1195 **ATCP 76.23 Life guard and attendant placement and staffing requirements.**

1196 **(1) GENERAL.** (a) *Staffing requirements*. 1. Each pool having a surface area of 2,000 square feet or  
1197 more shall be staffed pursuant to ss. ATCP 76.23 Table A, and ATCP 76.23 Table B, when the pool is in  
1198 use or is open to the public. If the requirements in s. ATCP 76.23 Table A or B, conflict, the pool shall  
1199 comply with the strictest requirements of s. ATCP 76.23 Table A or B.<sup>P</sup>

1200 2. An operator may close a portion of a pool to patrons in order to meet the lifeguard staffing requirements  
1201 for square footage pursuant to s. ATCP 76.23 Table A, except that at least one lifeguard shall be provided.  
1202<sup>P</sup>

1203 3. An operator may limit the number of patrons in order to meet s. ATCP 76.23 Table A, for lifeguard  
1204 staffing.<sup>P</sup>

1205 4. When the patron load of a pool exceeds 336 patrons, one lifeguard shall be provided for each  
1206 additional 100 patrons or fraction thereof.<sup>P</sup>

1207 (b) *Department evaluation required.* For a pool type that is not addressed in s. ATCP 76.23 Table A or  
 1208 B, the operator shall request evaluation by the department and follow the requirements specified by the  
 1209 department following the evaluation. <sup>P</sup>

1210 (c) *Slide flumes.* An additional lifeguard shall be provided for every 2 slide flumes installed at a pool  
 1211 other than a separate waterslide plunge pool. <sup>P</sup>

1212 (d) *Waterslide attendant.* An attendant responsible for enforcing waterslide usage rules shall be  
 1213 stationed at the entrance to the waterslide flume. <sup>P</sup>

1214 (2) **SIGNAGE.** Each pool that is not required to have a lifeguard shall post a sign with letters at least 4  
 1215 inches high stating: “Warning: No Lifeguard on Duty.” <sup>Pf</sup>

1216 **s. ATCP 76.23 Table A**

1217 **Required Number of Lifeguards Based on Square Footage**

1218 Actual Patron Load*	1219 Lifeguards for a Pool or Water Attraction with a Surface Area of 2,000 to 4,999 sq. ft.	1220 Lifeguards for a Pool or Water Attraction with a Surface Area of 5,000 to 9,999 sq. ft.	1221 Lifeguards for a Pool or Water Attraction with a Surface Area of 10,000 or more sq. ft.
1222 1 – 60	1	2	3
1223 61 – 136	2	3	4
1224 137 – 236	3	4	5
1225 237 – 336*	4	5	6

1227 \* When the patron load exceeds 336 patrons, one lifeguard shall be provided for each additional 100 patrons  
 1228 or fraction thereof.

1229 **s. ATCP 76.23 Table B**

1230 **Required Number of Lifeguards and Attendants Based on Pool Type**

1231 Pool Type	1232 Pool or Slide Details	1233 Lifeguard and Attendant Staffing Requirements
1234 Activity Pool.	1235 Pool contains one of the following: 1. A pad walk. 1236 1237 2. A tethered floatable more than 18	At least one lifeguard is required.

1238		inches long in 2 directions. An	
1239		appendage such as alligator feet	
1240		should not be included in	
1241		determining the length.	
1242			
1243		3. A nontethered floatable. A nontethered	
1244		floatable does not include a tire inner	
1245		tube used in a leisure river or	
1246		waterslide.	
1247			
1248	Leisure River or any		At least one lifeguard,
1249	feature that convey a rider		more based on square
1250	seated or standing.		footage pursuant to s.
1251			ATCP 76.23 Table A.
1252			
1253	Vortex Pool.		At least one lifeguard is
1254			required.
1255			
1256	Current Pool; Pool with	Whenever the pool is occupied by a	At least one lifeguard is
1257	Treadmill.	patron and the current or treadmill is	required.
1258		operating.	
1259			
1260	Vanishing Edge Pool.		At least one lifeguard
1261			regardless of square
1262			footage, unless the
1263			vanishing edge pool is
1264			limited for adult usage
1265			only.
1266			
1267	Wave Pool or any pool that		At least one lifeguard
1268	involves patron interacting		is required regardless of
1269	with moving water or is		the square footage of
1270	designed to allow patron to		the pool. Additional
1271	fall into water.		lifeguard staffing shall be
1272			based on the patron load
1273			requirements pursuant to s.
1274			ATCP 76.23 Table A.
1275			
1276	Pool with a Visual	The pool has a visual obstruction larger	At least one attendant
1277	Obstruction, except for	than 10 feet in length by 6 feet in height	is required.
1278	Wading Pool.	by 5 feet in width or if the visual	
1279		obstruction covers more than 20 percent	
1280		of the pool's basin.	
1281			
1282			
1283	Wading Pool with a Visual	If a variance is not obtained	At least one attendant is
1284	Obstruction.	from the department for an alternate	required.
1285		method of coverage.	
1286			
1287	<b>Pool Type</b>	<b>Pool or Slide Details</b>	<b>Lifeguard and Attendant</b>
1288			<b>Staffing Requirements</b>

1289			
1290	Medical, Rehabilitation or Training Facility, and Therapy Pools, including those with current or treadmill.	If medical, rehabilitation or training staff are trained in CPR, AED, first aid, and have received training for safely extricating a patient from the water if a rescue is needed.	No lifeguard or attendant is required.
1291			
1292			
1293			
1294			
1295			
1296			
1297	Pool with Diving Board or Platform.	For every 2 diving boards or platforms in the same pool.	At least one lifeguard is required.
1298			
1299			
1300	Pool with a climbing wall		At least one lifeguard is required.
1301			
1302			
1303	Wading Pool.		No lifeguard or attendant is required.
1304			
1305			
1306	Whirlpool.	If a whirlpool is located within a water attraction complex.	At least one attendant shall provide periodic supervision of the whirlpool.
1307			
1308			
1309			
1310		All other whirlpools	A sign shall be posted that states in letters that are at least 4 inches high: "No Lifeguard on Duty".
1311			
1312			
1313			
1314			
1315	Pools with Slide.	Children's Slide.	No attendant is required.
1316			
1317		Pool slide: Less than 6 feet in height that drops into water 4 feet or less in depth.	No lifeguard or attendant is required.
1318			
1319			
1320			
1321		Pool slide: Less than 6 feet in height with an obstructed view of slide terminus and the obstruction is more than 43 inches high.	At least one lifeguard.
1322			
1323			
1324			
1325			
1326		Pool slide: That drops into water greater than 4 feet deep.	At least one lifeguard.
1327			
1328			
1329		Run-out slide: 6 feet or greater in height with a clear view of the slide terminus.	At least one attendant on top platform.
1330			
1331			
1332			
1333		Run-out slide: 6 feet or greater in height with an obstructed view of the slide terminus.	At least one attendant on top platform and one attendant at bottom of run-out slide.
1334			
1335			
1336			
1337			
1338		Run-out slide: Less than 6 feet with a	No lifeguard or attendant is

