

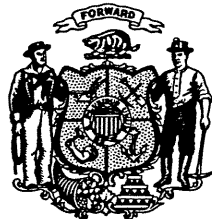
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC  
FORM 2

***RULES CLEARINGHOUSE***

**Ronald Sklansky**  
Director  
(608) 266-1946

**Richard Sweet**  
Assistant Director  
(608) 266-2982



**David J. Stute, Director**  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

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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 98-207**

AN ORDER to amend Comm 90.04 (4) (c) and 90.19 (6) (c); to repeal and recreate Comm 90.09 (5), 90.19 (6) (a) and 90.19 (8) (c); and to create Comm 90.03 (6m) and 90.19 (2) (d), relating to the design and construction of public swimming pools.

Submitted by **DEPARTMENT OF COMMERCE**

12-23-98      RECEIVED BY LEGISLATIVE COUNCIL.  
01-26-99      REPORT SENT TO AGENCY.

RS:DLS:jal;ksm

**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

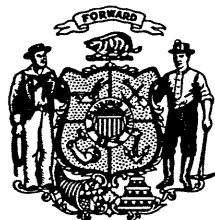
YES NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

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## CLEARINGHOUSE RULE 98-207

### 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 90.03 (6m), the word "via" should be replaced by the phrase "by way of" and the word "This" should be replaced by the phrase "Full suction outlet."

b. In s. Comm 90.09 (5) (a), the word "for" should be replaced by the phrase "as provided under." [See also s. Comm 90.19 (6) (a).] Also, this provision refers to the terms "bed and breakfast establishment," "tourist rooming house" and "private guest room." If statutory or administrative code provisions contain definitions of these terms, cross-references would be appropriate.

c. In s. Comm 90.19 (6) (a), the introductory material should be renumbered as subd. 1.; the remaining subdivisions should be renumbered accordingly; and the reference to "subd. 1." should be replaced by a reference to "subd. 2."

d. In s. Comm 90.19 (8) (c), the introductory material should conclude with the phrase "The outlets shall meet all of the following requirements:". Also, if the outlets referred to in this provision are full suction outlets, then the defined term "full suction outlet" should be used.

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

Are the provisions of s. Comm 90.19 (8) (c) 3. and subd. 4. b. in conflict?

The Wisconsin Department of Commerce proposes an order to amend s. Comm 90.04 (4) (c) and s. Comm 90.19 (6) (c); repeal and recreate s. Comm 90.09 (5), s. Comm 90.19 (6) (a) and s. Comm 90.19 (8) (c); and create s. Comm 90.03 (6m) and s. Comm 90.19 (2) (d) 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 Joint Committee for Review of Administrative Rules, by the Bed and Breakfast Industry. The proposed revisions are specific to provisions for drinking water sources at pools, pool rim dimensions, and observation windows, as well as providing exceptions for the tourist industry where health and safety are not considered to be compromised.

The proposed rule revisions were developed by the department with advice from the Pool Advisory Code Council who met on three occasions on this rule package. 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 90.03 (6m) is created to read:

Comm 90.03 (6m) "Full suction outlet" means a discharge port installed in the wall or floor of a pool which connects via piping to a pump. This does not include a skimmer.

SECTION 2. Comm 90.04 (4) (c) is amended to read:

Comm 90.04 (4) (c) Plot plan. A general map and detailed drawings showing the floor plan of pertinent portions of the structure, pool orientation, pool surface area and volume. In addition, water supply facilities, source of drinking water, public or private sewers and relative elevations of paved or other walkways and the equipment room floor, and the designed pool water level shall be shown in the detailed drawing. When public water and sewer systems are proposed to serve the public swimming pool, the elevations of storm and sanitary sewer inverts and street grade shall be shown;

SECTION 3. Comm 90.09 (5) is repealed and recreated to read:

Comm 90.09 (5) DRINKING WATER. (a) Except for par. (b), one or more drinking fountains installed in accordance with ch. Comm 82 shall be provided in the immediate pool area.

(b) For a bed and breakfast establishment, tourist rooming house, or private guest room, a source of potable drinking water supplied by a fixture plumbed and drained according to ch. Comm 82 or commercially bottled drinking water shall be provided within the pool enclosure or the establishment.

SECTION 4. Comm 90.19 (6) (a) is repealed and recreated to read:

Comm 90.19 (6) DECKS. (a) Dimensions. Except for subd. 1., 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 50% or more of the perimeter of a whirlpool.

