

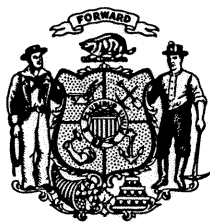
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC  
FORM 2

**RULES CLEARINGHOUSE**

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SEP 07 REC'D  
SEP 07 1999

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 99-122**

AN ORDER to renumber Comm 90.19 (8) (c) 3. and 90.19 (8) (c) 4. a.; to renumber and amend Comm 90.06 (2); to amend Comm 90.01, 90.03 (19) Note, 90.08 (8) (a) and (14), 90.09 (1) (a), 90.10 (1), 90.12 (1) Note and 90.19 (2); to repeal and recreate Comm 2.68, 90.02 (2), 90.04 (1) to (4), 90.08 (10) (d) and 90.19 (6) (a); and to create Comm 2.02 (4) (d), 2.68 Table 2.68-1, 90.03 (15) Note, 90.08 (12) Note, 90.19 (6) (d) Note, Appendix A-90.03 (15) and Appendix A-90.19 (6),, relating to the design and construction of public swimming pools.

Submitted by **DEPARTMENT OF COMMERCE**

08-11-99 RECEIVED BY LEGISLATIVE COUNCIL.

09-02-99 REPORT SENT TO AGENCY.

RS:DLS:jal;rv

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

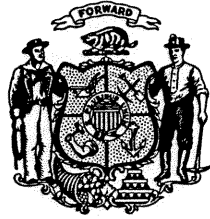
Comment Attached      YES       NO

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## CLEARINGHOUSE RULE 99-122

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### 2. Form, Style and Placement in Administrative Code

a. In s. Comm 2.02 (4) (d), should "sets" be inserted after "approved plans" and should "set" be inserted after "per plan"? In the alternative, should "sets" be deleted in the first line?

b. In s. Comm 2.68 (3) (d), "a" should be inserted before "project." Also, "subject" is misspelled.

c. In SECTION 8, the treatment clause should state: SECTION 8. Comm 90.04 is repealed and recreated to read:". A similar change is needed in SECTION 11.

d. Introductory material should end with a colon and lead into the subunits that follow. [See s. 1.03 (8), Manual.] This was not done in s. Comm 90.04 (1) (intro.), (2) (intro.) and (3) (intro.).

e. In s. Comm 90.04 (intro.), a colon should be substituted for the period at the end of the sentence. Subsection (1) (a) 1. would be clearer if it read: "At least 4 sets of plans and one copy of specifications shall be submitted for review. The sets of plans and copies shall be clear, legible and permanent." What does "permanent" mean in this subdivision? In sub. (3) (e), second sentence, "Any" should be replaced by "Fees for any."

f. The treatment clause to SECTION 9 should state: "SECTION 9. Comm 90.06 (2) is renumbered 90.06 (2) (a) and amended to read:". Paragraph (b) should be created in a separate

section and should not be underscored. Similar changes are needed in SECTIONS 10 and 14. Entire subunits of a rule should not be created by underscoring. [See s. 1.06 (1), Manual.]

Also, SECTION 10 purports to amend s. Comm 90.08 (8) (a), but also amends par. (b) 2. The treatment clause should reflect this and the unaffected portions of par. (b) should not be shown.

g. In s. Comm 90.06 (2) (a), the proper way of amending the first part of the first sentence is "All (a) As specified in s. Comm 82.41.". This same comment applies elsewhere in the rule. [See, for example, s. Comm 90.09 (1) (a) 1., first sentence, and s. Comm 90.19 (2) (c), second sentence.] [See s. 1.06 (2) and (3), Manual.] In s. Comm 90.19 (2) (b) 1., "~~walls~~ wall" should replace "walls".

h. In s. Comm 90.08 (8) (a) 2., "such as but not limited to" should be replaced by "including." The same comment applies to s. Comm 90.09 (1) (a) 2.

i. In SECTIONS 20 and 21, "to read as" should be deleted.

j. In SECTION 22, item 1., "pass-through" is misspelled.

k. SECTIONS 22 and 23 purport to create portions of an appendix in ch. Comm 90. However, it appears that ch. Comm 90 does not currently have an appendix. If a different proposed rule is creating an appendix, it should be cited.

##### 5. Clarity, Grammar, Punctuation and Use of Plain Language

In s. Comm 90.04 (2) (a) 5., a hyphen should be inserted after "site."

The Wisconsin Department of Commerce proposes an order to renumber Comm 90.19 (8)(c) 3. as Comm 90.19 (8)(c) 4.a. and Comm 90.19 (8)(c) 4.a. as Comm 90.19 (8)(c) 3.; renumber and amend Comm 90.06(2) as 90.06(2) (a) and (b); to amend Comm 90.01, 90.03(19) Note, 90.08(8)(a), 90.08(14), 90.09(1)(a), 90.10(1), 90.12(1) Note, 90.19(2); to repeal and recreate Comm 2.68, Comm 90.02(2), 90.04(1) to (4) as 90.04(1) to (3), 90.08(10)(d) as 90.08 (1)(d) 1. to 3., 90.19(6)(a); and to create Comm 2.02(4)(d), Comm 2.68 Table 2.68-1, Comm 90.03(15) Note, 90.08(12) Note, 90.19(6)(d) Note, Appendix A-90.03(15), and Appendix A-90.19(6), relating to the design and construction of public swimming pools.

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ANALYSIS OF RULES

Statutory authority: ss. 145.26, Stats.  
Statutes interpreted: ss. 145.26, Stats.

This rule revision was created in response to issues brought to the attention of the department by members of the advisory council, the public and inspection and/or licensing staff. This chapter, Comm 90, has had only minor revisions since 1989 when the chapter was moved from the then Department of Health and Social Services to the then Department of Industry, Labor and Human Relations.

The proposed changes to the fee code, chapter Comm 2, clarify current fee schedule and review types which are standard for the plan review service within Commerce. The introduction of alternate and experimental system reviews not only provides a means for the review and approval of creative designs, but also provides the opportunity and the use of new technology on a site-by-site or statewide basis, as now specified in s. Comm 90.04 and ch. Comm 2, respective fees.

Section Comm 90.02 (2) provides standard language for the submittal of a petition for variance.

Sections Comm 90.08, 90.09 and 90.19 recognize that in some cases pools and pool decks are installed on existing sites and that existing structural supports may be present and considered an obstruction. The proposed text allows such 'obstructions' when they do not impact on patron safety and pool operations, such as lifeguard access and visibility. Other revisions relate to clarification of bench and coping widths.

Section 90.10 (1) is revised to reflect the safe distances between gate and fence openings, as per the U.S. Consumer Product Safety Commission, established to prevent head entrapment by young children and limiting their access to an unsupervised pool area.

Section Comm 90.19 clarifies head room for rooms where whirlpools are installed, corner location of whirlpools with respect to providing accessible access, as well as use of waterproof materials around pool walls.

Some minor revisions occur throughout the rule draft which are made to recognize titles of specific chapters contained in the Wisconsin Administrative Code-- Commerce (Comm) and Department of Health and Family Services (HFS); clarification of waiver for plan submittal and fees; and the deletion of metric units.

The proposed rule revisions were developed by the department with advice from the Pool Advisory Code Council. The Council consists of: Dave Baker, pool operators; Bill Branson, plumbing inspectors; Bob Holling, City of Sun Prairie - Parks; Duane Jackson, City of Madison - Environmental Health; Hal Maier, pool contractors; Tim Mirkes, City of Appleton - Health; Chuck Neuman, Water World Park Assoc.; Doug Voegeli, Wisconsin DHFS; and Jack Waterman, Wisconsin Innkeepers Assoc.

SECTION 1. Comm 2.02 (4) (d) is created to read:

Comm 2.02 (4) (d) *Swimming pools and whirlpools*. Upon request, additional plan sets identical to previously approved plans shall be stamped approved upon receipt of a \$40.00 fee per plan. <sup>sets</sup> ~~plan~~ <sup>set</sup>

SECTION 2. Comm 2.68 is repealed and recreated to read:

**Comm 2.68 Swimming pool and whirlpool plan review fees.** (1) Plan examination fees for public swimming pools and water attractions shall accompany plans and specifications when submitted to the department for review. If the department determines, upon review of the plans, that inadequate fees were received, the necessary additional fees shall be received by the department prior to approval.

(2) Except as provided in sub. (3), plan examination fees for the construction or modification of public swimming pools and water attractions shall be as listed in Table 2.68-1.

(3) (a) *Multiple submittals*. If the plans and specifications involve more than one public swimming pool or more than one water recreation attraction at the same site, plan review fees shall be the highest applicable fee as specified in Table 2.68-1 for one pool, or if not a pool, for one attraction, plus 50% of the applicable fee for each additional pool or attraction.

(b) *Priority review*. An appointment may be made with the department to facilitate the examination of plans in less than the normal processing time. Complete plans along with fees equal to twice that as specified in Table 2.68-1 shall be submitted to the department. The plans shall comply with all of the provisions of this section.

(c) *Alternate and experimental system design review*. Fees for the review and approval of alternate and experimental system designs shall be as specified in Table 2.68-1. A fee for the minor revision to a previously approved alternate or experimental system design may be assessed. The expiration date of the original approval may not be extended if a minor revision is approved.

(d) *Projects without approval*. The fees specified in this section shall be doubled for <sup>a</sup> project ~~project~~ subject to the scope of ch. Comm 90 for which the installation has started without department approval.

**Note:** Fees and submittal requirements for water slides are as specified in ss. Comm 2.20 and 34.50.

SECTION 3. Comm 2.68 Table 2.68-1 is created to read:

**Table 2.68-1  
Plan Review Fees for Public Swimming Pools and Water Attractions  
by Type of Review**

Pool Type or Water Attraction	Fee		
	Type of Review		
	Initial Construction	Modification	Revision to Previously Approved Plans
Public Swimming Pool, gutter type	\$300.00	\$100.00	\$60.00
Public Swimming Pool, skimmer type	\$225.00	\$100.00	\$60.00
Water Attraction	\$300.00	\$100.00	\$60.00
Public Whirlpool	\$225.00	\$100.00	\$60.00
Alternate and Experimental Design	\$500.00	\$250.00	\$100.00

SECTION 4. Comm 90.01 is amended to read:

**Comm 90.01 Authority and purpose.** This chapter is promulgated under the authority of s. 145.26, Stats., to regulate the design and construction, alteration, or reconstruction of public swimming pools, including whirlpools and water recreation attractions, and the alteration of public swimming pool equipment in order to protect the health and safety of the public.

SECTION 5. Comm 90.02 (2) is repealed and recreated to read:

**Comm 90.02 (2) PETITION FOR VARIANCE.** The department shall consider and may grant a variance to a provision of this chapter in accordance with ch. Comm 3.

**Note:** Chapter Comm 3 requires the submittal of a petition for variance form (SBD-9890) and a fee, and that an equivalency is established in the petition for variance that meets the intent of the rule being petitioned. Chapter Comm 3 also requires the department to process regular petitions within 30 business days and priority petitions within 10 business days.

**Note:** Form SBD-9890 is available at no charge from the department at the Safety and Buildings Division, P.O. Box 2509, Madison WI 53701, telephone 608/266-1818.

SECTION 6. Comm 90.03 (19) Note is amended to read:

**Comm 90.03 (19) Note:** Examples of water recreation attractions are waterslide plunge pools, ~~lazy~~ leisure river or tubing pools and wave pools.

SECTION 7. Comm 90.03 (15) Note is created to read:

**Note:** See listing in Appendix A-90.03 (15).

SECTION 8. Comm 90.04 (1) to (4) is repealed and recreated as Comm 90.04 (1) to (3) to read:

**Comm 90.04 Plan review and approval.** The design for the construction, alteration<sup>g</sup> or reconstruction of a public swimming pool or public whirlpool shall be submitted to the department for review in accordance with this section.

**(1) PUBLIC POOL AND PUBLIC WHIRLPOOL REVIEW.** A public swimming pool or public whirlpool design shall be submitted to the department for review prior to the start of construction or installation. *as follows*

**(a) Plans and specifications.** 1. At least 4 sets of plans and one copy of specifications that are clear, legible and permanent copies shall be submitted for review.

2. If a submitter wants more than 2 sets of approved plans returned, the fees specified in s. Comm 2.02 (4) (d) shall accompany the plan submittal.

3. Plans submitted for review shall be accompanied by sufficient information for the department to determine if the installation and its performance will meet the requirements of this chapter.

4. Plans and specifications for all public swimming pools and their equipment, including adequate supporting design data, shall be prepared by a Wisconsin registered architect or professional engineer and bear that person's seal and signature. *AA*

5. The department shall review and make a determination on an application for a public swimming pool or whirlpool submittal within 15 days of receipt of all information and fees required for completion of the review.

**(b) Revised submittals.** All changes or modifications, involving the provisions of this chapter, shall be approved in writing by the department prior to installation.

**(c) Revocation of approval.** The department may revoke any approval, issued under the provisions of this chapter, for any false statements or misrepresentation of facts on which the approval was based.

**(d) Expiration of approval.** Plans approved by the department shall expire 2 years after the date indicated on the approval letter, if construction has not commenced within that 2-year period.

**(e) Limitations.** A conditional approval of a plan by the department shall not be construed as an assumption by the department of any responsibility for the design. The department does not hold itself liable for any defects in construction or for any damages that may result from the specific installation.