1339		clear view of slide terminus.	Required.
1340			
1341		Run-out slide: Less than 6 feet with an	At least one attendant.
1342		obstructed view of slide terminus.	
1343			
1344		Waterslide or Drop slide: 6 feet or	At least one attendant on
1345		greater in height.	top of the platform or slide
1346			and one lifeguard at bottom
1347			of slide. A means of 2-way
1348			communication between
1349			attendant and lifeguard.
1350			
1351		Waterslide or Drop slide: Less than	At least one lifeguard.
1352		6 feet with a clear view of slide terminus	
1353		and no obstructions around slide.	
1354			
1355	<b>Pool Type</b>	<b>Pool or Slide Details</b>	<b>Lifeguard and Attendant</b>
1356			<b>Staffing Requirements</b>
1357			
1358	Interactive Play Attraction	An interactive play attraction not	At least one attendant on
1359	(Splash Pads).	restricted by an enclosure.	the premises. The attendant
1360			shall provide periodic
1361			supervision of the water
1362			attraction as specified
1363			in the staffing plan.
1364			
1365	Swim-up bar.	When open.	Shall have a written plan
1366			that addresses all of the
1367			following:
1368			1. Supervision of the swim
1369			up bar.
1370			2. Patrons who are ill.
1371			3. Patrons who are
1372			adversely affecting
1373			sanitation.
1374			4. Patrons who are engaging
1375			in dangerous behavior.
1376			5. Patrons who are
1377			injured.
1378			
1379	Any pool or water attraction	A pool that is used for an activity	At least one lifeguard
1380	with instructional program.	occurring in the water that is led by a	when the instructional
1381		person teaching a participant how to	program is in session.
1382		do an exercise, movement, skill, or	
1383		similar activity.	If the coach or instructor
1384			that provides instruction
1385			during the program is a
1386			lifeguard, the requirement
1387			of this subsection is met
1388			provided the coach or

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instructor can supervise the entire group. A pool that normally requires a lifeguard and that is open to the public during an instructional program session shall be supervised by an additional lifeguard or attendant pursuant to s. ATCP 76.23.

1400 **ATCP 76.24 Patron safety during pool maintenance. (1) MAINTENANCE OPERATIONS.** The  
1401 operator shall ensure that no patrons are in the pool during pool maintenance operations. <sup>P</sup>

1402 (2) RECIRCULATION SYSTEM INTERRUPTION. Patrons shall be removed from the pool when the  
1403 pool recirculation system is interrupted. Once the recirculation system is restored, patrons shall not reenter  
1404 the pool until chemical levels are determined to be within acceptable ranges. <sup>P</sup>

1405 **Subchapter V**

1406 **Operation and Management**

1407 **ATCP 76.25 Maximum patron load. (1) WATER ATTRACTIONS.** The maximum number of patrons  
1408 permitted to be in an individual water attraction at any one time shall be calculated on the basis of allowing  
1409 one patron for every 15 square feet of water surface area. The splash zone of any water attraction shall be  
1410 included in the calculation of the water surface. <sup>Pf</sup>

1411 (2) POOLS. (a) *Pools used for swimming.* The maximum number of patrons permitted to be in the water  
1412 of a pool used for swimming at any one time shall be computed on the basis of allowing one patron for every  
1413 15 square feet of the shallow portion of the pool and one patron for every 25 square feet of the deep portion  
1414 of the pool. <sup>Pf</sup>

1415 (b) *Whirlpools.* The maximum number of patrons permitted to be in the water of a whirlpool at any one  
1416 time shall be computed on the basis of allowing one patron for every 10 square feet of whirlpool surface  
1417 area. <sup>Pf</sup>

1418 (c) *Wading pools.* The maximum number of patrons permitted to be in the water of a wading pool at any  
1419 one time shall be computed on the basis of allowing one patron for every 15 square feet of wading pool

1420 surface area. <sup>Pf</sup>

1421 (d) *Therapy and exercise pools.* The maximum number of patrons permitted to be in the water of a  
1422 therapy or exercise pool at any one time shall be computed on the basis of allowing one patron every 15  
1423 square feet of the shallow portion of the pool and one patron for every 25 square feet of the deep portion of  
1424 the pool. <sup>Pf</sup>

1425 **ATCP 76.26 Rescue equipment.** Rescue equipment shall meet all of the following: **(1) REQUIRED**  
1426 **EQUIPMENT.** (a) *Good repair and accessible.* 1. All rescue equipment shall be maintained in good repair.  
1427 <sup>P</sup>

1428 2. Rescue equipment shall be mounted or positioned in a conspicuous place and shall be readily  
1429 accessible. <sup>Pf</sup>

1430 (b) *Shepherd's crook, ring buoy, and rescue tube.* 1. a. For each basin of water over 10 feet in length and  
1431 over 2 feet deep, an intact shepherd's crook-type pole shall be provided. <sup>P</sup>

1432 b. For non-guarded pools, the shepherd's crook shall be long enough to effect a rescue in the deepest  
1433 part of the pool. <sup>P</sup>

1434 c. If the shepherd's crook is not one continuous pole, the pieces shall be securely connected with durable  
1435 nuts and bolts or similar hardware. <sup>P</sup>

1436 2. For each lifeguard chair, or for a pool 30 feet or more in width that does not have lifeguard chairs, at  
1437 least one of the following shall be provided: a. A ring buoy having a minimum outside diameter of 20 inches.  
1438 Each ring buoy shall be attached to a 1/4 inch rope having a length not less than 1-1/2 times the maximum  
1439 width of the pool or 50 feet, whichever is less. <sup>P</sup>