1. A minimum 3-inch coping may be provided around the perimeter of a whirlpool.

2. The deck width at any point of egress from a whirlpool shall be a minimum of 5 feet as measured in a perpendicular direction of travel from the edge of the deck at the point of egress.

SECTION 5. Comm 90.19 (6) (c) is amended to read:

Comm 90.19 (6) (c) Deck width between pools. The deck width between a whirlpool and any other pool shall be at least 6 feet (~~1.8 m~~), except when a common wall not more than 18 inches (~~40.6 cm~~) wide, designed to prevent someone from standing on it, separates a whirlpool and a swimming pool. A minimum 11 ft. (~~3.4 m~~) deck width shall be provided between any pool and a whirlpool when the whirlpool is located near the portion of the other pool where the depth is greater than 4.5 ft. (~~1.4 m~~) feet.

Note: See also sub. (3).

SECTION 6. Comm 90.19 (8) (c) is repealed and recreated to read:

Comm 90.19 (8) (c) Outlets. Outlets shall be installed so as to produce circulation throughout the whirlpool.

1. A main drain shall be installed in the bottom of each whirlpool as specified in s. Comm 90.11 (6).

2. A minimum of two suction outlets shall be provided. Multiple sets of pump suction shall be allowed into two or more suction outlets as long as they are hydraulically balanced and approved by the department.

3. Suction outlets shall be located on two separate vertical walls.

4. Suction outlets shall be located to conform with any of the following:

a. Each suction outlet shall be installed with a minimum separation of 3 feet.

b. One suction outlet shall be located on the bottom of the whirlpool and one suction outlet shall be located on one of the vertical walls.

5. When full suction outlets are used, no piping or valve arrangement is allowed that will isolate one suction fitting as the sole source of fluid to the pump. The single pipe to a pump suction inlet may be valved to allow shut off of the flow to the pump.

6. Suction outlets shall be located within 3 inches of the bottom of a whirlpool.

SECTION 7. Comm 90.19 (2) (d) is created to read:

Comm 90.19 (2) (d) Observation window. Except for a private guest room with a telephone, an observation window shall be provided if the whirlpool is located in a separate, enclosed room so as to allow the owner or operator a clear observation of the whirlpool area from outside the room.

(end)

\*\*\*\*\*

**EFFECTIVE DATE**

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

\*\*\*\*\*



MAR 9 1999  
MAR 9 1999

201 West Washington Avenue  
P.O. Box 7970  
Madison, Wisconsin 53707  
(608) 266-1018

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

3/9/99

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.: 98-207

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

# FINAL REGULATORY FLEXIBILITY ANALYSIS

## Department of Commerce

CLEARINGHOUSE RULE NO.: 98-207

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.

None applicable.

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.

One written comment was received; no public testimony was given on the proposed rule revision. Some items mentioned in the written comment were not addressed in this proposed rule revision because they were determined by staff to be petitionable items. Owners of existing pools and whirlpools may petition the department for continued use when equivalence may be provided.



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

None estimated.

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

In reference to comments in #2, some small businesses may petition the department for a fee of \$200.

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 known.



201 West Washington Avenue  
P.O. Box 7970  
Madison, Wisconsin 53707  
(608) 266-1018

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

3/9/99

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.: 98-207

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,

A handwritten signature in black ink, appearing to read 'Brenda J. Blanchard', written over a horizontal line.

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.:** 98-207

The Wisconsin Department of Commerce proposes an order to amend s. Comm 90.04 (4) (c) and s. Comm 90.19 (6) (c); repeal and recreate s. Comm 90.09 (5), s. Comm 90.19 (6) (a) and s. Comm 90.19 (8) (c); and create s. Comm 90.03 (6m) and s. Comm 90.19 (2) (d) 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 Joint Committee for Review of Administrative Rules, by the Bed and Breakfast Industry. The proposed revisions are specific to provisions for drinking water sources at pools, pool rim dimensions, and observation windows, as well as providing exceptions for the tourist industry where health and safety are not considered to be compromised.

The proposed rule revisions were developed by the department with advice from the Pool Advisory Code Council who met on three occasions on this rule package. 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 90.03 (2e) is created to read:

Comm 90.03 (2e) "Bed and breakfast establishment" has the meaning found in s. 254.61 (12), Stats.