**(f) Fees.** Fees for plan review submittals shall be as specified in ~~Ch.~~ Comm 2.

**(2) ALTERNATE SWIMMING PUBLIC POOL OR PUBLIC WHIRLPOOL DESIGN REVIEW.** The provisions of this chapter are not intended to prevent innovative designs for public swimming pools or whirlpools. The department may issue an approval of an alternate public swimming pool or whirlpool design if the design complies with the intent of this chapter. :

**(a) Alternate public swimming pool or whirlpool designs.** For an alternate public pool or whirlpool design, an approval shall be required before statewide installation and use.



1. Alternate public pool or whirlpool designs submitted for review shall be accompanied by sufficient information for the department to determine if the design and its performance will meet the requirements of this chapter.

2. The department shall review and make a determination on an application for an alternate public swimming pool or whirlpool submittal within 90 days of receipt of all information and fees required for completion of the review.

3. The department may include specific conditions in issuing an approval for an alternate public swimming pool or whirlpool design, including an expiration date for the approval. Violations of the conditions under which an approval is issued shall constitute a violation of this chapter.

4. If, upon review, the department determines that an alternate public swimming pool or whirlpool design does not comply with the intent of this chapter, the request for approval shall be denied in writing.

5. If a public pool or whirlpool design receives alternate approval, a plan for the site specific public swimming pool or whirlpool complying with the alternate design approval shall be submitted in accordance with sub. (1).

(b) *Revisions.* If an approved alternate public swimming pool or whirlpool design is modified or additional assertions of function or performance are made, the approval shall be considered null and void, unless the design is resubmitted to the department for review and approval is granted.

(c) *Revocation of approval.* The department may revoke an approval issued under this section for any false statements or misrepresentation of facts or data on which the approval was based, or as a result of design failure.

(d) *Limitations.* An approval issued by the department for an alternate public swimming pool or whirlpool design may not be construed as an assumption of any responsibility for defects in design, construction or performance of any installation or for any damages that may result.

(e) *Fees.* Fees for the review of an alternate public swimming pool design under this section and any onsite inspections shall be submitted in accordance with ch. Comm 2. Any miscellaneous inspections shall be as specified in s. Comm 2.04 (2).

**(3) EXPERIMENTAL PUBLIC SWIMMING POOL OR PUBLIC WHIRLPOOL DESIGN REVIEW.** The provisions of this chapter are not intended to prevent innovative designs for public pools or whirlpools. The department may issue an approval of an experimental public swimming pool or whirlpool design for the purpose of proving compliance with the intent of this chapter.

(a) *Experimental public swimming pool or whirlpool designs.* 1. Experimental public swimming pool or whirlpool designs submitted for review shall be accompanied by sufficient information as requested by the department.

2. The department shall review and make a determination on an application for an experimental public swimming pool or whirlpool submittal within 90 days of receipt of all information and fees required for completion of the review.

Amy

3. The department may include specific conditions in issuing an approval for an experimental public swimming pool or whirlpool design, including an expiration date for the approval. ~~Violations~~ of the conditions under which an approval is issued shall constitute a violation of this chapter.

4. If, upon review, the department determines that an experimental public swimming pool or whirlpool design is not acceptable, the request for approval shall be denied in writing

5. If a public swimming pool or whirlpool design receives experimental approval, a plan for the site-specific public swimming pool or whirlpool complying with the experimental design approval shall be submitted in accordance with sub. (1).

6. The department may limit the number of applications for review of experimental systems.

(b) *Revisions.* If an approved experimental public swimming pool or whirlpool design is modified or additional assertions of function or performance are made, the approval shall be considered null and void, unless the design is resubmitted to the department for review and approval is granted.

(c) *Revocation of approval.* The department may revoke an approval issued under this section for any false statements or misrepresentation of facts or data on which the approval was based, or as a result of design failure.

(d) *Limitations.* An approval issued by the department for an experimental public swimming pool or whirlpool design may not be construed as an assumption of any responsibility for defects in design, construction or performance of any installation or for any damages that may result.

(e) *Fees.* Fees for the review of an experimental public swimming pool design under this section and any onsite inspections shall be submitted in accordance with ch. Comm 2. ~~Any miscellaneous inspections shall be as specified in s. Comm 2.04 (2).~~ *Fees for*

Note: Plans and specifications shall be submitted to Commerce, Safety & Buildings Division, 201 W. Washington Avenue, P.O. Box 7162, Madison, Wisconsin 53707-7162.

SECTION 9. Comm 90.06 (2) is amended and renumbered as Comm 90.06 (2) (a) and (b) to read:

**Comm 90.06 (2) CROSS-CONNECTION CONTROL.** (a) As specified in s. Comm 82.41, ~~all~~ portions of the water distribution system serving the pool and ~~all~~ auxiliary facilities shall be protected against backflow and backsiphonage. Water introduced into the pool, either directly or to the recirculation system, shall be supplied through a minimum air-gap equal to 2 pipe diameters or 6 inches (15.3 cm), whichever is less, or by another method approved by the department.

(b) The use of a toxic solution, such as but not limited to heat transfer fluid in a single-wall heat exchanger for pool water, is prohibited.

SECTION 10. Comm 90.08 (8) (a) is amended to read:

**Comm 90.08 (8) POOL SHAPE.** (a) *Contour and obstructions.* 1. A swimming pool shall have a shape that does not impair the circulation of pool water and swimmers' safety. Except for ~~a safety ledge, a safety rope, a ladder or access side rails,~~ those obstructions listed in subd. 2., there shall be no underwater or

overhead projections or obstructions that might endanger patron safety or interfere with proper pool operation.

2. Pool basin obstructions, <sup>including</sup> such as but not limited to roof support columns, shall be no less than 2 feet in diameter, of a contrasting color, protrude at least 5 feet above the pool bottom and no less than 3 feet above the water level. } am

(b) *Bench area.* 1. When a bench area is provided to permit bathers to be seated in the water, it shall be in a recessed area to eliminate any protrusion beyond the pool wall. } am  
to  
claw

2. The length of the bench may not exceed 10 feet; the height of the bench may not exceed 18 inches (~~46 cm~~); the depth width of the bench seat may not exceed 16 inches (~~40.6 cm~~); the depth of the water above the bench seat may not exceed 2 feet (~~0.61 m~~).

3. The surface of the bench seat shall be of a color in distinct contrast to the color of the surrounding pool basin.

4. The words "bench area below" shall be placed on the deck at the edge of the pool at the bench area in minimum 6-inch letters of a color in distinct contrast to the deck background.

SECTION 11. Comm 90.08 (10) (d) is repealed and recreated as Comm 90.08 (10) (d) 1. to 3) to read:

Comm 90.08 (10) <sup>of the pool</sup> (d) *Recessed stairs.* 1. Recessed stairs may be substituted for ladders only at or near the shallow end wall. Recessed stairs shall not extend into the pool basin except that the department may permit stairs to be located in a corner. X

2. Cantilevered coping of one inch or less at the top of the stair at deck level shall not be considered an obstruction or hazard to patrons.

3. Stairs shall have a uniform rise of not more than 10 inches and uniform treads of not less than 10 inches. Treads shall have a minimum unobstructed surface area of 240 square inches. All corners shall be rounded to a radius of 1/2 inch. Treads may not project beyond the face of the riser and shall have a slip-resistant surface.

SECTION 12. Comm 90.08 (12) Note is created to read:

Comm 90.08 (12) *Note:* Guidelines for pool designers are available from the National Center for Accessibility, Guidelines on Swimming Pool Accessibility, September 1996 (publication number QA95007001). Phone 1-800-424-1877.

SECTION 13. Comm 90.08 (14) is amended to read:

Comm 90.08 (14) *DEPTH MARKINGS.* Depth markers shall be located along the pool perimeter on the edge of the deck and on the vertical pool wall at or above the water surface at all pools, except at wading pools or on the vertical walls of whirlpools and pools where no vertical wall is exposed above the waterline. The depth of water shall be plainly marked at maximum and minimum points, at points of change in slope and at equal intermediate intervals of 25 feet (~~7.6 m~~) or less. Depth marker numerals on the edge of the deck shall be at least 6 inches (~~15.24 cm~~) high. Markers on the vertical wall shall be at least 3 inches (~~7.62 cm~~) high. All markers shall be of a color contrasting with the background.

SECTION 14. Comm 90.09 (1) (a) is amended to read:

**Comm 90.09 Pool deck and deck equipment. (1) AREA. (a) General.** 1. Except for subd. 2., ~~There~~ shall be an unobstructed deck at the same level as the top of the pool wall. The deck shall extend completely around the pool. There shall be at least 6 feet ~~(1.8 m)~~ of unobstructed deck between any 2 adjacent pools except that the minimum deck width between a wading pool and any other pool shall be 12 feet ~~(3.7 m)~~. Deck equipment permitted under this chapter is not considered an obstruction.

2. Deck obstructions, such as but not limited to roof support columns, shall be no greater than 2 feet in diameter and of a contrasting color so as to provide adequate clearance, safety, visibility and access.

SECTION 15. Comm 90.10 (1) is amended to read:

**Comm 90.10 Outdoor pool enclosure. (1)** Except as provided in par. (b), an enclosure at least 5 feet (1.5 m) high constructed to make access difficult shall completely surround every outdoor pool and its adjacent deck area. Access shall be through self-closing and latching gates at the shallow end of the pool. Any opening except a controlled access may not exceed 5 3 1/2 inches (12.7 cm) in width or diameter. The enclosure shall be designed, where a bathhouse is provided, so that patron access to the pool shall be through the bathhouse. Controlled openings for maintenance purposes are permitted if they can be locked.

SECTION 16. Comm 90.12 (1) Note: is amended to read:

**Comm 90.12 (1) Note 1:** See s. ~~HSS~~ HFS 172.09 (1) for disinfectant approval and usage.

SECTION 17. Comm 90.19 (2) is amended to read:

**Comm 90.19 (2) PERIPHERAL STRUCTURE. (a) Roofs and ventilation.** The ceiling or canopy over a whirlpool shall be constructed so that moisture or condensation from the ceiling or canopy does not drain into the whirlpool. The whirlpool room shall be adequately ventilated to prevent excessive condensation, as required under s. ~~ILHR~~ Comm 64.05

(b) *Obstructions and ceiling height.* 1. Pursuant to s. Comm 90.09 (1) (e), there shall be no obstacle or protrusion within a whirlpool or extending from a whirlpool room walls or ceiling which would interfere with the use of the whirlpool or make access difficult.

2. The minimum headroom measured as the height between the top of the whirlpool rim and the ceiling shall be 6'8" 6 feet 8 inches (2.0 m), as required under s. Comm 51.164.

(c) *Cleanable walls and ceiling.* The walls and ceiling enclosing a whirlpool shall be constructed of ~~nonabsorbent~~ waterproof material that can be easily cleaned. ~~The area of a~~ Any wall receiving splashed water from the whirlpool shall be waterproof to a height of no less than 3 feet above the deck.

SECTION 18. Comm 90.19 (6) (a) is repealed and recreated to read:

**Comm 90.19 (6) DECKS. (a) Dimensions and whirlpool location.** Except for subds. 1. and 2., a continuous, unobstructed deck at least 5 feet wide and at the same level as the top of the pool wall shall be provided around at least 50% of a whirlpool. The deck width at any point of egress for a whirlpool shall be a minimum of 5 feet as measured parallel to the direction of travel from the stairs.

1. A rim no greater than 3 inches in height and at least one inch in width may be provided around the perimeter of a whirlpool.

2. When a whirlpool is located in a corner of a room, deck width shall be calculated by using the following:

a. The angle between the two room walls must be at least 90 degrees.

b. A deck width of at least 2 feet on both sides measured along the center line of the pool perpendicular to the bisector of the angle of the two room walls.

c. No other wall or obstruction shall be located within 5 feet of the whirlpool rim.

**Note:** For further clarification, see Appendix A-90.19 (6).

SECTION 19. Comm 90.19 (6) (d) Note is created:

**Comm 90.16 (3) (i) Note:** For location of indoor and outdoor pools near walls see Appendix A-90.19 (6).

SECTION 20. Comm 90.19 (8) (c) 3. is renumbered to read as Comm 90.19 (8) (c) 4.a.

SECTION 21. Comm 90.19 (8) (c) 4. a. is renumbered to read as Comm 90.19 (8) (c) 3.

SECTION 22. Appendix A-90.03 (15) is created to read:

A-90.03 (15) Plan submittal and fees. *[Signature]*

The following is a listing of when the department may waive submittal of pool plans and fees for the reconstruction and alteration of existing pools. This listing is based upon SPGL-7, Guidelines for Pool Designers, June 22, 1992, issued by Department of Health and Family Services.