1440 b. A rescue tube. <sup>P</sup>

1441 (c) *Safety rope.* 1. If applicable, a safety rope shall be provided pursuant to s. SPS 390.18 (1). <sup>Pf</sup>

1442 2. The safety rope shall remain in place except during a lifeguarded activity or adult-only lap swim. <sup>Pf</sup>

1443 3. The safety rope and floats shall be maintained in good repair and working order. <sup>Pf</sup>

1444 (d) *Spine board.* A spine board with straps and head immobilizer in good condition shall be available at  
1445 a pool where a lifeguard is required pursuant to s. ATCP 76.23. <sup>P</sup>

1446 (2) TELEPHONE. (a) *Connection to emergency services.* A telephone capable of connecting with 911  
1447 or emergency dispatch services is accessible at all times during pool operation. <sup>P</sup>

1448 (b) *Other technologies.* Telecommunication technology, other than a landline telephone, may be used  
1449 if, in the pool area, the telecommunication device is equipped with all of the following: 1. A permanent  
1450 continuous power supply with battery backup.

1451 2. A reliable service connection. <sup>P</sup>

1452 (c) *Location.* The location of the telephone shall be within 25 feet of the pool area. <sup>P</sup>

1453 (d) *Emergency numbers and address.* A current list of emergency telephone numbers and the facility's  
1454 location shall be attached to or posted near the telephone. <sup>Pf</sup>

1455 **ATCP 76.27 First aid supplies. (1) AVAILABILITY.** (a) *Pool area.* A first aid kit shall be available at  
1456 each pool area. <sup>P</sup>

1457 (b) *Contents.* The first aid kit shall contain all of the following items: <sup>Pf</sup> 1. Gauze pads.

1458 2. Adhesive bandages.

1459 3. Gauze roller bandage.

1460 4. Adhesive tape.

1461 5. Eye wash.

1462 6. Elastic bandage.

1463 7. Disposable surgical gloves.

1464 8. Resuscitation pocket face mask.

1465 9. Instant cold packs.

1466 (2) BIOHAZARD KIT. (a) *Location.* Biohazard safety equipment, including a blood and biohazard  
1467 disposal kit, shall be located at the first aid station or another location on the premises. <sup>Pf</sup>

1468 (b) *Contents.* A biohazard kit shall contain all the following: <sup>Pf</sup> 1. Scoop and spatula.

1469 2. Sanitizing hand wipes.

1470 3. Sanitizing surface wipes.

1471 4. Neoprene gloves.

1472 5. Paper toweling.

1473 6. Biohazard disposal bag at least 24" x 24".

1474 7. Twist tie or other effective means to close the bag.

1475 8. Biohazard sorbent.

1476 9. Storage case.

1477 (3) EMERGENCY BLANKETS. Two conventional or emergency blankets in good condition shall be  
1478 available in the pool area or as approved by the department or its agent. <sup>Pf</sup>

1479 **ATCP 76.28 Food and drink. (1) LOCATION.** Food or drink service facilities may not be located within  
1480 12 feet of the water's edge of a pool, except for swim-up bars. <sup>Pf</sup>

1481 (2) UTENSILS. Only shatter-proof utensils for food and drink shall be used in the pool area, except  
1482 for approved swim-up bars. <sup>Pf</sup>

1483 **ATCP 76.29 Posting pool rules.**

1484 (1) GENERAL. (a) *Posting of rules; all pools.* 1. The operator shall post pool use rules governing  
1485 safety and sanitation and shall enforce those rules.

1486 2. Rules shall be conveyed using words with letters at least one inch high, or symbols that are at least  
1487 4 inches in height and clearly visible to patrons.

1488 3. A legible sign showing pool use rules shall be posted in a conspicuous place.

1489 (b) *Signage contents.* 1. Pool signage shall contain the minimum information, as applicable:

1490 a. Do not enter the pool if you have a communicable disease or an open cut.

1491 b. Do not bring food, drink, gum, or tobacco into the pool.

1492 c. Shower immediately before entering the pool and after use of a steam room, sauna, or toilet facilities.

1493 d. Do not run or engage in rough play in the pool area.

1494 e. Do not bring animals into the pool area.

1495 f. Diaper changing on the pool deck is prohibited.

1496 g. Glass and shatterable items are prohibited in the pool area.

1497 (c) *Supervision of children under the age of 12.* For a non-lifeguarded pool, a statement indicating that  
1498 children under the age of 12 shall be supervised by an adult shall be added the signage requirements in par.  
1499 (b).

1500 (d) *“No Diving”; signage.* A pool that is 200 square feet in area or greater that does not have an  
1501 approved diving well configuration shall have “NO DIVING” signs in at least 4 inch high letters included  
1502 with the rules listed under par. (b).<sup>Pf</sup>

1503 (e) *Maximum patron load; signage.* A sign showing the maximum patron load shall be conspicuously  
1504 displayed near each pool. The maximum patron load pursuant to s. ATCP 76.25, may not be exceeded.

1505 (f) *Breath holding; prohibition.* The operator of a pool shall provide signage or otherwise communicate  
1506 to patrons that activities involving prolonged breath holding are prohibited.

1507 (2) **POOL SLIDES AND WATERSLIDES AND OTHER WATERRIDES.** (a) *Posting of rules; pool*  
1508 *slides and waterslides.* For the plunge section of a pool, the pool use rules signage required under sub. (1),  
1509 shall be provided. Additionally, the following rules shall be provided and be conspicuously posted at the  
1510 entrance to the slide tower in at least one inch lettering:-1. Do not use the slide while under the influence of  
1511 alcohol or drugs.

1512 2. Follow the instructions of the attendant.

1513 3. Leave the plunge area immediately after using the slide.

1514 4. WARNING: Water depth is \_\_\_\_\_ feet.

1515 5. Follow any rule required by the manufacturer of the attraction.

1516 (b) *Special instruction.* The operator shall ensure that the patron is instructed using words, pictures, or  
1517 symbols on how to position themselves and safely ride or otherwise participate in the attraction.

1518 (3) **WHIRLPOOLS.** For whirlpools, the signage required under sub. (1) shall be conspicuously posted  
1519 in the whirlpool area and include at a minimum, all of the following rules preceded by the word  
1520 “WARNING” conspicuously printed in at least one inch letters: (a) Persons suffering from heart disease,  
1521 diabetes, or high or low blood pressure should consult their physician before using a whirlpool.