Note: Section s. 254.61 (1), Stats., reads: "Bed and breakfast establishment" means any place of lodging that:

- (a) Provides 8 or fewer rooms for rent to no more than a total of 20 tourists or transients;
- (b) Provides no meals other than breakfast and provides the breakfast only to renters of the place;
- (c) Is the owner's personal residence;
- (d) Is occupied by the owner at the time of rental;
- (e) Was originally built and occupied as a single-family residence, or, prior to use as a place of lodging, was converted to use and occupied as a single-family residence; and

(f) Has had completed, before May 11, 1990, any structural additions to the dimensions of the original structure, including by renovation, except that a structural addition, including a renovation, to the structure may, after May 11, 1990, be made within the dimensions of the original structure.

SECTION 2. Comm 90.03 (12e) is created to read:

Comm 90.03 (12e) "Private guest room" means a room or rooms that provide sleeping accommodation offered for pay to tourists or transients.

SECTION 3. Comm 90.03 (18m) is created to read:

Comm 90.03 (18m) "Suction outlet" means a discharge port installed in the wall or floor of a pool which connects by way of piping to a pump. A suction outlet does not include a skimmer.

SECTION 4. Comm 90.03 (18m) is created to read:

Comm 90.03 (18m) "Tourist rooming house" has the meaning found in s. 254.61(6), Stats.

Note: Section s. 254.61(6), Stats., reads: "Tourist rooming house" means any lodging place or tourist cabin or cottage where sleeping accommodations are offered for pay to tourists or transients. "Tourist rooming house" does not include:

(a) A private boarding or rooming house, ordinarily conducted as such, not accommodating tourists or transients.

(b) A hotel.

(c) Bed and breakfast establishments.

SECTION 5. Comm 90.04 (4) (c) is amended to read:

Comm 90.04 (4) (c) Plot plan. A general map and detailed drawings showing the floor plan of pertinent portions of the structure, pool orientation, pool surface area and volume. In addition, water supply facilities, source of drinking water, public or private sewers and relative elevations of paved or other walkways and the equipment room floor, and the designed pool water level shall be shown in the detailed drawing. When public water and sewer systems are proposed to serve the public swimming pool, the elevations of storm and sanitary sewer inverts and street grade shall be shown;

SECTION 6. Comm 90.09 (5) is repealed and recreated to read:

Comm 90.09 (5) DRINKING WATER. (a) Except as provided under par. (b), one or more drinking fountains installed in accordance with ch. Comm 82 shall be provided in the immediate pool area.

(b) For a bed and breakfast establishment, tourist rooming house, or private guest room, a source of potable drinking water supplied by a fixture plumbed and drained according to ch. Comm 82 or commercially bottled drinking water shall be provided within the pool enclosure or the establishment.

SECTION 7. Comm 90.19 (6) (a) is repealed and recreated to read:

Comm 90.19 (6) DECKS. (a) Dimensions. 1. Except as provided under subd. 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 50% or more of the perimeter of a whirlpool.

2. A minimum 3-inch coping may be provided around the perimeter of a whirlpool.

3. The deck width at any point of egress from a whirlpool shall be a minimum of 5 feet as measured in a perpendicular direction of travel from the edge of the deck at the point of egress.

SECTION 8. Comm 90.19 (6) (c) is amended to read:

Comm 90.19 (6) (c) Deck width between pools. The deck width between a whirlpool and any other pool shall be at least 6 feet (~~1.8 m~~), except when a common wall not more than 18 inches (~~40.6 cm~~) wide, designed to prevent someone from standing on it, separates a whirlpool and a swimming pool. A minimum 11 ft. (~~3.4 m~~) deck width shall be provided between any pool and a whirlpool when the whirlpool is located near the portion of the other pool where the depth is greater than 4.5 ft. (~~1.4 m~~) feet.

Note: See also sub. (3).

SECTION 9. Comm 90.19 (8) (c) is repealed and recreated to read:

Comm 90.19 (8) (c) Outlets. Outlets shall be installed so as to produce circulation throughout the whirlpool. The outlets shall meet all of the following requirements:

1. A main drain shall be installed in the bottom of each whirlpool as specified in s. Comm 90.11 (6).

2. A minimum of two suction outlets shall be provided. Multiple sets of pump suction shall be allowed into two or more suction outlets as long as they are hydraulically balanced and approved by the department.