1. A disinfection system equipped with a positive displacement pump is replaced by an approved pass-through (erosion) type system or visa versa, the replacement of a gas chlorine system with a positive displacement pump or approved pass-through feeder. *[Signature]*

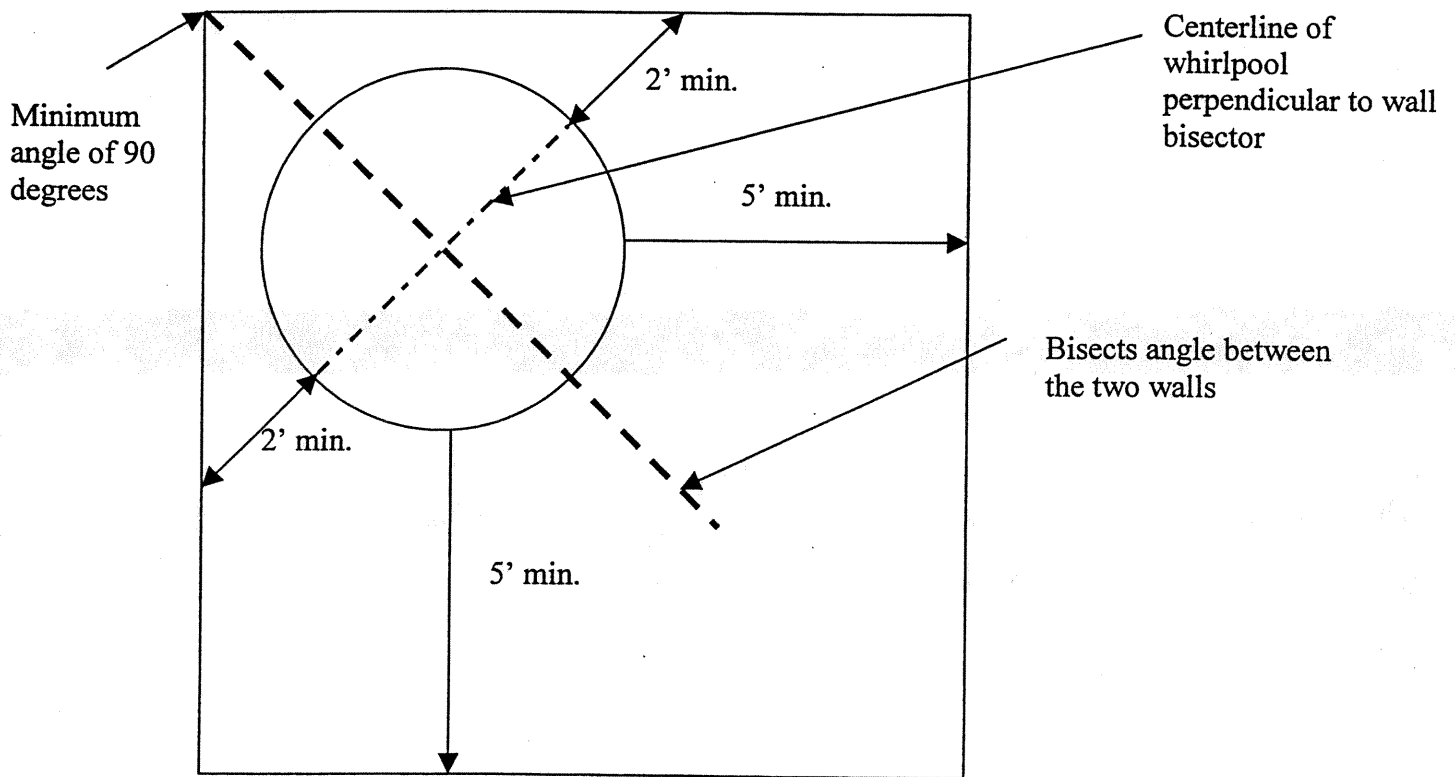
**Note:** The installation of a gas chlorine system will require plan review and a fee.

2. A recirculation pump is replaced by another pump from a different manufacturer provided that the capacity of the new pump is at least equal to the pump which is replaced.
3. A filter is replaced with an approved filter of the same type but with greater filter media surface.
4. The replacement of metal piping and fittings with the same size PVC piping and fittings.
5. A supplemental disinfecting system is installed (e.g., Tarn Pure, Ozone, etc.) provided that the halogen residual is maintained as stated in ch. HFS 172 and that there is no decrease in the required water recirculation flow rate.

*ask*

SECTION 23. Appendix A-90.19 (6) is created to read:

A-90.19 (6) Sample sketch depicting whirlpool location and measurements for access, as specified in s. Comm 90.19 (6) (a) 2.



(end)

\*\*\*\*\*

**EFFECTIVE DATE**

Pursuant to s. 227.22 (2) (intro.), Stats., these rules shall take effect on the first day of the first month following publication in the Wisconsin Administrative Register.

\*\*\*\*\*



DEC 27 1999

P.O. Box 7970  
Madison, Wisconsin 53707  
(608) 266-1018  
TDD#: (608) 264-8777  
www.commerce.state.wi.us

Tommy G. Thompson, Governor  
Brenda J. Blanchard, Secretary

12/6/99

Senate Chief Clerk  
Room 402  
1 East Main Street  
Madison, Wisconsin 53703

Assembly Chief Clerk  
Room 402  
1 East Main Street  
Madison, Wisconsin 53703

Dear Chief Clerks:

**TRANSMITTAL IN FINAL DRAFT FORM OF ADMINISTRATIVE  
RULES AND REPORT**

CLEARINGHOUSE RULE NO.: 99-122

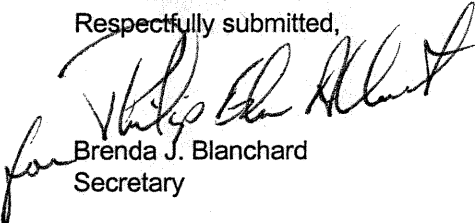
RULE NO.: Chapter Comm 90

RELATING TO: Design and Installation of Public Swimming Pools

Pursuant to section 227.19, Stats., agencies are required to submit, in triplicate, copies of the proposed administrative rules in final draft form together with a rule report and an analysis. The recommendations received from the Legislative Council are also to be submitted.

At this time, this material, together with cover letters to the President of the Senate and the Speaker of the Assembly, is being transmitted for referral to the standing committees for legislative review.

Respectfully submitted,

  
Brenda J. Blanchard  
Secretary



JUL 12 2000

P.O. Box 7970  
Madison, Wisconsin 53707  
(608) 266-1018  
TDD#: (608) 264-8777  
www.commerce.state.wi.us



Tommy G. Thompson, Governor  
Brenda J. Blanchard, Secretary

7/11/00

Senate Chief Clerk  
Room 501  
119 Martin Luther King Blvd  
Madison, Wisconsin 53703

Assembly Chief Clerk  
Room 402  
1 East Main Street  
Madison, Wisconsin 53703

Dear Chief Clerks:

**TRANSMITTAL IN FINAL DRAFT FORM OF ADMINISTRATIVE  
RULES AND REPORT**

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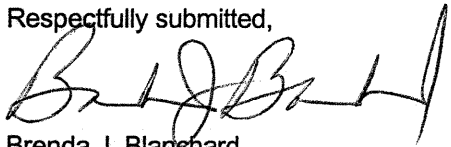
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Secretary



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Tommy G. Thompson, Governor  
Brenda J. Blanchard, Secretary

12/6/99

Senator Fred Risser  
President of the Senate  
Room 220 South, State Capitol  
Madison, Wisconsin 53702

Representative Scott Jensen  
Speaker of the Assembly  
Room 211 West, State Capitol  
Madison, Wisconsin 53702

Dear Senator Risser and Representative Jensen:

### NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 99-122

RULE NO.: Chapter Comm 90

RELATING TO: Design and Installation of Public Swimming Pools

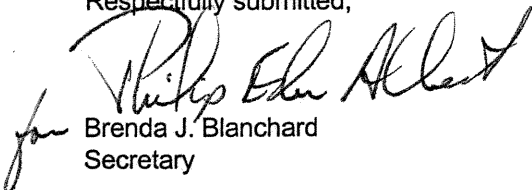
Section 227.19, Stats., requires agencies to submit proposed rules in final draft form to the presiding officer of each house for referral to the appropriate legislative standing committees.

The following information, as required by law, is being submitted to you.

1. Rules in final draft form (in triplicate).
2. Report consisting of:
  - a) Rule Report.
  - b) Public Hearing Attendance Record.
  - c) Public Hearing Comment and Agency Response Form.
  - d) Legislative Council Rules Clearinghouse Report.
  - e) Response to Legislative Council Rules Clearinghouse Report.
  - f) Fiscal Estimate.
  - g) Final Regulatory Flexibility Analysis.

If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,

  
for Brenda J. Blanchard  
Secretary



P.O. Box 7970  
Madison, Wisconsin 53707  
(608) 266-1018  
TDD#: (608) 264-8777  
www.commerce.state.wi.us

Tommy G. Thompson, Governor  
Brenda J. Blanchard, Secretary

7/11/00

Senator Fred Risser  
President of the Senate  
Room 220 South, State Capitol  
Madison, Wisconsin 53702

Representative Scott Jensen  
Speaker of the Assembly  
Room 211 West, State Capitol  
Madison, Wisconsin 53702

Dear Senator Risser and Representative Jensen:

### NOTICE OF ADMINISTRATIVE RULES IN FINAL DRAFT FORM

CLEARINGHOUSE RULE NO.: 99-122

RULE NO.: Chapter Comm 90

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If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,

Brenda J. Blanchard  
Secretary

# RULE REPORT

## Department of Commerce

Rule No.: Chapter Comm 90

Relating to: Design and Construction of Public Swimming Pools

*Agency contact person for substantive questions:*

Name Lynita Docken

Title Plumbing Program Manager

Telephone Number 608-785-9349

*Agency contact person for internal processing:*

Name Jean M. MacCubbin

Title Code Consultant

Telephone Number 608-266-0955

1. Agency statutory authority under which the agency intends to promulgate the rule(s).

Section 145.26, Stats.

2. Citation of federal regulations which require adoption or which are relevant to the proposed rule(s).

None known.

3. Citation of court decisions which are applicable to the proposed rule(s).

None known.

4. Description of the proposed rule(s).

This chapter establishes rules under s. 145.26, Stats., for the design and construction of public swimming pools.

The proposed rule revisions are specific to standardizing plan submittal language for Commerce plan review service-- such as plan submittals, fees, and petitions for variance. Other revisions relate to location of whirlpools within a room, clarification of an obstruction, widths of benches and coping, and updating gate and opening distances to reflect recommendations for child safety as per U.S. Consumer Product Safety Commission.

5. Reason for the proposed rule(s).

This rule revision was created to make changes to the existing rule in response to a review which has not been undertaken since the transfer of this chapter from the Department of Health and Family Services in 1989.

# FINAL REGULATORY FLEXIBILITY ANALYSIS

## Department of Commerce

CLEARINGHOUSE RULE NO.: 99-122

RULE NO.: Chapter Comm 90

RELATING TO: Design and Installation of Public Swimming Pools

Final regulatory flexibility analysis not required. (Statement of determination required.)

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.

The proposed rules provide additional flexibility for installation in existing structures without compromising health or safety.

The rule revisions better clarify how pools and whirlpools may be installed in existing spaces with respect to obstructions and access. These changes should reduce some remodeling costs associated with indoor installations of pools and whirlpools.

2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.

None given.

3. Nature and estimated cost of preparation of any reports by small businesses.

No new reporting or bookkeeping procedures are identified to comply with these revisions.

4. Nature and estimated cost of other measures and investments required of small businesses.

None estimated.

5. Additional cost to agency of administering or enforcing a rule which includes any of the methods in 1. for reducing impact on small businesses.

None estimated.

6. Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.

None identified.

**FISCAL ESTIMATE WORKSHEET**  
Detailed Estimate of Annual Fiscal Effect  
DOA-2047(R02/97)

ORIGINAL  
 CORRECTED

UPDATED  
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
Ch. Comm 90

Amendment No.

**Subject**

Design and Construction of Public Swimming Pools

**I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
<b>A. State Costs By Category</b>	\$ -0-	\$ -0
State Operations - Salaries and Fringes		
(FTE Position Changes)	( 0.0 FTE)	( - 0.0
State Operations - Other Costs	-0-	-0
Local Assistance	-0-	-0
Aids to Individuals or Organizations	-0-	-0
<b>TOTAL State Costs By Category</b>	\$ -0-	\$ -0
<b>B. State Costs By Source of Funds</b>	<b>Increased Costs</b>	<b>Decreased Costs</b>
GPR	\$ -0-	\$ -0
FED	-0- -	-0
PRO/PRS	-0-	-0
SEG/SEG-S	-0-	-0
<b>III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</b>	<b>Increased Rev.</b>	<b>Decreased Rev.</b>
GPR Taxes	\$ -0-	\$ -0
GPR Earned	-0-	-0
FED	-0-	-0
PRO/PRS	-0-	-0
SEG/SEG-S	-0-	-0
<b>TOTAL State Revenues</b>	\$ -0-	\$ -0

**NET ANNUALIZED FISCAL IMPACT**

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ -0-	\$ -0-
NET CHANGE IN REVENUES	\$ -0-	\$ -0-

Agency/Prepared by: (Name & Phone No.)

Jean M. MacCubbin, Code Consultant  
608-266-0955

Authorized Signature/Telephone No.

*BJ Bank*

Date

8/4/99



FISCAL ESTIMATE  
DOA-2048 (R02/97)

ORIGINAL  
 CORRECTED

UPDATED  
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
Ch. Comm 90  
Amendment No. if Applicable

Subject  
Design and Construction of Public Swimming Pools

Fiscal Effect

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

- Increase Costs - May be Possible to Absorb Within Agency's Budget  Yes  No
- Decrease Costs

Local:  No local government costs

- 1.  Increase Costs
  - Permissive  Mandatory
- 2.  Decrease Costs
  - Permissive  Mandatory

- 3.  Increase Revenues
  - Permissive  Mandatory
- 4.  Decrease Revenues
  - Permissive  Mandatory

5. Types of Local Governmental Units Affected:
- Towns  Villages  Cities
  - Counties  Others \_\_\_\_\_
  - School Districts  WTCS Districts

Fund Sources Affected

- GPR  FED  PRO  PRS  SEG  SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

No substantial changes in revenues or expenses are expected.

The rule revisions provides a clarification when the department will waive plan submittal and fees for alteration or reconstruction, which should result in a minimal decrease in revenue, but at the same time, a reduction in staffing costs associated with the handling of submittals not requiring department-level review and approval.

Long-Range Fiscal Implications

None identified.

Agency/Prepared by: (Name & Phone No.)  
Jean M. MacCubbin, Code Consultant  
608-266-0955

Authorized Signature/Telephone No.