1522 (b) Persons under the influence of alcohol or drugs may not use the whirlpool.

1523 (c) Pregnant women should consult their physician regarding whirlpool usage.

1524 (d) Lengthy exposure may be hazardous to your health and may result in nausea, dizziness, or  
1525 fainting.

1526 (e) Minors under the age of 6 are not permitted in the whirlpool.

1527 (4) VORTEX POOL, CURRENT POOL, AND OTHER RIDES THAT RAPIDLY MOVE OR  
1528 CHANGE POSITION OF THE PATRON. For vortex pool, current pool and other rides that rapidly move  
1529 or change position of the patron, the signage required in sub. (1), shall be conspicuously posted and include  
1530 “Artificial Current; Strong Swimmers Only.” in 4 inch or larger letters.

1531 (5) COLD SOAK POOLS. For cold soak pools, the signage required under sub. (1), shall be  
1532 conspicuously posted in the cold soak area and include a sign that states the water temperature in Fahrenheit  
1533 in at least 4 inch high letters.

1534 (6) INTERACTIVE PLAY ATTRACTIONS. The signage required under sub (1), shall be  
1535 conspicuously posted on the periphery of the interactive play attraction.

1536 **ATCP 76.30 Pool closing criteria. (1) REASONS FOR CLOSURE.** The operator or responsible supervisor  
1537 shall close a pool for any of the following: (a) The presence of a hazardous substance or object in the pool or  
1538 the existence of any condition creating an immediate danger to health or safety, including fecal accident  
1539 events. <sup>P</sup>

1540 (b) Failure to comply with the water quality requirements pursuant to s. ATCP 76.16. <sup>P</sup>

1541 (c) Failure to comply with the disinfectant or sanitizer residual levels pursuant to s. ATCP 76.14, or pH  
1542 values that are less than 6.8 or equal to or greater than 8.0. <sup>P</sup>

1543 (d) A nonoperational circulation pump, filter, or disinfectant or sanitizer feeder. <sup>P</sup>

1544 (e) Failure to comply with the number of lifeguards or attendants pursuant to s. ATCP 76.23. <sup>P</sup>

1545 (f) Absence or non-availability of a responsible supervisor. <sup>P</sup>

1546 (g) Nonfunctional emergency phone. <sup>P</sup>

1547 (h) The pool is undergoing maintenance or repair. <sup>P</sup>

1548 (i) The pool gate or door is not equipped with a self-closing and latching mechanism, except when  
1549 staffed by a lifeguard or attendant. <sup>P</sup>

1550 (j) A cyanuric acid level above 300 ppm. <sup>P</sup>

1551 (2) ACTIONS BY THE DEPARTMENT OR ITS AGENT. The department or its agent pursuant to  
1552 s. ATCP 76.07 (3) shall order that the pool be closed and posted with signage indicating closure for any  
1553 criteria identified in sub. (1).

1554 **ATCP 76.31 Fecal accident, vomit, and blood response. (1) GUIDELINES FOR RESPONSE.** In  
1555 responding to a fecal accident, vomit, and blood incident, the operator shall follow the guidelines for a fecal  
1556 accident, vomit, and blood incident in pools used for swimming published by the United States centers for  
1557 disease control and prevention. <sup>P</sup>

1558 **Note:** United States centers for disease control and prevention guidelines for responding to fecal accidents,  
1559 vomit, and blood spills may be viewed at: [https://www.cdc.gov/healthywater/swimming/aquatics -  
1560 professionals/fecalresponse.html#fecal-incident](https://www.cdc.gov/healthywater/swimming/aquatics-professionals/fecalresponse.html#fecal-incident).

1561 (a) DOCUMENTATION. The operator shall document each fecal, vomit and blood contamination  
1562 incident as follows: (a) *Date, time, and chemical concentrations when the event occurred.* Record the date  
1563 and time of the event, and the free available chlorine or bromine concentration, cyanuric acid concentration,  
1564 and pH of the pool water. <sup>Pf</sup>

1565 (b) *Date, time, and chemical concentrations after clean-up has occurred.* Record the date and time after  
1566 clean-up has occurred, and the free available chlorine concentration, cyanuric acid concentration, and pH of  
1567 the pool water before reopening the pool to the public. <sup>Pf</sup>

1568 (c) *Stool description.* For fecal accident, whether the stool is formed or loose. <sup>Pf</sup>

1569 (d) *Procedures followed.* The procedures followed in responding to the fecal, vomit or blood  
1570 contamination. <sup>Pf</sup>

1571 (e) *Patron count.* The number of patrons in the pool. <sup>Pf</sup>

1572 (f) *Duration.* Length of time between the occurrence, detection, and resolution of the incident. <sup>Pf</sup>

1573 **ATCP 76.315 Waterborne outbreak investigations. (1) HEALTH DEPARTMENT NOTIFICATION.**

1574 The operator shall contact the department or its agent for operational and testing guidance when notified of  
1575 a suspected waterborne illness. <sup>P</sup>

1576 (2) SUSPECTED WATERBORNE ILLNESS OUTBREAK. In the event of a suspected waterborne  
1577 illness outbreak, the operator shall close the pool to use and contact the department or its agent for  
1578 instructions regarding sampling, corrective actions, and reopening procedures. <sup>P</sup>

1579 (3) FILTER MEDIA. If *Pseudomonas aeruginosa*, *Staphylococcus aureus*, or *Legionella pneumophila*  
1580 is detected in any sample from a pool, the pool must be cleaned and sanitized and filter media must be  
1581 changed, as applicable, or as directed by the department or its agent. <sup>P</sup>

1582 **ATCP 76.32 Reports and records. (1) OPERATING REPORTS.** The pool operator or responsible  
1583 supervisor shall complete reports of the pool operation on forms provided by the department or its agent to  
1584 include verification and documentation of all of the following: (a) Chemical testing pursuant s. ATCP  
1585 76.14.

1586 (b) Backwashing completion.

1587 (c) Breakpoint chlorination.

1588 (d) Interlock testing.

1589 (e) Anti-entrapment system testing.

1590 (f) Water temperature.

1591 (g) Safety and rescue equipment maintained pursuant to ss. ATCP 76.26 and ATCP 76.27.