3. Suction outlets shall be located on two separate vertical walls.

4. Suction outlets shall be located to conform with any of the following:

a. Each suction outlet shall be installed with a minimum separation of 3 feet.

b. One suction outlet shall be located on the bottom of the whirlpool and one suction outlet shall be located on one of the vertical walls.

5. When suction outlets are used, no piping or valve arrangement is allowed that will isolate one suction fitting as the sole source of fluid to the pump. The single pipe to a pump suction inlet may be valved to allow shut off of the flow to the pump.

6. Suction outlets shall be located within 3 inches of the bottom of a whirlpool.

SECTION 10. Comm 90.19 (2) (d) is created to read:

Comm 90.19 (2) (d) Observation window. Except for a private guest room with a telephone, an observation window shall be provided if the whirlpool is located in a separate, enclosed room so as to allow the owner or operator a clear observation of the whirlpool area from outside the room.

(end)

\*\*\*\*\*

**EFFECTIVE DATE**

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

\*\*\*\*\*

# 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 design and construction of public swimming pools. In this chapter several pool types, including whirlpools, are specified and various health and safety issues are enumerated for these pool types for public use. This chapter does not include the design and construction or operation and maintenance of any residential-type pools.

5. Reason for the proposed rule(s).

A request for various revisions or exceptions to the current chapter Comm 90 was made by the Bed & Breakfast Industry and presented to the Joint Committee for Review of Administrative Rules. The tourist industry is mainly concerned with the limitations and/or restrictions on use of residential-type pools swimming pools as well as whirlpools for public use in bed and breakfast establishments established after May 11, 1990 (as per s. 254.61 (1), Stats.). [The circumstances are better described for the situations where a residence having a pool and/or whirlpool and was converted from a residence to a bed and breakfast establishment.] These issues, as well as a number of the requirements for modification of residential-type pools for public use, were reviewed by the Pool Advisory Code Council and these revisions are contained in the public hearing draft.

**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**  
The 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 FTE)
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-</b> Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	<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.  
*Jean M. MacCubbin*  
(608) 266-0770

Date  
12/16/98

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

**FISCAL ESTIMATE**     ORIGINAL     UPDATED  
 DOA-2048 (R02/97)     CORRECTED     SUPPLEMENTAL

**Subject**  
 The design and construction of public swimming pools

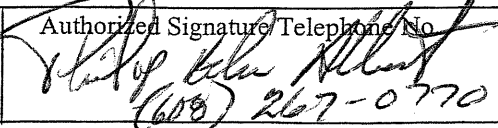
**Fiscal Effect**  
**State:**  No State Fiscal Effect  
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation  
 Increase Existing Appropriation     Increase Existing Revenues  
 Decrease Existing Appropriation     Decrease Existing Revenues  
 Create New Appropriation  
 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: none

**Assumptions Used in Arriving at Fiscal Estimate**  
 There are no proposed changes in plan review or inspection tasks at the state or agent level.

**Long-Range Fiscal Implications**  
 None known.

Agency/Prepared by: (Name & Phone No.) Jean M. MacCubbin, Code Consultant (608) 266-0955	Authorized Signature Telephone No.  (608) 267-0770	Date 12/16/98
--	--	------------------

DEPARTMENT OF COMMERCE  
PUBLIC HEARING ATTENDANCE RECORD

RULE NO.: Ch. Comm 90      DATE: January 27, 1999  
 RELATING TO: Design & Construction of Public Swimming Pools      TIME: 10:00 a.m.  
 LOCATION: WHEIDA Bldg. Rm. 3C      CITY: MADISON

Name	Representation (Business, Assoc., Group, Self, etc.)	City and State	Appearing in Support	Appearing in Opposition	Appearing for Information
<i>Jo Ann MacLure</i>	<i>staff</i>				
<i>Joseph Gain</i>	<i>Commerce, Amendman</i>				
<i>Synthia Decker</i>	<i>staff</i>				

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

Hearing Location: MADISON
Hearing Date: 1/27/99

**DIVISION OF SAFETY AND BUILDINGS**

Rule Number:
Relating To: Design & Construction of Public Swimming Pools

Commenting In	Sup.	Opp.	For Info.	Exh. No.	Presenter, Group Represented, City, State	Comments/Recommendations	Agency Response
					NONE GIVEN		

**PUBLIC HEARING COMMENT AND AGENCY RESPONSE  
DEPARTMENT OF COMMERCE  
DIVISION OF SAFETY AND BUILDINGS**

Rule Number: \_\_\_\_\_  
 Relating To: Design & Construction of Public  
 Swimming Pools