Date

8/4/99

**FISCAL ESTIMATE**  
DOA-2048 (R02/97)

ORIGINAL  
 CORRECTED

UPDATED  
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
Ch. Comm 90  
Amendment No. if Applicable

**Subject**  
Design and Construction of Public Swimming Pools

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**State:**  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

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 Decrease Existing Appropriation  
 Create New Appropriation

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 Decrease Existing Revenues

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 Decrease Costs

**Local:**  No local government costs

1.  Increase Costs  
 Permissive  Mandatory

3.  Increase Revenues  
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5. Types of Local Governmental Units Affected:

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2.  Decrease Costs  
 Permissive  Mandatory

4.  Decrease Revenues  
 Permissive  Mandatory

Counties  Others \_\_\_\_\_

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**Fund Sources Affected**

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Affected Ch. 20 Appropriations

**Assumptions Used in Arriving at Fiscal Estimate**

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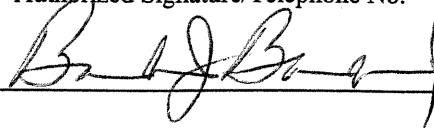
Included in this rule revision are fee increases for plan review of public swimming pools and water attractions. Current fee amounts will be increased 100 percent and the current "discount" for simultaneous submittal of pool plans will be discontinued. The proposed fee adjustments will provide sufficient revenue for a 4-year period (Sept. 1, 2000 - Sept. 1, 2004).

**Long-Range Fiscal Implications**

None identified.

Agency/Prepared by: (Name & Phone No.)  
Commerce/Robert G. DuPont  
608/266/8984

Authorized Signature/Telephone No.



Date

7/5/00

**FISCAL ESTIMATE WORKSHEET**  
Detailed Estimate of Annual Fiscal Effect  
DOA-2047(R02/97)

ORIGINAL  
 CORRECTED

UPDATED  
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Amendment No.  
Ch. Comm 90

**Subject**  
Design and Construction of Public Swimming Pools

**I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**

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	Increased Costs	Decreased Costs
<b>A. State Costs By Category</b>		
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State Operations - Other Costs	-0-	-0-
Local Assistance	-0-	-0-
Aids to Individuals or Organizations	-0-	-0-
<b>TOTAL State Costs By Category</b>	\$ -0-	\$ -0-
<b>B. State Costs By Source of Funds</b>		
GPR	\$ -0-	\$ -0-
FED	-0-	-0-
PRO/PRS	-0-	-0-
SEG/SEG-S	-0-	-0-
<b>III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</b>		
GPR Taxes	\$ -0-	\$ -0-
GPR Earned	-0-	-0-
FED	-0-	-0-
PRO/PRS	\$45,000	-0-
SEG/SEG-S	-0-	-0-
<b>TOTAL State Revenues</b>	\$45,000	\$ -0-

**NET ANNUALIZED FISCAL IMPACT**

	STATE	LOCAL
NET CHANGE IN COSTS	\$ -0-	\$ -0-
NET CHANGE IN REVENUES	\$ 45,000	\$ -0-

Agency/Prepared by: (Name & Phone No.)

Commerce/Robert G. DuPont  
608/266/8984

Authorized Signature/Telephone No.

*Bob J. DuPont*

Date

7/5/00

DEPARTMENT OF COMMERCE  
PUBLIC HEARING ATTENDANCE RECORD

RULE NO.: Ch. Comm 90

DATE: October 6, 1999

RELATING TO: Public Swimming Pools

TIME: 1:00 p.m.

LOCATION: WHEDA Conf Rm 3C, 210 W Washington Ave

CITY: MADISON

Name	Representation (Business, Assoc., Group, Self, etc.)	City and State	Appearing in			Appearing for Information
			Support	Opposition		

NONE

**DEPARTMENT OF COMMERCE  
PUBLIC HEARING COMMENT AND AGENCY RESPONSE**

Clearinghouse Rule No.:		Hearing Location: MADISON	
Rule Number: ch. Comm 90		Hearing Date: October 6, 1999	
Relating to: Public Swimming Pools			
Comments: Oral or Exhibit No.	Presenter, Group Represented, City and State	Comments/Recommendations	Agency Response
1	Daryl Matzke, PE RAMAKER & ASSOC INC. 1120 DALLAS STREET SAUK CITY WI 53523	<ol style="list-style-type: none"> <li>Comm 2.02(4)(d) pool fees as proposed area excessive. Department needs to recognize the number of copies needed by applicant for distribution., Suggest allowing 6 sets to be stamped at current fee.</li> <li>Comm 2.68 (3)(b) will priority reviews 'bump' current appointment. Suggest continuing current practice of 'first-come-first served'.</li> <li>Comm 90.04(1)(a) comment is similar to #1 above, fee inappropriate when viewing the need for approved plan distribution by state and applicant.</li> <li>Comm 90.06(2)(b) need to define 'toxic' and cite the code section where heat transfer fluids are to be used in single-wall heat exchangers.</li> <li>Comm 90.08(b)(2) [code cited incorrectly, may be s. Comm 90.08 (8)(b)] suggest 18" max. width for benches which is same as present industry proactive for whirlpools.</li> <li>Comm 90.08(3)(b) [code cited incorrectly, may be s. Comm 90.08 (8)(b) 4.] suggest allowing edge tile with contrasting color to define bench area vs. use of lettering which is no practical for wrap-around curved bench seats, etc.</li> <li>Comm 90.08(8) (3) [code cited incorrectly, may be s. Comm 90.08 (8)(b) 3.] the size of 6" tile for the lettering cannot be installed to follow the 'shape' of the pool; suggest use of one tile above each bench with such text.</li> <li>Comm 90.09(1)(a) 2. [code cited incorrectly, may be s. Comm 90.09 (1) &amp; (2)] suggest eliminating the 2' max. diameter requirement when considering the pool features now being installed.</li> </ol>	<ol style="list-style-type: none"> <li>- 3. Department will refer comments to division fee package for possible inclusion.</li> <li>- 5. Department will consider and make revision to rule package.</li> <li>- 7. Department will defer to next rule revision.</li> <li>8. Department disagrees. The rule revision allows flexibility when considering both safety and visual clearances as goals.</li> </ol>



EXHIBIT NO. 1

October 5, 1999

Total of 10 pages

State of Wisconsin  
Department of Commerce  
Notice of Public Hearing

Attn: Ms. Jean Maccubbin

FAX: 608-264-8795

**SUBJECT: HEARING DRAFT OF PROPOSED RULES RELATING TO DESIGN  
AND CONSTRUCTION OF PUBLIC SWIMMING POOLS – COMM 90**

As a member of the Pool Code Advisory Council and a professional engineer, I would like to state my concerns and suggestions to be added to the record of the above-mentioned public hearing.

Section Comm 2.02 (4) (d). Swimming pools and whirlpools. We feel that the \$40 proposed fee per plan for over three sets of submitted plans is excessive. We would suggest normal procedure of allowing at least six sets for submittal and approval. Two sets would remain with the State and the other three returned to the engineer, owner, contractor and supplier.

Section Comm 2.68 (b). Priority review. As I understand the present codes, priority reviews are now not allowed. Plans are reviewed in accordance of review date request. If a priority review is allowed, can my plans be "bumped?" I would suggest remaining with the present system of "first come, first served."

Section Comm 90.04 (1) (a). Plans and specifications. Presently, four sets of plans are allowed in the submittal of which two sets are required for the State (Plan Reviewer and Health Inspector). In this day and age of increasing liability factors, it is necessary for the owner, engineer and contractor to have an approved set of plans in their possession. Additionally, some municipal building inspectors have required copies of state approved plan sets. Ideally, six sets would be allowed so inspectors (or suppliers) can also have an approved set. With only two sets now proposed for return to submitter, we will be required to pay an additional fee for extra sets on a great majority of our projects. I feel that this additional fee is inappropriate for copies of plans that will be required for most of our projects.

Section Comm 90.06 (2) (b). Cross-connection control. Please define toxic when prohibiting a toxic solution. Currently single walled heat exchangers are often used. Is the solution in the typical heat exchanger considered toxic? Would it be more appropriate to define in the code acceptable heat transfer fluids to be used in single-walled heat exchangers?

Section Comm 90.08.(b) (2). Bench area. We suggest that an 18-inch maximum bench width for swimming pools be allowed to match the present bench installation practices for whirlpools.

Ms. Jean Maccubbin  
October 5, 1999  
Page 2

Section Com 90.08 (b) (3) Bench area. We suggest that an edge tile of contrasting color be allowed as a method to define the bench areas in swimming pools. Since edge tile is currently considered adequate to define pool stairs and whirlpool seats, we feel that requiring that the whole surface of the swimming pool seat be of a distinct contrast color is unnecessary. A tile seat will not work in an outdoor pool due to the damage by freezing weather. Tile has a tendency to pop off or crack. Accordingly, if tile is not effective, then the seats will have to be painted. Painting is an ongoing maintenance concern. We believe the codes addressing bench areas should be similar to the code addressing tile edges along the front edge of stairs and whirlpool seats. This would provide for a more consistent pool code.

Section Comm 90.08 (8) (3). Bench area. Please see the attached previously approved Petition for Variance regarding "bench area below" tiles. Many of the present pools are being designed with a wrap around curved bench. To use the suggested 6-inch letters would take a considerable amount of deck space. Additionally, given that this size tile can only be laid in a straight line, the warning can not follow the shape of the pools currently proposed. Also, tile has a tendency to get slippery. A single tile message above each bench that states "BENCH BELOW" would inform the public of concern. We found the size of the tile and lettering, and the required locations as indicated to be acceptable. We feel this would be a safer method of informing the public of benches below.

Section Comm 90.09 (1) (2). Pool deck and deck equipment. Due to the increase in features added to pool facilities such as themeing, bridges, waterslide towers, the maximum 2-foot diameter requirement is exceeded on a regular basis. We would suggest eliminated this requirement.

I look forward to the opportunity to review these issues further with appropriate administrative staff. Please call with any questions or if any clarification is required.

Sincerely,

RAMAKER & ASSOCIATES, INC.



Daryl Matzke, P.E.

DM/sj

Attachments

cc: Dave Russell, Department of Commerce via fax 608-267-9566  
Doug Voegeli, Department of Health via fax 608-267-3241

# RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

## Department of Commerce

CLEARINGHOUSE RULE NO.: 99-122

RULE NO.: Chapter Comm 90

RELATING TO: Design and Installation of Public Swimming Pools

Agency contact person for substantive questions.

Name: Lynita Docken

Title: Plumbing and Pools Program Manager

Telephone No. 608-785-9349

Legislative Council report recommendations accepted in whole.

Yes

No

1. Review of statutory authority [s. 227.15(2)(a)]

a.  Accepted

b.  Accepted in part

c.  Rejected

d.  Comments attached

2. Review of rules for form, style and placement in administrative code [s. 227.15(2)(c)]

a.  Accepted

b.  Accepted in part

c.  Rejected

d.  Comments attached

*(Continued on reverse side)*



3. Review rules for conflict with or duplication of existing rules [s. 227.15(2)(d)]
- a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached
4. Review rules for adequate references to related statutes, rules and forms [s. 227.15(2)(e)]
- a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached
5. Review language of rules for clarity, grammar, punctuation and plainness [s. 227.15(2)(f)]
- a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached
6. Review rules for potential conflicts with, and comparability to, related federal regulations [s. 227.15(2)(g)]
- a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached
7. Review rules for permit action deadline [s. 227.15(2)(h)]
- a.  Accepted
  - b.  Accepted in part
  - c.  Rejected
  - d.  Comments attached

Additional Information Regarding "accepted in part" Legislative Council Clearinghouse Comments  
(SBD 98-12, ch. Comm 90)

The report was checked "accepted in part" only in section 2. as noted below. Two of their comments, 2a. and 2d. were accepted in part; the reasons are noted in italics following each LCH comment.

2. Form, Style and Placement in Administrative Code

2a. In s. Comm 2.02 (4) (d), should "sets" be inserted after "approved plans" and should "set" be inserted after "per plan"? In the alternative, should "sets" be deleted in the first line?

*This section has been deleted from this rule revision and has been handled in the division-wide proposed fee package.*

2d. Introductory material should end with a colon and lead into the subunits that follow. [See s. 1.03 (8) Manual.] This was not done in s. Comm 90.04 (1) (intro.), (2) (intro.) and (3) (intro.).

*This change was not made since the entire chapter does not reflect this format. The chapter is proposed for repeal and recreation as the division is considering adopting national standards as a base code.*



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Madison, Wisconsin 53707  
(608) 266-1018  
TDD#: (608) 264-8777  
www.commerce.state.wi.us

Tommy G. Thompson, Governor  
Brenda J. Blanchard, Secretary

12/6/99

Gary Poulson  
Assistant Revisor of Statutes  
Suite 800  
131 West Wilson Street  
Madison, Wisconsin 53703-3233

Dear Mr. Poulson:

### NOTIFICATION OF RULE REFERRAL

This letter is to notify you that pursuant to section 227.19, Stats., the Department of Commerce has referred:

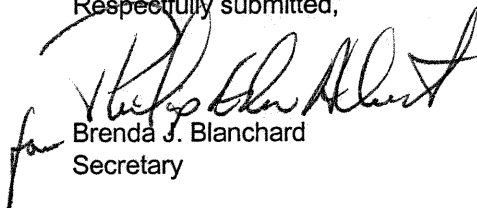
CLEARINGHOUSE RULE NO.: 99-122

RULE NO.: Chapter Comm 90

RELATING TO: Design and Installation of Public Swimming Pools

to the presiding officers of the Senate and Assembly of the Legislature for referral to the appropriate standing committees for Legislative review.