1592 (h) If monthly reports are requested by the department or its agent, they shall be submitted no later than  
1593 the tenth day of the following month. <sup>Pf</sup>

1594 **Note:** To obtain copies of the form for monthly reporting of daily public pool operations, or to determine  
1595 which agent to contact to obtain copies, contact the bureau of food and recreational businesses at (608)  
1596 224-4682 or PO Box 8911, Madison, Wisconsin 53708-8911.

1597 (2) DEATH, INJURY, OR ILLNESS REPORTS. The operator shall report any incident resulting in  
1598 death, serious injury, or illness that requires assistance from emergency medical personnel, by the end of the

1599 next working day following the incident by phone, email, or fax to the department or its agent. <sup>Pf</sup>

1600 **Note:** Report deaths, injuries, or illnesses to the bureau of food and recreational businesses by calling (608)  
1601 224-4682, emailing to [datcpdfsrec@wisconsin.gov](mailto:datcpdfsrec@wisconsin.gov) or faxing to (608) 224-4710.

1602 (3) FILES. (a) *Files permanently maintained on the premises.* The operator shall permanently  
1603 maintain on the premises a copy of each of the following: 1. A copy of the most current version of ch.  
1604 ATCP 76.

1605 2. For pools constructed after July 1, 2023, a copy of the Wisconsin department of safety and  
1606 professional services approved pool constructions plans, including Virginia Graeme Baker Act plan  
1607 approvals.

1608 3. The manufacturer's pump performance curve. <sup>Pf</sup>

1609 4. The manual of operations for any secondary anti-entrapment device or system, as applicable. <sup>Pf</sup>

1610 5. The manual of instruction on filter operation.

1611 6. Instructions for operation and maintenance of all equipment.

1612 7. Instructions and other pertinent information on pool operation and maintenance.

1613 8. The most recent United States centers for disease control and prevention recommendations for fecal  
1614 accidents or another plan in response to fecal accidents that is consistent with the United States centers for  
1615 disease control and prevention's fecal accident response recommendations.

1616 9. The Virginia Graeme Baker Act main drain and equalizer cover replacement receipts or  
1617 similar documentation. <sup>Pf</sup>

1618 (b) *File retention period.* The following operational tests and reports shall be kept for a minimum of 2  
1619 years. 1. Anti-entrapment device or system test results as required by manufacturer and corrective actions  
1620 taken, if needed. <sup>Pf</sup>

1621 2. Any laboratory bacteriological report. <sup>Pf</sup>

1622 3. Any fecal accident report made pursuant to s. ATCP 76.31. <sup>Pf</sup>

1623 4. Any daily inspections and operational tests. <sup>Pf</sup>

1624 5. Any other reports required by the department or its agent.

1625 (c) *Access*. All of the documents under pars. (a) and (b), shall be accessible to the department or its  
1626 agent upon request.

1627 **ATCP 76.33 Facility maintenance, repair, and sanitation. (1) POOL AREA.** (a) *Basin*. The pool  
1628 basin area shall meet all of the following and be: 1. Routinely brushed or vacuumed to keep the basin and  
1629 surrounding appurtenances free of sediment, lint, hair, debris, algae, and slime growth and discoloration.

1630 2. Maintained free of cracks or other defects and repaired or refinished as necessary to maintain it in a  
1631 cleanable condition.

1632 3. Maintained in a clean and sanitary condition.

1633 4. Free of glass and shatterable plastic items, except for pool test kit contents while in use to test pool  
1634 water according to manufacturer's instructions and in drink preparation areas of a swim up bar. <sup>Pf</sup>

1635 (b) *Deck maintenance and cleaning*. 1. Deck areas and appurtenances, including safety pads, shall meet  
1636 all of the following and be: a. Maintained in good repair.

1637 b. Rinsed as needed to prevent microbial growth.

1638 2. Disinfected at least weekly for indoor pool decks with disinfecting agents according to the  
1639 manufacturer's directions.

1640 **Note:** It is recommended to avoid the use of an ammonia-based disinfectant as this can contribute to an  
1641 increased level of chloramines in the pool water.

1642 3. Cleaned as needed for outdoor pool decks.

1643 4. Maintained so that depth markings along the edge of the pool are clearly visible and readable. <sup>Pf</sup>

1644 5. Kept unobstructed except for easily portable furniture and equipment. <sup>Pf</sup>

1645 (c) *Walls, ceilings and floors*. The walls, ceilings, and floors in the pool area shall be maintained in a  
1646 clean and sanitary condition.

1647 (d) *Hosing*. Hosing shall meet all of the following 1. Provided in adequate lengths to flush the entire  
1648 pool deck.

1649 2. Protected against backsiphonage by the proper installation of an approved backflow prevention  
1650 device pursuant to s. SPS 390.16 (4) (b).<sup>P</sup>

1651 (e) *Equipment*. Pool equipment, including equipment on the deck, shall be all of the following and  
1652 properly: 1. Located.

1653 2. Installed.

1654 3. Maintained.

1655 4. Repaired, as necessary.

1656 (f) *Spectator areas*. Spectator areas shall be all of the following: 1. Maintained in a clean condition.

1657 2. Set up and arranged so that tables, chairs, and other obstructions do not block the deck.<sup>Pf</sup>

1658 (g) *Drinking fountain*. Drinking fountains shall be all of the following: 1. Be provided pursuant to s.  
1659 SPS 390.19.<sup>P</sup>

1660 2. Maintained in clean and sanitary condition.

1661 (2) SHOWER, TOILET AND DRESSING FACILITIES. (a) *Walls and floors*. The walls, partitions,  
1662 and floors of showers, toilet rooms, and dressing areas shall be all of the following: 1. Maintained in good  
1663 repair.

1664 2. Cleaned and disinfected daily or more frequently, if necessary to provide clean and sanitary conditions.

1665 **Note:** See s. SPS 390.19 for additional information.

1666 (b) *Showers*. Showers shall be maintained in an operable condition.

1667 **Note:** To minimize the risk of *Legionella* growth and other diseases associated with water, adequate  
1668 provisions should be made to ensure that all water systems, including sink faucets, drinking fountains, and  
1669 showers are safe. Any water aged over 3 weeks is potentially viable for growing *Legionella* colonies. It is  
1670 strongly advised that each pool operator develop and implement a water management program as  
1671 recommended by the United States centers for disease control and prevention Water Management Program  
1672 Toolkit. The toolkit can be found at <https://www.cdc.gov/legionella/wmp/toolkit/index.html>.