Hearing Location: WRITTEN through 2/10/99  
 Hearing Date: 1/27/99

Commenting		Exh. No.	Presenter, Group Represented, City, State	Comments/Recommendations	Agency Response
In	For Info.				
Sup.	X	1.	LINDA KANGAS, OWNER THE ARBOR INN AT PRESCOTT (no mailing address given; received via fax)	<p>1. The changes made regarding swimming pools allows many of our (WIA &amp; WB&amp;BI) owners to operate them (swimming pools) for the enjoyment of their guests.</p> <p>2. Three major concerns:</p> <p>a) Number of persons using (hot) tub on a daily/weekly basis;</p> <p>b) Amount of funds needed to bring home-based tubs (whirlpools/hot tubs) into compliance (recognizing the limited number of guest rooms in these establishments would result in a long payback for commercial equipment);</p> <p>c) Uniqueness of industry compared to hotels/motels (should allow different rules from that for the hotel/motel industry).</p> <p>3. We think there are several ways in which to keep our hot tubs in place and still protect our customers.</p>	<p>1. No response needed.</p> <p>2a) This is a licensing issue under the authority of DHFS. No response needed.</p> <p>2b) The Pool Advisory Code Council reviewed health, safety and plumbing concerns for residential- and commercial-type whirlpools. Because of some health concerns regarding use and degree of recirculation, filtration, the Council did not recommend any changes to ch. Comm 90 that would, on a blanket basis, allow residential type whirlpools in commercial establishments. They did however, note that a number of items are petitionable to the department.</p> <p>2c) The Pool Advisory Code Council did acknowledge that a number of items of concern for the B&amp;B industry were petitionable items. Commerce staff agreed to create and distribute a checklist for conversions (residential to commercial establishment). Due to lack of specifics in the comment, it is not known if these comments are related to petitionable items</p> <p>3. [Ed. Note: No ways were provided in submitted comment.]</p>

January 26, 1999

EXHIBIT NO. 1

To Whom it May Concern:

Speaking for several bed and breakfast establishments in Wisconsin, who are members of the Wisconsin Bed and Breakfast Association and Wisconsin Innkeepers Association, I thank you for the changes made regarding swimming pools. Many of our owners are now able to operate them for the enjoyment of their guests.

There is, however, more work to do regarding the hot tub issue. (Hot tub meaning chemically treated self-contained tubs not whirlpool bath tubs). There are three major areas of concern:

- 1) Number of persons using the tub on a daily/weekly basis
- 2) Amount of funds needed to bring home-based tubs into compliance
- 3) Uniqueness of our industry compared to hotels/motels

1) Bed and breakfasts, by law, are only allowed 8 rooms. Even if every person would use the hot tub on a given day when the B-B was full, only 16 persons would use the tub that day. A more even measure would be one fourth of the persons would use the tub. Some have the tubs private to one guest room, meaning that only 2 persons would use the tub on any given day. Compare that to even a small hotel with a hot tub on premises. We, as owners, use our own tubs - would we jeopardize our health by an improper chemical balance and dirty water?

2) Purchasing new equipment to bring our home-based tubs under commercial code compliance would be monetarily out of reach for most of us. Many of us with tubs only have 4 rooms generating income - it would take a long time to make back that investment. We have tubs in small spaces near the rooms or outdoors near rooms where building extra decking is not possible.

3) There must be a way to keep the safety of the public in mind and still maintain the quaintness and uniqueness of our homes. Each bed and breakfast shows off the personality of the homeowner. Room decor, style of home, amenities provided and breakfast choice are what make this industry so popular and one of the fastest growing ventures in America today! But, we do not generate the occupancy that the hotel and motel industry enjoy. We feel we should have different rules and regulations that reflect our lower occupancy rates.

In closing, we do not want to throw safety rules aside. We know how important it is to protect the public as much as possible. We think there are several ways to keep our hot tubs in place and still protect our guests. As we continue to bring this issue before the proper authorities for rule changes, we hope you will familiarize yourself with our industry by visiting a B-B or two. See first hand why we are different and why we put so much work into our homes to be used for this purpose.

Thank you for your kind attention.

Linda Kangas, Owner  
The Arbor Inn at Prescott

# RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

## Department of Commerce

CLEARINGHOUSE RULE NO.: 98-207

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