Respectfully submitted,

  
Brenda J. Blanchard  
Secretary



State of Wisconsin \ Department of Commerce

# **RULES in FINAL DRAFT FORM**

**Rule No.:** Chapter Comm 90

**Relating to:** Design and Installation of Public Swimming Pools

**Clearinghouse Rule No.:** 99-122

The Wisconsin Department of Commerce proposes an order to renumber Comm 90.19 (8)(c) 3. as Comm 90.19 (8)(c) 4.a. and Comm 90.19 (8)(c) 4.a. as Comm 90.19 (8)(c) 3.; renumber and amend Comm 90.06(2) as 90.06(2)(a) and 90.08 (8)(a) as 90.08 (8)(a) 1.; amend Comm 90.01, 90.03(19) Note, 90.08(8)(b) 2., 90.08(14), 90.09(1)(a), 90.10(1), 90.12(1) Note, 90.19(2); repeal and recreate Comm 2.68, Comm 90.02(2), 90.04(1) to (4), 90.08 (8)(b) 4; 90.08(10)(d), 90.19(6)(a); and to create Comm 2.68 Table 2.68-1, Comm 90.03(15) Note, 90.03 (18w), 90.06(2)(b) and Note, 90.08(8)(a) 2., 90.08(12) Note, 90.09 (1)(a) 2., 90.19(6)(d) Note, Chapter Comm 90 Appendix, Appendix A-90.03(15), and Appendix A-90.19(6), relating to the design and construction of public swimming pools.

\*\*\*\*\*

ANALYSIS OF RULES

Statutory authority: ss. 145.26, Stats.  
Statutes interpreted: ss. 145.26, Stats.

This rule revision was created in response to issues brought to the attention of the department by members of the advisory council, the public and inspection and/or licensing staff. This chapter, Comm 90, has had only minor revisions since 1989 when the chapter was moved from the then Department of Health and Social Services to the then Department of Industry, Labor and Human Relations.

The proposed changes to the fee code, chapter Comm 2, clarify current fee schedule and review types which are standard for the plan review service within Commerce. The introduction of alternate and experimental system reviews not only provides a means for the review and approval of creative designs, but also provides the opportunity and the use of new technology on a site-by-site or statewide basis, as now specified in s. Comm 90.04 and ch. Comm 2, respective fees.

Section Comm 90.02 (2) provides standard language for the submittal of a petition for variance.

Sections Comm 90.08, 90.09 and 90.19 recognize that in some cases pools and pool decks are installed on existing sites and that existing structural supports may be present and considered an obstruction. The proposed text allows such 'obstructions' when they do not impact on patron safety and pool operations, such as lifeguard access and visibility. Other revisions relate to clarification of bench and coping widths.

Section 90.10 (1) is revised to reflect the safe distances between gate and fence openings, as per the U.S. Consumer Product Safety Commission, established to prevent head entrapment by young children and limiting their access to an unsupervised pool area.

Section Comm 90.19 clarifies head room for rooms where whirlpools are installed, corner location of whirlpools with respect to providing accessible access, as well as use of waterproof materials around pool walls.

Some minor revisions occur throughout the rule draft which are made to recognize titles of specific chapters contained in the Wisconsin Administrative Code-- Commerce (Comm) and Department of Health and Family Services (HFS); clarification of wavier for plan submittal and fees; and the deletion of metric units.

The proposed rule revisions were developed by the department with advice from the Pool Advisory Code Council. The Council consists of: Dave Baker, pool operators; Bill Branson, plumbing inspectors; Bob Holling, City of Sun Prairie - Parks; Duane Jackson, City of Madison - Environmental Health; Hal Maier, pool contractors; Tim Mirkes, City of Appleton - Health; Chuck Neuman, Water World Park Assoc.; Doug Voegeli, Wisconsin DHFS; and Jack Waterman, Wisconsin Innkeepers Assoc.

SECTION 1. Comm 2.68 is repealed and recreated to read:

**Comm 2.68 Swimming pool and whirlpool plan review fees.** (1) Plan examination fees for public swimming pools and water attractions shall accompany plans and specifications when submitted to the department for review. If the department determines, upon review of the plans, that inadequate fees were received, the necessary additional fees shall be received by the department prior to approval.

(2) Except as provided in sub. (3), plan examination fees for the construction or modification of public swimming pools and water attractions shall be as listed in Table 2.68-1.

(3) (a) *Multiple submittals.* If the plans and specifications involve more than one public swimming pool or more than one water recreation attraction at the same site, plan review fees shall be the highest applicable fee as specified in Table 2.68-1 for one pool, or if not a pool, for one attraction, plus 50% of the applicable fee for each additional pool or attraction.

(b) *Priority review.* An appointment may be made with the department to facilitate the examination of plans in less than the normal processing time. Complete plans along with fees equal to twice that as specified in Table 2.68-1 shall be submitted to the department. The plans shall comply with all of the provisions of this section.

(c) *Alternate and experimental system design review.* Fees for the review and approval of alternate and experimental system designs shall be as specified in Table 2.68-1. A fee for the minor revision to a previously approved alternate or experimental system design may be assessed. The expiration date of the original approval may not be extended if a minor revision is approved.

(d) *Projects without approval.* The fees specified in this section shall be doubled for a project subject to the scope of ch. Comm 90 for which the installation has started without department approval.

**Note:** Fees and submittal requirements for water slides are as specified in ss. Comm 2.20 and 34.50.

SECTION 2. Comm 2.68 Table 2.68-1 is created to read:

**Table 2.68-1  
Plan Review Fees for Public Swimming Pools and Water Attractions  
by Type of Review**

Pool Type or Water Attraction	Fee		
	Type of Review		
	Initial Construction	Modification	Revision to Previously Approved Plans
Public Swimming Pool, gutter type	\$300.00	\$100.00	\$60.00
Public Swimming Pool, skimmer type	\$225.00	\$100.00	\$60.00
Water Attraction	\$300.00	\$100.00	\$60.00
Public Whirlpool	\$225.00	\$100.00	\$60.00
Alternate and Experimental Design	\$500.00	\$250.00	\$100.00

SECTION 3. Comm 90.01 is amended to read:

**Comm 90.01 Authority and purpose.** This chapter is promulgated under the authority of s. 145.26, Stats., to regulate the design and construction, alteration, or reconstruction of public swimming pools, including whirlpools and water recreation attractions, and the alteration of public swimming pool equipment in order to protect the health and safety of the public.

SECTION 4. Comm 90.02 (2) is repealed and recreated to read:

**Comm 90.02 (2) PETITION FOR VARIANCE.** The department shall consider and may grant a variance to a provision of this chapter in accordance with ch. Comm 3.

**Note:** Chapter Comm 3 requires the submittal of a petition for variance form (SBD-9890) and a fee, and that an equivalency is established in the petition for variance that meets the intent of the rule being petitioned. Chapter Comm 3 also requires the department to process regular petitions within 30 business days and priority petitions within 10 business days.

**Note:** Form SBD-9890 is available at no charge from the department at the Safety and Buildings Division, P.O. Box 2509, Madison WI 53701, telephone 608/266-1818.

SECTION 5. Comm 90.03 (15) Note is created to read:

**Note:** See listing in Appendix A-90.03 (15).

SECTION 6. Comm 90.03 (18w) is created to read:

**Comm 90.03 (18w) "Toxic"** has the meaning specified under s. Comm 82.11 (159t).

**Note:** Section Comm 82.11 (159t) reads: "Toxic" means a probable human oral lethal dose of 15 or less grams of solution per kilogram of body weight.

SECTION 7. Comm 90.03 (19) Note is amended to read:

**Comm 90.03 (19) Note:** Examples of water recreation attractions are waterslide plunge pools, ~~lazy~~ leisure river or tubing pools and wave pools.

SECTION 8. Comm 90.04 (1) to (4) is repealed and recreated to read:

**Comm 90.04 Plan review and approval.** The design for the construction, alteration, or reconstruction of a public swimming pool or public whirlpool shall be submitted to the department for review in accordance with this section.

**(1) PUBLIC POOL AND PUBLIC WHIRLPOOL REVIEW.** A public swimming pool or public whirlpool design shall be submitted to the department for review prior to the start of construction or installation.

**(a) Plans and specifications.** 1. At least 4 sets of plans and one copy of specifications shall be submitted for review. These sets of plans and copies shall be clear, legible and permanently marked.

2. Plans submitted for review shall be accompanied by sufficient information for the department to determine if the installation and its performance will meet the requirements of this chapter.

3. Plans and specifications for all public swimming pools and their equipment, including adequate supporting design data, shall be prepared by a Wisconsin registered architect or professional engineer and bear that person's seal and signature.

4. The department shall review and make a determination on an application for a public swimming pool or whirlpool submittal within 15 days of receipt of all information and fees required for completion of the review.

(b) *Revised submittals.* All changes or modifications, involving the provisions of this chapter, shall be approved in writing by the department prior to installation.

(c) *Revocation of approval.* The department may revoke any approval, issued under the provisions of this chapter, for any false statements or misrepresentation of facts on which the approval was based.

(d) *Expiration of approval.* Plans approved by the department shall expire 2 years after the date indicated on the approval letter, if construction has not commenced within that 2-year period.

(e) *Limitations.* A conditional approval of a plan by the department shall not be construed as an assumption by the department of any responsibility for the design. The department does not hold itself liable for any defects in construction or for any damages that may result from the specific installation.

(f) *Fees.* Fees for plan review submittals shall be as specified in Ch. Comm 2.

**(2) ALTERNATE SWIMMING PUBLIC POOL OR PUBLIC WHIRLPOOL DESIGN REVIEW.** The provisions of this chapter are not intended to prevent innovative designs for public swimming pools or whirlpools. The department may issue an approval of an alternate public swimming pool or whirlpool design if the design complies with the intent of this chapter.

(a) *Alternate public swimming pool or whirlpool designs.* For an alternate public pool or whirlpool design, an approval shall be required before statewide installation and use.

1. Alternate public pool or whirlpool designs submitted for review shall be accompanied by sufficient information for the department to determine if the design and its performance will meet the requirements of this chapter.

2. The department shall review and make a determination on an application for an alternate public swimming pool or whirlpool submittal within 90 days of receipt of all information and fees required for completion of the review.

3. The department may include specific conditions in issuing an approval for an alternate public swimming pool or whirlpool design, including an expiration date for the approval. Violations of the conditions under which an approval is issued shall constitute a violation of this chapter.

4. If, upon review, the department determines that an alternate public swimming pool or whirlpool design does not comply with the intent of this chapter, the request for approval shall be denied in writing.



5. If a public pool or whirlpool design receives alternate approval, a plan for the site-specific public swimming pool or whirlpool complying with the alternate design approval shall be submitted in accordance with sub. (1).

(b) *Revisions.* If an approved alternate public swimming pool or whirlpool design is modified or additional assertions of function or performance are made, the approval shall be considered null and void, unless the design is resubmitted to the department for review and approval is granted.

(c) *Revocation of approval.* The department may revoke an approval issued under this section for any false statements or misrepresentation of facts or data on which the approval was based, or as a result of design failure.

(d) *Limitations.* An approval issued by the department for an alternate public swimming pool or whirlpool design may not be construed as an assumption of any responsibility for defects in design, construction or performance of any installation or for any damages that may result.

(e) *Fees.* Fees for the review of an alternate public swimming pool design under this section and any onsite inspections shall be submitted in accordance with ch. Comm 2. Fees for any miscellaneous inspections shall be as specified in s. Comm 2.04 (2).

**(3) EXPERIMENTAL PUBLIC SWIMMING POOL OR PUBLIC WHIRLPOOL DESIGN REVIEW.** The provisions of this chapter are not intended to prevent innovative designs for public pools or whirlpools. The department may issue an approval of an experimental public swimming pool or whirlpool design for the purpose of proving compliance with the intent of this chapter.

(a) *Experimental public swimming pool or whirlpool designs.* 1. Experimental public swimming pool or whirlpool designs submitted for review shall be accompanied by sufficient information as requested by the department.

2. The department shall review and make a determination on an application for an experimental public swimming pool or whirlpool submittal within 90 days of receipt of all information and fees required for completion of the review.

3. The department may include specific conditions in issuing an approval for an experimental public swimming pool or whirlpool design, including an expiration date for the approval. Violations of the conditions under which an approval is issued shall constitute a violation of this chapter.

4. If, upon review, the department determines that an experimental public swimming pool or whirlpool design is not acceptable, the request for approval shall be denied in writing

5. If a public swimming pool or whirlpool design receives experimental approval, a plan for the site-specific public swimming pool or whirlpool complying with the experimental design approval shall be submitted in accordance with sub. (1).

6. The department may limit the number of applications for review of experimental systems.

(b) *Revisions.* If an approved experimental public swimming pool or whirlpool design is modified or additional assertions of function or performance are made, the approval shall be considered null and void, unless the design is resubmitted to the department for review and approval is granted.

(c) *Revocation of approval.* The department may revoke an approval issued under this section for any false statements or misrepresentation of facts or data on which the approval was based, or as a result of design failure.

(d) *Limitations.* An approval issued by the department for an experimental public swimming pool or whirlpool design may not be construed as an assumption of any responsibility for defects in design, construction or performance of any installation or for any damages that may result.

(e) *Fees.* Fees for the review of an experimental public swimming pool design under this section and any onsite inspections shall be submitted in accordance with ch. Comm 2. Fees for any miscellaneous inspections shall be as specified in s. Comm 2.04 (2).

**Note:** Plans and specifications shall be submitted to Commerce, Safety & Buildings Division, 201 W. Washington Avenue, P.O. Box 7162, Madison, Wisconsin 53707-7162.