1673 (c) *Toilet rooms and diaper changing areas*. Toilet room fixtures and diaper changing stations shall be  
1674 all of the following: 1. Kept clean.

1675 2. Maintained in good repair.

1676 (d) *Lockers and furniture.* Lockers and furniture shall be all of the following: 1. Cleaned as needed.

1677 2. Maintained in good repair.

1678 (e) *Soap and soap dispensers.* Soap and dispensers shall be all of the following: 1. Soap is continually  
1679 provided at each hand washing sink and shower in permanently installed dispensing devices. <sup>Pf</sup>

1680 2. The dispensers shall be maintained in operating condition.

1681 (f) *Hand drying devices.* Individual towels in dispensers or hot air dryers shall be provided at hand  
1682 washing sinks. <sup>Pf</sup>

1683 (g) *Toilet tissue.* A continuous supply of toilet tissue shall be provided in permanently installed  
1684 dispensing devices. <sup>Pf</sup>

1685 (h) *Bathing suits provided.* If bathing suits, towels, or caps are furnished to patrons they shall meet all  
1686 of the following: 1. Be thoroughly laundered with detergent and machine dried after each use.

1687 2. Clean suits, towels, and caps shall be stored separately from unlaundered articles.

1688 (i) *Hose bibbs.* Hose bibbs shall be conveniently located so floors in the shower, dressing, and toilet  
1689 facilities can be adequately rinsed.

1690 (3) GARBAGE AND REFUSE. Garbage and refuse shall meet all of the following: (a) *Approved*  
1691 *storage container.* All garbage and refuse shall be stored in metal or rigid plastic containers having tight-  
1692 fitting lids.

1693 (b) *Sufficient in number.* A sufficient number of containers shall be provided for all garbage and refuse  
1694 generated.

1695 (c) *Stored to prevent harborage conditions.* Filled containers of garbage or refuse shall meet all of the  
1696 following and be covered and stored in a manner to prevent: 1. Harborage of rodents, insect attraction, and  
1697 breeding areas. <sup>Pf</sup>

1698 2. Odors. <sup>Pf</sup>

1699 3. Environmental pollution. <sup>Pf</sup>

1700 4. Accidents. <sup>Pf</sup>

1701 (d) *Disposal as needed.* The contents of the containers shall be disposed of as needed and in a sanitary  
1702 manner.

1703 (e) *Clean Condition.* All containers shall be kept clean.

1704 (f) *Good repair.* Containers shall be maintained in good repair.

1705 (4) WATER HEATERS, VENTILATION, ELECTRICAL. Water heaters, ventilation, and electrical  
1706 shall meet the following: (a) *Operating condition.* Water heaters and heat exchangers shall be maintained in  
1707 operating condition.

1708 (b) *Air movement.* Heating, ventilation, and exhaust equipment shall be maintained and operated to  
1709 provide air movement pursuant to chs. SPS 361 to 365, to prevent any excessive condensation and air  
1710 quality problems in indoor enclosures, as enforced by the Wisconsin department of safety and professional  
1711 services.

1712 (c) *Maintained in good repair.* Electrical equipment and lighting shall be maintained in good repair and  
1713 in operating condition.

1714 (d) *Carbon monoxide alarms.* The operator shall install functioning carbon monoxide alarms, as  
1715 applicable and meet all of the following: 1. A pool equipment room that has a fuel burning appliance shall  
1716 install and maintain a carbon monoxide alarm. <sup>P</sup>

1717 2. For indoor pools, a carbon monoxide alarm shall be installed and maintained in the pool area, if there  
1718 is a fuel burning appliance in the equipment room that is also located within the pool area. <sup>P</sup>

1719 **76.335 Dog swims.** A pool operator shall ensure all of the following during dog swim events: (1)  
1720 OPERATION. (a) *Water level.* Before the dog swim event, the water level shall be adjusted so that the pool  
1721 water in the basin does not enter the recirculation system. <sup>P</sup>

1722 (b) *Disinfectant residual.* Initial disinfectant residual must be 4 ppm free chlorine or 8 ppm if cyanuric  
1723 acid present. <sup>P</sup>

1724 (c) *Registration.* Registration of the dog and caretaker are required. <sup>Pf</sup>

1725 (d) *Rabies Vaccination*. All dogs shall be 6 months of age or older and the owner shall provide proof  
1726 of a current rabies vaccination. <sup>P</sup>

1727 (e) *Prohibited*. Splash pads, spray features, play structures, whirlpools, diving boards, and slides are  
1728 prohibited from operation. <sup>Pf</sup>

1729 (f) *Relief area*. Grass or an alternate area shall be provided and accessible to patrons with their dogs  
1730 with adequate space and trash receptacles. <sup>Pf</sup>

1731 (g) *Waste water*. Pool water shall be drained by bypassing the filtration system. <sup>P</sup>

1732 (h) *Post-event cleaning*. 1. Pool shall be scrubbed and cleaned after draining. <sup>P</sup>

1733 2. The pool shall be superchlorinated before startup occurs during the following season. <sup>P</sup>

1734 (i) *Restrooms and showers available*. Locker rooms may be closed, but restrooms with handwashing  
1735 facilities and showers must be conveniently located. <sup>Pf</sup>

1736 (j) *Responsible supervisor*. The responsible supervisor or designee shall be present at the pool before,  
1737 during, and after the dog swim event. <sup>P</sup>

1738 (k) *Duration*. Event shall be limited to 3 hours total from time when the first dog enters the water. <sup>Pf</sup>

1739 **(2) RULES**. The following rules must be conveyed to patrons: (a) Only dogs are allowed in the pool,  
1740 except in the event of an emergency.

1741 (b) A dog must be capable of swimming, unassisted by a human, in the depth and type of pool used for  
1742 the dog swim.

1743 (c) A dog must be willing and comfortable participating in the swim.

1744 (d) A dog exhibiting aggression must be removed immediately.

1745 (e) A dog with an open cut or sore may not enter the water.

1746 (f) A dog with loose stools may not enter the water.

1747 (g) A patron bringing a dog must supervise the dog at all times.

1748 (h) The patron must clean up any feces immediately and dispose of waste properly.

1749 **(3) NUMBER OF DOGS PER PATRON**. A maximum of one dog per person may participate in a dog  
1750 swim event.