SECTION 9. Comm 90.06 (2) is amended and renumbered 90.06 (2) (a) to read:

**Comm 90.06 (2) CROSS-CONNECTION CONTROL.** (a) As specified in s. Comm 82.41, All all portions of the water distribution system serving the pool and all auxiliary facilities shall be protected against backflow ~~and backsiphonage~~. Water introduced into the pool, either directly or to the recirculation system, shall be supplied through a minimum air-gap equal to 2 pipe diameters or 6 inches (~~15.3 cm~~), whichever is less, or by another method approved by the department.

SECTION 9a. Comm 90.06 (2) (b) and NOTE are created to read:

**Comm 90.06 (2) (b)** The use of a toxic solution, such as but not limited to heat transfer fluid in a single-wall heat exchanger for pool water, is prohibited.

**NOTE:** Also refer to s. Comm 90.03 (18w) for definition of toxic.

SECTION 10. Comm 90.08 (8) (a) is amended and renumbered 90.08 (8)(a) 1. to read:

**Comm 90.08 (8) POOL SHAPE.** (a) *Contour and obstructions.* 1. A swimming pool shall have a shape that does not impair the circulation of pool water and swimmers' safety. Except for a safety ledge, a safety rope, a ladder or access side rails, and those obstructions listed in subd. 2., there shall be no underwater or overhead projections or obstructions that might endanger patron safety or interfere with proper pool operation.

SECTION 10a. Comm 90.08 (8) (a) 2. is created to read:

**Comm 90.08 (8) (a) 2.** Pool basin obstructions, including roof support columns, shall be no more than 2 feet in diameter, of a contrasting color, protrude at least 5 feet above the pool bottom and no less than 3 feet above the water level.

SECTION 10b. Comm 90.08 (8) (b) 2. is amended to read:

**Comm 90.08 (8) (b) 2.** The length of the bench may not exceed 10 feet; the height of the bench may not exceed 18 inches (~~46 cm~~); the ~~depth~~ width of the bench seat may not exceed ~~16~~ 18 inches (~~40.6 cm~~); the depth of the water above the bench seat may not exceed 2 feet (~~0.61 m~~).

SECTION 10b. Comm 90.08 (8) (b) 4. is repealed and recreated to read:

**Comm 90.08 (8) (b) 4.** A warning label with the words "bench below" or similar warning language acceptable to the department shall be placed on the deck at the edge of the pool above the bench area. For benches in excess of 5 feet in length, two such warning labels shall be placed at one-third and two-thirds of the bench length. The warning label lettering shall be a minimum of 2 inches in height and shall be or a color that is in distinct contrast to the deck background.

SECTION 11. Comm 90.08 (10) (d) is repealed and recreated to read:

**Comm 90.08 (10) (d) Recessed stairs.** 1. Recessed stairs may be substituted for ladders only at or near the shallow end wall. Recessed stairs shall not extend into the pool basin except that the department may permit stairs to be located in a corner.

2. Cantilevered coping of one inch or less at the top of the stair at deck level shall not be considered an obstruction or hazard to patrons.

3. Stairs shall have a uniform rise of not more than 10 inches and uniform treads of not less than 10 inches. Treads shall have a minimum unobstructed surface area of 240 square inches. All corners shall be rounded to a radius of 1/2 inch. Treads may not project beyond the face of the riser and shall have a slip-resistant surface.

SECTION 12. Comm 90.08 (12) Note is created to read:

**Comm 90.08 (12) Note:** Guidelines for pool designers are available from the National Center for Accessibility, Guidelines on Swimming Pool Accessibility, September 1996 (publication number QA95007001). Phone 1-800-424-1877.

SECTION 13. Comm 90.08 (14) is amended to read:

**Comm 90.08 (14) DEPTH MARKINGS.** Depth markers shall be located along the pool perimeter on the edge of the deck and on the vertical pool wall at or above the water surface at all pools, except at wading pools or on the vertical walls of whirlpools and pools where no vertical wall is exposed above the waterline. The depth of water shall be plainly marked at maximum and minimum points, at points of change in slope and at equal intermediate intervals of 25 feet (~~7.6 m~~) or less. Depth marker numerals on the edge of the deck shall be at least 6 inches (~~15.24 cm~~) high. Markers on the vertical wall shall be at least ~~3~~ 4 inches (~~7.62 cm~~) high. All markers shall be of a color contrasting with the background.

SECTION 14. Comm 90.09 (1) (a) is amended to read:

**Comm 90.09 Pool deck and deck equipment. (1) AREA. (a) General. 1. Except for subd. 2.,** ~~There~~ there shall be an unobstructed deck at the same level as the top of the pool wall. The deck shall extend completely around the pool. There shall be at least 6 feet (~~1.8 m~~) of unobstructed deck between any 2 adjacent pools except that the minimum deck width between a wading pool and any other pool shall be 12 feet (~~3.7 m~~). Deck equipment permitted under this chapter is not considered an obstruction.

SECTION 14a. Comm 90.09 (1) (a) 2. is created to read:

Comm 90.09 (1) (a) 2. Deck obstructions, including roof support columns, shall be no greater than 2 feet in diameter and of a contrasting color so as to provide adequate clearance, safety, visibility and access.

SECTION 15. Comm 90.10 (1) is amended to read:

**Comm 90.10 Outdoor pool enclosure. (1)** Except as provided in par. (b), an enclosure at least 5 feet (~~1.5 m~~) high constructed to make access difficult shall completely surround every outdoor pool and its adjacent deck area. Access shall be through self-closing and latching gates at the shallow end of the pool. Any opening except a controlled access may not exceed ~~5~~ 3 1/2 inches (~~12.7 cm~~) in width or diameter. The enclosure shall be designed, where a bathhouse is provided, so that patron access to the pool shall be through the bathhouse. Controlled openings for maintenance purposes are permitted if they can be locked.

SECTION 16. Comm 90.12 (1) Note is amended to read:

**Comm 90.12 (1) Note 4:** See s. ~~HSS~~ HFS 172.09 (1) for disinfectant approval and usage.

SECTION 17. Comm 90.19 (2) is amended to read:

**Comm 90.19 (2) PERIPHERAL STRUCTURE. (a) Roofs and ventilation.** The ceiling or canopy over a whirlpool shall be constructed so that moisture or condensation from the ceiling or canopy does not drain into the whirlpool. The whirlpool room shall be adequately ventilated to prevent excessive condensation, as required under s. ~~ILHR~~ Comm 64.05

(b) *Obstructions and ceiling height.* 1. Pursuant to s. Comm 90.09 (1) (e), there shall be no obstacle or protrusion within a whirlpool or extending from a whirlpool room walls or ceiling which would interfere with the use of the whirlpool or make access difficult.

2. The minimum headroom measured as the height between the top of the whirlpool rim and the ceiling shall be ~~6'8"~~ 6 feet 8 inches (~~2.0 m~~), as required under s. Comm 51.164.

(c) *Cleanable walls and ceiling.* The walls and ceiling enclosing a whirlpool shall be constructed of ~~nonabsorbent~~ waterproof material that can be easily cleaned. ~~The area of any~~ Any wall receiving splashed water from the whirlpool shall be waterproof to a height of no less than 3 feet above the deck.

SECTION 18. Comm 90.19 (6) (a) is repealed and recreated to read:

**Comm 90.19 (6) DECKS. (a) *Dimensions and whirlpool location.*** Except for subds. 1. and 2., a continuous, unobstructed deck at least 5 feet wide and at the same level as the top of the pool wall shall be provided around at least 50% of a whirlpool. The deck width at any point of egress for a whirlpool shall be a minimum of 5 feet as measured parallel to the direction of travel from the stairs.

1. A rim no greater than 3 inches in height and at least one inch in width may be provided around the perimeter of a whirlpool.

2. When a whirlpool is located in a corner of a room, deck width shall be calculated by using the following:

a. The angle between the two room walls must be at least 90 degrees.

b. A deck width of at least 2 feet on both sides measured along the center line of the pool perpendicular to the bisector of the angle of the two room walls.

c. No other wall or obstruction shall be located within 5 feet of the whirlpool rim.

**Note:** For further clarification, see Appendix A-90.19 (6).

SECTION 19. Comm 90.19 (6) (d) Note is created:

**Note:** For location of indoor and outdoor pools near walls see Appendix A-90.19 (6).

SECTION 20. Comm 90.19 (8) (c) 3. is renumbered to read as Comm 90.19 (8) (c) 4.a.

SECTION 21. Comm 90.19 (8) (c) 4. a. is renumbered to read as Comm 90.19 (8) (c) 3.

SECTION 21a. Appendix for Chapter Comm 90 is created:

### **Chapter Comm 90 APPENDIX**

The material contained in this appendix is for clarification purposes only. The notes, illustrations, etc., are numbered to correspond to the number of rule as it appears in the text of the code.

SECTION 22. Appendix A-90.03 (15) is created to read:

A-90.03 (15) Plan submittal and fees.

The following is a listing of when the department may waive submittal of pool plans and fees for the reconstruction and alteration of existing pools. This listing is based upon SPGL-7, Guidelines for Pool Designers, June 22, 1992, issued by Department of Health and Family Services.

1. A disinfection system equipped with a positive displacement pump is replaced by an approved pass-through (erosion) type system or visa versa, the replacement of a gas chlorine system with a positive displacement pump or approved pass-through feeder.

**Note:** The installation of a gas chlorine system will require plan review and a fee.

2. A recirculation pump is replaced by another pump from a different manufacturer provided that the capacity of the new pump is at least equal to the pump which is replaced.

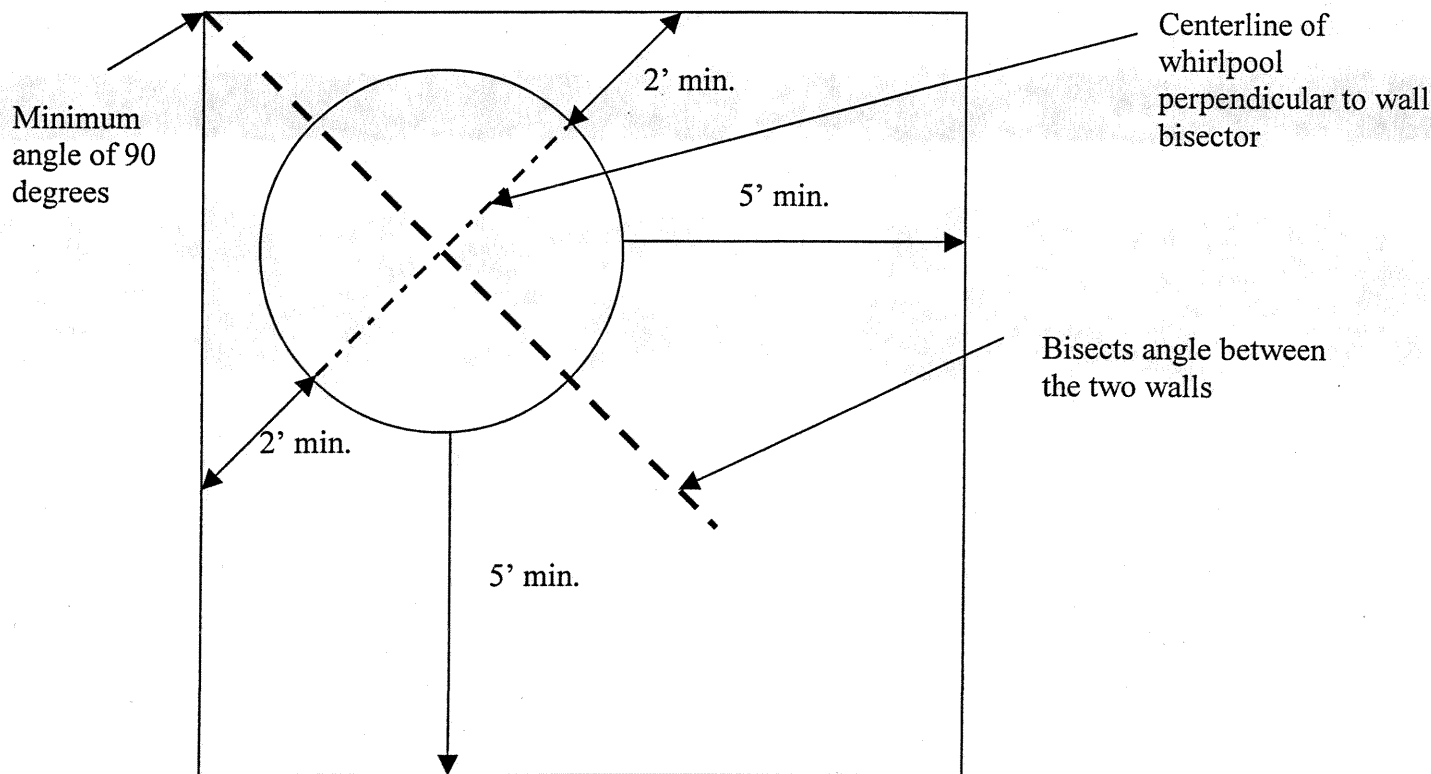
3. A filter is replaced with an approved filter of the same type but with greater filter media surface.

4. The replacement of metal piping and fittings with the same size PVC piping and fittings.

5. A supplemental disinfecting system is installed (e.g., Tarn Pure, Ozone, etc.) provided that the halogen residual is maintained as stated in ch. HFS 172 and that there is no decrease in the required water recirculation flow rate.

SECTION 23. Appendix A-90.19 (6) is created to read:

A-90.19 (6) Sample sketch depicting whirlpool location and measurements for access, as specified in s. Comm 90.19 (6) (a) 2.



(end)

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**EFFECTIVE DATE**

Pursuant to s. 227.22 (2) (intro.), Stats., these rules shall take effect on the first day of the first month following publication in the Wisconsin Administrative Register.

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State of Wisconsin \ Department of Commerce

# **RULES in FINAL DRAFT FORM Germane Modification**

**Rule No.:** Chapter Comm 90

**Relating to:** Design and Installation of Public Swimming Pools

**Clearinghouse Rule No.:** 99-122



The Wisconsin Department of Commerce proposes an order to renumber Comm 90.19 (8)(c) 3. as Comm 90.19 (8)(c) 4.a.; renumber and amend Comm 90.06(2) as 90.06(2)(a), and 90.08 (8)(a) as 90.08 (8)(a) 1; amend Comm 90.01, 90.03(19) Note, 90.08(8)(b) 2. and 4., 90.08(14), 90.09(1)(a), 90.10(1), and 90.12(1) Note, 90.19(2); repeal Comm 90.19 (8)(c) 3. and 4.; repeal and recreate Comm 2.68, Comm 90.02(2), 90.04(1) to (4), 90.08(10)(d), 90.19(6)(a); and to create Comm 2.68 Table 2.68-1, Comm 90.03(15) Note, 90.03 (18w), 90.06(2)(b), 90.08(8)(a) 2., 90.08(12) Note, 90.09 (1)(a) 2., 90.19(6)(d) Note, 90.19(8)(c) 3., Chapter Comm 90 Appendix, Appendix A-90.03(15), and Appendix A-90.19(6), relating to the design and construction of public swimming pools.

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ANALYSIS OF RULES

Statutory authority: ss. 145.26, Stats.  
Statutes interpreted: ss. 145.26, Stats.

This rule revision was created in response to issues brought to the attention of the department by members of the advisory council, the public and inspection and/or licensing staff. This chapter, Comm 90, has had only minor revisions since 1989 when the chapter was moved from the then Department of Health and Social Services to the then Department of Industry, Labor and Human Relations.

The proposed changes to the fee code, chapter Comm 2, clarify current review types which are standard for the plan review service within Commerce. The introduction of alternate and experimental system reviews not only provides a means for the review and approval of creative designs, but also provides the opportunity and the use of new technology on a site-by-site or statewide basis, as now specified in s. Comm 90.04 and ch. Comm 2, respective fees. Also included in this rule revision are fee increases for plan review of public swimming pools and water attractions, as listed in Table 2.68-1. Current fee amounts will be increased 100 percent and the current "discount" for simultaneous submittal of pool plans will be discontinued. [These fee amounts were the subject of public hearings for Clearinghouse Rule No. 00-009.]

Section Comm 90.02 (2) provides standard language for the submittal of a petition for variance.

Sections Comm 90.08, 90.09 and 90.19 recognize that in some cases pools and pool decks are installed on existing sites and that existing structural supports may be present and considered an obstruction. The proposed text allows such 'obstructions' when they do not impact on patron safety and pool operations, such as lifeguard access and visibility. Other revisions relate to clarification of bench and coping widths.

Section 90.10 (1) is revised to reflect the safe distances between gate and fence openings, as per the U.S. Consumer Product Safety Commission, established to prevent head entrapment by young children and limiting their access to an unsupervised pool area.

Section Comm 90.19 clarifies head room for rooms where whirlpools are installed, corner location of whirlpools with respect to providing accessible access, as well as use of waterproof materials around pool walls.

Some minor revisions occur throughout the rule draft which are made to recognize titles of specific chapters contained in the Wisconsin Administrative Code-- Commerce (Comm) and Department of Health and Family Services (HFS); clarification of wavier for plan submittal and fees; and the deletion of metric units.

The proposed rule revisions were developed by the department with advice from the Pool Advisory Code Council. The Council consists of: Dave Baker, pool operators; Bill Branson, plumbing inspectors; Bob Holling, City of Sun Prairie - Parks; Duane Jackson, City of Madison - Environmental Health; Hal Maier, pool contractors; Tim Mirkes, City of Appleton - Health; Chuck Neuman, Water World Park Assoc.; Doug Voegeli, Wisconsin DHFS; and Jack Waterman, Wisconsin Innkeepers Assoc.

SECTION 1. Comm 2.68 is repealed and recreated to read:

**Comm 2.68 Swimming pool and whirlpool plan review fees.** (1) Plan examination fees for public swimming pools and water attractions shall accompany plans and specifications when submitted to the department for review. If the department determines, upon review of the plans, that inadequate fees were received, the necessary additional fees shall be received by the department prior to approval.

(2) Except as provided in sub. (3), plan examination fees for the construction or modification of public swimming pools and water attractions shall be as listed in Table 2.68-1.

(3) (a) *Priority review.* An appointment may be made with the department to facilitate the examination of plans in less than the normal processing time. Complete plans along with fees equal to twice that as specified in Table 2.68-1 shall be submitted to the department. The plans shall comply with all of the provisions of this section.

(b) *Alternate and experimental system design review.* Fees for the review and approval of alternate and experimental system designs shall be as specified in Table 2.68-1. A fee for the minor revision to a previously approved alternate or experimental system design may be assessed. The expiration date of the original approval may not be extended if a minor revision is approved.

(c) *Projects without approval.* The fees specified in this section shall be doubled for a project subject to the scope of ch. Comm 90 for which the installation has started without department approval.

**Note:** Fees and submittal requirements for water slides are as specified in ss. Comm 2.20 and 34.50.

SECTION 2. Comm 2.68 Table 2.68-1 is created to read:

**Table 2.68-1  
Plan Review Fees for Public Swimming Pools and Water Attractions  
by Type of Review**

Pool Type or Water Attraction	Fee		
	Type of Review		
	Initial Construction	Modification	Revision to Previously Approved Plans
Public Swimming Pool, gutter type	\$600.00	\$200.00	\$120.00
Public Swimming Pool, skimmer type	\$450.00	\$200.00	\$120.00
Water Attraction	\$600.00	\$200.00	\$120.00
Public Whirlpool	\$450.00	\$200.00	\$120.00
Alternate and Experimental Design	\$750.00	\$375.00	\$150.00

SECTION 3. Comm 90.01 is amended to read:

**Comm 90.01 Authority and purpose.** This chapter is promulgated under the authority of s. 145.26, Stats., to regulate the design and construction, alteration, or reconstruction of public swimming pools, including whirlpools and water recreation attractions, and the alteration of public swimming pool equipment in order to protect the health and safety of the public.

SECTION 4. Comm 90.02 (2) is repealed and recreated to read:

**Comm 90.02 (2) PETITION FOR VARIANCE.** The department shall consider and may grant a variance to a provision of this chapter in accordance with ch. Comm 3.

**Note:** Chapter Comm 3 requires the submittal of a petition for variance form (SBD-9890) and a fee, and that an equivalency is established in the petition for variance that meets the intent of the rule being petitioned. Chapter Comm 3 also requires the department to process regular petitions within 30 business days and priority petitions within 10 business days.

**Note:** Form SBD-9890 is available at no charge from the department at the Safety and Buildings Division, P.O. Box 2509, Madison WI 53701, telephone 608/266-1818.

SECTION 5. Comm 90.03 (15) Note is created to read:

**Note:** See listing in Appendix A-90.03 (15).

SECTION 6. Comm 90.03 (18w) is created to read:

**Comm 90.03 (18w) "Toxic"** has the meaning specified under s. Comm 81.01 (258).

**Note:** Section Comm 81.01 (258) reads: "Toxic" means a probable human oral lethal dose of 15 or less grams of solution per kilogram of body weight.

SECTION 7. Comm 90.03 (19) Note is amended to read:

**Comm 90.03 (19) Note:** Examples of water recreation attractions are waterslide plunge pools, ~~lazy~~ leisure river or tubing pools and wave pools.

SECTION 8. Comm 90.04 (1) to (4) is repealed and recreated to read:

**Comm 90.04 Plan review and approval.** The design for the construction, alteration, or reconstruction of a public swimming pool or public whirlpool shall be submitted to the department for review in accordance with this section:

**(1) PUBLIC POOL AND PUBLIC WHIRLPOOL REVIEW.** A public swimming pool or public whirlpool design shall be submitted to the department for review prior to the start of construction or installation:

**(a) Plans and specifications.** 1. At least 4 sets of plans and one copy of specifications shall be submitted for review. These sets of plans and copies shall be clear, legible and permanently marked.

2. Plans submitted for review shall be accompanied by sufficient information for the department to determine if the installation and its performance will meet the requirements of this chapter.

3. Plans and specifications for all public swimming pools and their equipment, including adequate supporting design data, shall be prepared by a Wisconsin registered architect or professional engineer and bear that person's seal and signature.

4. The department shall review and make a determination on an application for a public swimming pool or whirlpool submittal within 15 days of receipt of all information and fees required for completion of the review.

(b) *Revised submittals.* All changes or modifications, involving the provisions of this chapter, shall be approved in writing by the department prior to installation.

(c) *Revocation of approval.* The department may revoke any approval, issued under the provisions of this chapter, for any false statements or misrepresentation of facts on which the approval was based.

(d) *Expiration of approval.* Plans approved by the department shall expire 2 years after the date indicated on the approval letter, if construction has not commenced within that 2-year period.

(e) *Limitations.* A conditional approval of a plan by the department shall not be construed as an assumption by the department of any responsibility for the design. The department does not hold itself liable for any defects in construction or for any damages that may result from the specific installation.

(f) *Fees.* Fees for plan review submittals shall be as specified in Ch. Comm 2.

**(2) ALTERNATE SWIMMING PUBLIC POOL OR PUBLIC WHIRLPOOL DESIGN REVIEW.** The provisions of this chapter are not intended to prevent innovative designs for public swimming pools or whirlpools. The department may issue an approval of an alternate public swimming pool or whirlpool design if the design complies with the intent of this chapter:

(a) *Alternate public swimming pool or whirlpool designs.* For an alternate public pool or whirlpool design, an approval shall be required before statewide installation and use.

1. Alternate public pool or whirlpool designs submitted for review shall be accompanied by sufficient information for the department to determine if the design and its performance will meet the requirements of this chapter.

2. The department shall review and make a determination on an application for an alternate public swimming pool or whirlpool submittal within 90 days of receipt of all information and fees required for completion of the review.

3. The department may include specific conditions in issuing an approval for an alternate public swimming pool or whirlpool design, including an expiration date for the approval. Violations of the conditions under which an approval is issued shall constitute a violation of this chapter.

4. If, upon review, the department determines that an alternate public swimming pool or whirlpool design does not comply with the intent of this chapter, the request for approval shall be denied in writing.

5. If a public pool or whirlpool design receives alternate approval, a plan for the site-specific public swimming pool or whirlpool complying with the alternate design approval shall be submitted in accordance with sub. (1).

(b) *Revisions.* If an approved alternate public swimming pool or whirlpool design is modified or additional assertions of function or performance are made, the approval shall be considered null and void, unless the design is resubmitted to the department for review and approval is granted.

(c) *Revocation of approval.* The department may revoke an approval issued under this section for any false statements or misrepresentation of facts or data on which the approval was based, or as a result of design failure.

(d) *Limitations.* An approval issued by the department for an alternate public swimming pool or whirlpool design may not be construed as an assumption of any responsibility for defects in design, construction or performance of any installation or for any damages that may result.

(e) *Fees.* Fees for the review of an alternate public swimming pool design under this section and any onsite inspections shall be submitted in accordance with ch. Comm 2. Fees for any miscellaneous inspections shall be as specified in s. Comm 2.04 (2).

**(3) EXPERIMENTAL PUBLIC SWIMMING POOL OR PUBLIC WHIRLPOOL DESIGN REVIEW.** The provisions of this chapter are not intended to prevent innovative designs for public pools or whirlpools. The department may issue an approval of an experimental public swimming pool or whirlpool design for the purpose of proving compliance with the intent of this chapter:

(a) *Experimental public swimming pool or whirlpool designs.* 1. Experimental public swimming pool or whirlpool designs submitted for review shall be accompanied by sufficient information as requested by the department.

2. The department shall review and make a determination on an application for an experimental public swimming pool or whirlpool submittal within 90 days of receipt of all information and fees required for completion of the review.

3. The department may include specific conditions in issuing an approval for an experimental public swimming pool or whirlpool design, including an expiration date for the approval. Violations of the conditions under which an approval is issued shall constitute a violation of this chapter.

4. If, upon review, the department determines that an experimental public swimming pool or whirlpool design is not acceptable, the request for approval shall be denied in writing

5. If a public swimming pool or whirlpool design receives experimental approval, a plan for the site-specific public swimming pool or whirlpool complying with the experimental design approval shall be submitted in accordance with sub. (1).

6. The department may limit the number of applications for review of experimental systems.

(b) *Revisions.* If an approved experimental public swimming pool or whirlpool design is modified or additional assertions of function or performance are made, the approval shall be considered null and void, unless the design is resubmitted to the department for review and approval is granted.

(c) *Revocation of approval.* The department may revoke an approval issued under this section for any false statements or misrepresentation of facts or data on which the approval was based, or as a result of design failure.

(d) *Limitations.* An approval issued by the department for an experimental public swimming pool or whirlpool design may not be construed as an assumption of any responsibility for defects in design, construction or performance of any installation or for any damages that may result.

(e) *Fees.* Fees for the review of an experimental public swimming pool design under this section and any onsite inspections shall be submitted in accordance with ch. Comm 2. Fees for any miscellaneous inspections shall be as specified in s. Comm 2.04 (2).