1751 **Subchapter VI**

1752 **Pool Construction and Design**

1753 **ATCP 76.34 Pool design. (1) HAZARDOUS CONDITIONS.** Any object or material not specifically  
1754 approved pursuant to this chapter or ch. SPS 390 that may cause a hazardous condition or interfere with the  
1755 safe and efficient operation of a pool, pool slide, waterslide, or deck is not permitted in the pool area. <sup>P</sup>

1756 (2) **GATES AND DOORS MAINTAINED.** (a) *Maintained.* All gates and doors into the pool area shall  
1757 be maintained and checked for proper operation. <sup>P</sup>

1758 (b) *Self-closing latching and lockable mechanism; location.* A self-closing latching and lockable  
1759 mechanism shall be installed at least 54 inches from the bottom of the gate or door. <sup>P</sup>

1760 (c) *Locked.* Gates and doors shall be locked when the pool is not open to the public or is not in use. <sup>P</sup>

1761 (3) **POOL FENCE OR BARRIER HEIGHT.** A pool fence or barrier shall meet all of the following:

1762 (a) Be at least 5 feet high and enclose the pool area.

1763 (b) A pool with a fence or barrier less than 5 feet in height that was previously approved by the  
1764 department is acceptable, including at a change of operator, if maintained in good repair. If more than 20  
1765 feet of a fence needs replacement, plan review is required by the Wisconsin department of safety and  
1766 professional services.

1767 (4) **ENCLOSURES AND ENTRANCES.** Enclosures and entrances shall meet all of the following:

1768 (a) *Gates and doors.* Except as provided under subd. 5. And sub. (b), of this section, all pool areas  
1769 shall be enclosed <sup>P</sup> and have gates and doors that are all of the following: 1. Self-closing. <sup>P</sup>

1770 2. Latching. <sup>P</sup>

1771 3. Lockable. <sup>P</sup>

1772 4. Not require a key, punch code, or electronic method to exit a pool enclosure. <sup>P</sup>

1773 5. This section does not apply to emergency doors that cannot be opened from the outside of the pool  
1774 enclosure.

1775 **Note:** A primary entrance to a pool enclosure in which multiple doors must be passed through is considered  
1776 to have a self-closing, latching, and lockable gate or door, if any of doors in the sequence are self-closing,

1777 latching, or lockable.

1778 (b) *Gates and doors in a lifeguarded pool area shall meet all of the following:* 1. If gates and doors are  
1779 not self-closing and latching, the gates and doors to the pool shall be staffed with an attendant and at least  
1780 one lifeguard shall be present. <sup>P</sup>

1781 2. Documentation for staffing shall be included in the lifeguard staffing plan. <sup>Pf</sup>

1782 (5) **SIGNAGE.** During closed hours, a sign shall be conspicuously posted stating that the pool, pool  
1783 slide, waterslide, and deck are closed.

1784 **Note:** See s. SPS 390.18 (4) for additional rules relating to the outdoor pool enclosure.

1785 (6) **LANDSCAPING.** (a) *Restrictions.* Landscaping planters, pots, or other plant containers may not be  
1786 placed on the required deck area.

1787 (b) *Separation.* Landscaping features such as bark, gravel, shrubs, or flowers may be located within the  
1788 pool enclosure but shall be separated from the pool by an additional 5 feet of impervious area or maintained  
1789 lawn.

1790 (c) *Maintenance.* Landscaped areas within a pool enclosure shall be continually maintained to prevent  
1791 debris from entering the water.

1792 (d) *Trees.* Trees used as landscaping features may not overhang the required deck area.

1793 (e) *Sand.* Sand may not be located within a pool enclosure unless the sand area is made inaccessible  
1794 from the pool area by a barrier that is at least 42 inches high. Alternatively there may be controlled entrances  
1795 to the pool area if the entrances are controlled and provided with showers.

1796 **ATCP 76.35 Waterslide and pool slide design.**

1797 (1) **DESIGNED AND INSTALLED.** All waterslides and pool slides shall be designed, installed, and  
1798 lubricated pursuant to s. SPS 390.31. <sup>Pf</sup>

1799 (2) **CONTINUOUSLY SEPARATED.** The portion of the pool water surface that is used as a plunge  
1800 area for a drop slide or waterslide shall be continuously separated from other areas of the pool in a manner  
1801 approved by the department or its agent, as long as the slide is in use. <sup>P</sup>

1802 **ATCP 76.36 Water attraction, play features, and slide design. (1) GENERAL.** Water attraction, play  
1803 features, and slide design shall meet all of the following: (a) *Design and construction requirements.* Water  
1804 attractions and play features shall be designed, assembled, constructed, and maintained in accordance with  
1805 recognized safe practices as defined in s. SPS 334.01 (15), and so that maximum patron loads do not stress  
1806 any part of the water attraction beyond recognized safe practices. <sup>Pf</sup>

1807 (b) *Free from hazardous projections.* Interior and exterior parts of any water attractions a patron may  
1808 come into contact with shall be free of abrasives and splinters, sharp edges and corners, protruding studs,  
1809 bolts, screws, and other hazardous projections. <sup>P</sup>

1810 (c) *Padding.* Padding or other means to minimize injury due to patron impact resulting from the action  
1811 of the water attraction shall be provided in accordance with recognized safe practice, pursuant to s. SPS  
1812 334.01 (15). <sup>P</sup>

1813 (d) *Enclosure of hazardous parts.* All hazardous parts, including pinch points and shear points of water  
1814 attractions and play features, shall be enclosed, barricaded, or otherwise arranged to effectively prevent  
1815 injury in accordance with recognized safe practice, as defined in s. SPS 334.01 (15). <sup>P</sup>

1816 (e) *Guards.* Guards removed for any purpose shall be replaced before normal operation of the water  
1817 attraction is resumed. <sup>P</sup>

1818 (f) *Wheels and levers.* Wheels and levers used by patrons in the control of the action of the water  
1819 attraction shall be designed and maintained to prevent pinches, strains, abrasions, and body actions that  
1820 could result in injuries. Wheels and levers shall be padded. Wheels shall have a solid center in lieu of spokes.  
1821 <sup>Pf</sup>

1822 (g) *Fences and barriers.* Water attractions shall be fenced, barricaded, or otherwise arranged in  
1823 accordance with recognized safe practice, as defined in s. SPS 334.01 (15), so that the public is effectively  
1824 prevented from entering hazardous areas. <sup>P</sup>