**Note:** Plans and specifications shall be submitted to Commerce, Safety & Buildings Division, 201 W. Washington Avenue, P.O. Box 7162, Madison, Wisconsin 53707-7162.

SECTION 9. Comm 90.06 (2) is renumbered 90.06 (2) (a) and amended to read:

**Comm 90.06 (2) CROSS-CONNECTION CONTROL.** (a) All As specified in s. Comm 82.41, all portions of the water distribution system serving the pool and all auxiliary facilities shall be protected against backflow and backsiphonage. Water introduced into the pool, either directly or to the recirculation system, shall be supplied through a minimum air-gap equal to 2 pipe diameters or 6 inches (~~15.3 cm~~), whichever is less, or by another method approved by the department.

SECTION 9a. Comm 90.06 (2) (b) is created to read:

**Comm 90.06 (2) (b)** The use of a toxic solution, such as but not limited to heat transfer fluid in a single-wall heat exchanger for pool water, is prohibited.

SECTION 10. Comm 90.08 (8) (a) is renumbered 90.08 (8)(a) 1. and amended to read:

**Comm 90.08 (8) POOL SHAPE.** (a) *Contour and obstructions.* 1. A swimming pool shall have a shape that does not impair the circulation of pool water and swimmers' safety. Except for a safety ledge, a safety rope, a ladder or access side rails, and those obstructions listed in subd. 2., there shall be no underwater or overhead projections or obstructions that might endanger patron safety or interfere with proper pool operation.

SECTION 10a. Comm 90.08 (8) (a) 2. is created to read:

**Comm 90.08 (8) (a) 2.** Pool basin obstructions, including roof support columns, shall be no more than 2 feet in diameter, of a contrasting color, protrude at least 5 feet above the pool bottom and no less than 3 feet above the water level.

SECTION 10b. Comm 90.08 (8) (b) 2. and 4. are amended to read:

**Comm 90.08 (8) (b) 2.** The length of the bench may not exceed 10 feet; the height of the bench may not exceed 18 inches (~~46 cm~~); the depth width of the bench seat may not exceed ~~16~~ 18 inches (~~40.6 cm~~); the depth of the water above the bench seat may not exceed 2 feet (~~0.61 m~~).

4. The words "bench area below" shall be placed on the deck at the edge of the pool at the bench area in ~~minimum 6-inch letters~~ of a color in distinct contrast to the deck background.

SECTION 11. Comm 90.08 (10) (d) is repealed and recreated to read:

**Comm 90.08 (10) (d) Recessed stairs.** 1. Recessed stairs may be substituted for ladders only at or near the shallow end wall. Recessed stairs shall not extend into the pool basin except that the department may permit stairs to be located in a corner.

2. Cantilevered coping of one inch or less at the top of the stair at deck level shall not be considered an obstruction or hazard to patrons.

3. Stairs shall have a uniform rise of not more than 10 inches and uniform treads of not less than 10 inches. Treads shall have a minimum unobstructed surface area of 240 square inches. All corners shall be rounded to a radius of 1/2 inch. Treads may not project beyond the face of the riser and shall have a slip-resistant surface.

SECTION 12. Comm 90.08 (12) Note is created to read:

**Comm 90.08 (12) Note:** Guidelines for pool designers are available from the National Center for Accessibility, Guidelines on Swimming Pool Accessibility, September 1996 (publication number QA95007001). Phone 1-800-424-1877.

SECTION 13. Comm 90.08 (14) is amended to read:

**Comm 90.08 (14) DEPTH MARKINGS.** Depth markers shall be located along the pool perimeter on the edge of the deck and on the vertical pool wall at or above the water surface at all pools, except at wading pools or on the vertical walls of whirlpools and pools where no vertical wall is exposed above the waterline. The depth of water shall be plainly marked at maximum and minimum points, at points of change in slope and at equal intermediate intervals of 25 feet (~~7.6 m~~) or less. Depth marker numerals on the edge of the deck shall be at least 6 inches (~~15.24 cm~~) high. Markers on the vertical wall shall be at least 3 inches (~~7.62 cm~~) high. All markers shall be of a color contrasting with the background.

SECTION 14. Comm 90.09 (1) (a) is amended to read:

**Comm 90.09 Pool deck and deck equipment. (1) AREA. (a) General.** 1. ~~There~~ Except for subd. 2., there shall be an unobstructed deck at the same level as the top of the pool wall. The deck shall extend completely around the pool. There shall be at least 6 feet (~~1.8 m~~) of unobstructed deck between any 2 adjacent pools except that the minimum deck width between a wading pool and any other pool shall be 12 feet (~~3.7 m~~). Deck equipment permitted under this chapter is not considered an obstruction.

SECTION 14a. Comm 90.09 (1) (a) 2. is created to read:

Comm 90.09 (1) (a) 2. Deck obstructions, including roof support columns, shall be no greater than 2 feet in diameter and of a contrasting color so as to provide adequate clearance, safety, visibility and access.

SECTION 15. Comm 90.10 (1) is amended to read:

**Comm 90.10 Outdoor pool enclosure.** (1) Except as provided in par. (b), an enclosure at least 5 feet (~~1.5 m~~) high constructed to make access difficult shall completely surround every outdoor pool and its adjacent deck area. Access shall be through self-closing and latching gates at the shallow end of the pool. Any opening except a controlled access may not exceed 5 3 1/2 inches (12.7 cm) in width or diameter. The enclosure shall be designed, where a bathhouse is provided, so that patron access to the pool shall be through the bathhouse. Controlled openings for maintenance purposes are permitted if they can be locked.

SECTION 16. Comm 90.12 (1) Note is amended to read:

**Comm 90.12 (1) Note 1:** See s. ~~HSS~~ HFS 172.09 (1) for disinfectant approval and usage.

SECTION 17. Comm 90.19 (2) is amended to read:

**Comm 90.19 (2) PERIPHERAL STRUCTURE.** (a) *Roofs and ventilation.* The ceiling or canopy over a whirlpool shall be constructed so that moisture or condensation from the ceiling or canopy does not drain into the whirlpool. The whirlpool room shall be adequately ventilated to prevent excessive condensation, as required under s. ~~ILHR~~ Comm 64.05

(b) *Obstructions and ceiling height.* 1. Pursuant to s. Comm 90.09 (1) (e), there shall be no obstacle or protrusion within a whirlpool or extending from a whirlpool room walls wall or ceiling which would interfere with the use of the whirlpool or make access difficult.

2. The minimum headroom measured as the height between the top of the whirlpool rim and the ceiling shall be ~~6'8"~~ 6 feet 8 inches (2.0 m), as required under s. Comm 51.164.

(c) *Cleanable walls and ceiling.* The walls and ceiling enclosing a whirlpool shall be constructed of ~~nonabsorbent~~ waterproof material that can be easily cleaned. ~~The area of any~~ Any wall receiving splashed water from the whirlpool shall be waterproof to a height of no less than 3 feet above the deck.

SECTION 18. Comm 90.19 (6) (a) is repealed and recreated to read:

**Comm 90.19 (6) DECKS.** (a) *Dimensions and whirlpool location.* Except for subds. 1. and 2., a continuous, unobstructed deck at least 5 feet wide and at the same level as the top of the pool wall shall be provided around at least 50% of a whirlpool. The deck width at any point of egress for a whirlpool shall be a minimum of 5 feet as measured parallel to the direction of travel from the stairs.

1. A rim no greater than 3 inches in height and at least one inch in width may be provided around the perimeter of a whirlpool.



2. When a whirlpool is located in a corner of a room, deck width shall be calculated by using the following:

a. The angle between the two room walls must be at least 90 degrees.

b. A deck width of at least 2 feet on both sides measured along the center line of the pool perpendicular to the bisector of the angle of the two room walls.

c. No other wall or obstruction shall be located within 5 feet of the whirlpool rim.

**Note:** For further clarification, see Appendix A-90.19 (6).

SECTION 19. Comm 90.19 (6) (d) Note is created:

**Note:** For location of indoor and outdoor pools near walls see Appendix A-90.19 (6).

SECTION 20. Comm 90.19 (8) (c) 3. and 4. are repealed.

SECTION 21. Comm 90.19 (8) (c) 3. is created to read:

Comm 90.19 (8) (c) 3. A minimum of two suction outlets shall be provided for each pump in the suction outlet system. When multiple suction outlets are operating from a pump, at least 2 suction outlets, either floor-mounted or wall-mounted, shall be located with a minimum of 3-foot separation.

SECTION 21a. Appendix for Chapter Comm 90 is created:

### **Chapter Comm 90 APPENDIX**

The material contained in this appendix is for clarification purposes only. The notes, illustrations, etc., are numbered to correspond to the number of rule as it appears in the text of the code.

SECTION 22. Appendix A-90.03 (15) is created to read:

A-90.03 (15) Plan submittal and fees.

The following is a listing of when the department may waive submittal of pool plans and fees for the reconstruction and alteration of existing pools. This listing is based upon SPGL-7, Guidelines for Pool Designers, June 22, 1992, issued by Department of Health and Family Services.

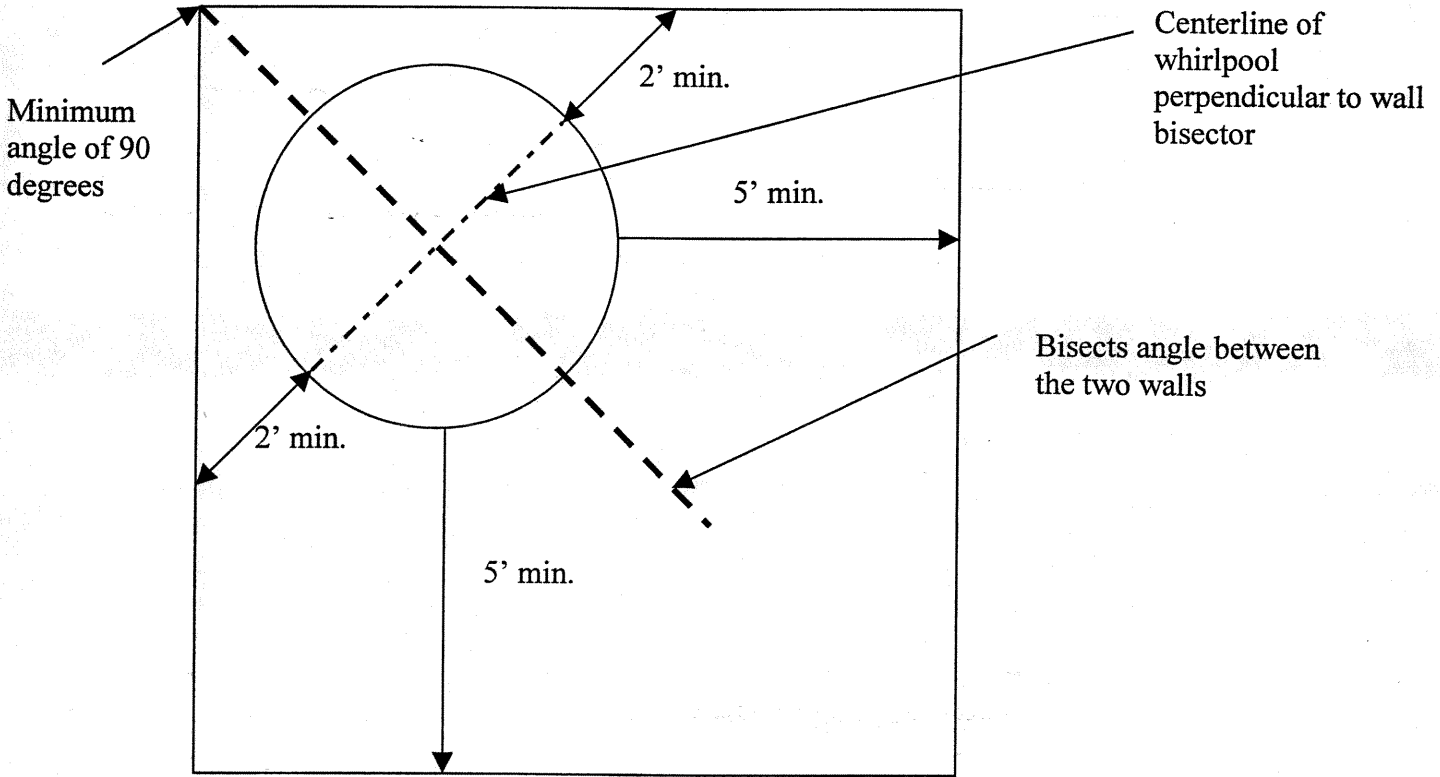
1. A disinfection system equipped with a positive displacement pump is replaced by an approved pass-through (erosion) type system or visa versa, the replacement of a gas chlorine system with a positive displacement pump or approved pass-through feeder.

**Note:** The installation of a gas chlorine system will require plan review and a fee.

2. A recirculation pump is replaced by another pump from a different manufacturer provided that the capacity of the new pump is at least equal to the pump which is replaced.
3. A filter is replaced with an approved filter of the same type but with greater file media surface.
4. The replacement of metal piping and fittings with the same size PVC piping and fittings.
5. A supplemental disinfecting system is installed (e.g., Tarn Pure, Ozone, etc.) provided that the halogen residual is maintained as stated in ch. HFS 172 and that there is no decrease in the required water recirculation flow rate.

SECTION 23. Appendix A-90.19 (6) is created to read:

A-90.19 (6) Sample sketch depicting whirlpool location and measurements for access, as specified in s. Comm 90.19 (6) (a) 2.



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**EFFECTIVE DATE**

Pursuant to s. 227.22 (2) (intro.), Stats., these rules shall take effect on the first day of the first month following publication in the Wisconsin Administrative Register.

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