1825 (h) *Fence design and construction.* Fences shall be constructed to meet all of the following  
1826 requirements: 1. Be at least 42 inches above the surface on which the spectators or patrons stand. <sup>Pf</sup>

1827 2. Constructed to reject a 4 inch ball at all openings, including between the bottom of the fence and the  
1828 surface upon which it rests. <sup>P</sup>

1829 3. Be designed, constructed, and erected to inhibit overturning by spectators or patrons. <sup>P</sup>

1830 4. Where used, gates shall open away from the water attraction unless equipped with a self-closing  
1831 latching device. <sup>Pf</sup>

1832 (i) *Gate opening.* Gates shall be designed such that, if opened during the water attraction's operation, the  
1833 gate will not contact the water attraction or cause a hazard to patrons. <sup>P</sup>

1834 (j) *Separation.* Fences and gates shall be constructed to inhibit spectator contact with the water  
1835 attraction and patron contact with fences or gates. <sup>Pf</sup> Horizontal members in a fence or gate may be used to  
1836 improve construction or efficiency, but should be minimized to reduce the ease of climbing.

1837 (k) *Loading and unloading areas.* Loading and unloading areas that are an integral part of the water  
1838 attraction shall be separated from moving parts by barriers or guardrails. <sup>P</sup>

1839 (l) *Preventing access.* A flexible barrier, such as a rope or chain, may be used to prevent access to the  
1840 passenger-carrying devices, provided the barrier is no longer than necessary and is controlled by an  
1841 authorized attendant. <sup>Pf</sup>

1842 (m) *Moving sweeps.* Water attractions with moving sweeps shall be guarded by a standard guardrail or a  
1843 center cover designed and maintained to safely support a minimum load of 200 pounds. <sup>Pf</sup>

1844 (n) *Spectator area.* Where a spectator area is provided, it shall be separated by a railing or other barrier  
1845 from the water area. <sup>Pf</sup>

1846 (2) INTERACTIVE PLAY ATTRACTIONS. Interactive play attractions shall meet all of the  
1847 following requirements: (a) *Attendant requirements.* If access to the interactive play attraction is not  
1848 restricted by an enclosure, an attendant shall be present to provide periodic supervision. <sup>P</sup>

1849 (b) *Water drains.* Water drains shall be in good working condition. <sup>Pf</sup>

1850 (c) *Tree and vegetation prohibited.* Trees and vegetation may not be allowed in the interactive play  
1851 attraction area.

1852 (d) *Daily opening procedures.* Water spray features shall be activated for 30 minutes before the daily  
1853 opening of the interactive play attraction. <sup>Pf</sup>

1854 (e) *Ring buoy and shepherd's crook.* A ring buoy and shepherd's crook are not required to be present for  
1855 an interactive play attraction.

1856 **ATCP 76.37 Maintenance, repair, and modifications of water attractions. (1) GENERAL.** (a) *Maintained*  
1857 *safe.* Water attractions shall be maintained, repaired, and modified in accordance with recognized safe  
1858 practice as defined in s. SPS 334.01 (15). <sup>P</sup>

1859 (b) *Closure.* Improperly maintained, repaired, or modified water attractions may not be opened to the  
1860 public. <sup>P</sup>

1861 (c) *Maintenance.* 1. Defective, improper, worn, or missing parts shall be replaced or repaired.

1862 2. Maintenance, repair, and replacement parts shall be of a quality equal to or better than the original  
1863 parts. <sup>P</sup>

1864 3. All work shall be performed by a competent qualified mechanic capable of understanding the  
1865 function of the parts and the proper installation. <sup>Pf</sup>

1866 4. Non-graded bolts, nails, fasteners, and wire shall be used only for their intended purposes. <sup>Pf</sup>

1867 5. Rotted, split, or otherwise structurally unsound material shall be replaced. <sup>Pf</sup>

1868 **(2) INSPECTIONS AND TESTING.** (a) *General.* 1. The owner shall arrange for all water attractions  
1869 to be periodically inspected and for operational tests to be performed as specified in this subsection.

1870 2. Such inspections and tests shall be documented by written records and the records shall be kept  
1871 pursuant to s. ATCP 76.32 (3) (b).

1872 (b) *Daily inspection and operational testing.* 1. Water attractions shall be inspected and their operation  
1873 tested each day before use by patrons. <sup>P</sup>

1874 2. The inspection and operational test shall include the operation of all control devices and safety  
1875 equipment. <sup>P</sup>

1876 (c) *Waterslide inspection.* Every 5 years, all waterslides 6 feet and higher shall be evaluated by an

1877 engineer for the structural stability and integrity of the slide and platform. A copy of a report signed by the  
1878 engineer shall be kept on site as pursuant to s. ATCP 76.32. <sup>P</sup>

1879 **ATCP 76.38 Virginia Graeme Baker Act.** The operator shall ensure all the following for compliance with  
1880 the Virginia Graeme Baker Act: **(1) GENERAL.** (a) *Requirements.* 1. For a newly constructed pool, the  
1881 operator shall have approved plans from the Wisconsin department of safety and professional services and  
1882 shall maintain the pool plans onsite. <sup>P</sup>

1883 2. For a pool constructed before the effective date of this rule, the operator shall provide at a minimum,  
1884 the pump curve and the drain cover specification. <sup>P</sup>

1885 **(2) DOCUMENTATION.** Documentation shall include all of the following: (a) *Log maintenance.* The  
1886 operator shall maintain a log that can be used to evaluate the drain covers.

1887 (b) *Components.* The log shall include all the following components related to the drain cover: 1.  
1888 Make. <sup>Pf</sup>

1889 2. Model. <sup>Pf</sup>

1890 3. Gallons per minute rating. <sup>Pf</sup>

1891 4. Life span. <sup>Pf</sup>

1892 5. Installation date. <sup>Pf</sup>

1893 (c) *Receipts or affidavits.* In lieu of a log, receipts or affidavits from a pool service company shall be  
1894 acceptable documentation as long as the make and model are indicated. <sup>Pf</sup>

1895 (d) *Available.* Documents shall be provided to the department or its agent upon request. <sup>Pf</sup>

1896 SECTION 2. EFFECTIVE DATE. This rule shall take effect 90 days following publication in the  
1897 Wisconsin administrative register, as provided pursuant to s. 227.22 (2) (intro), Stats.

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(END OF RULE TEXT)

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Dated this 5 day of May, 2022

WISCONSIN DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

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By: Randy Romanski, Secretary