

# 👉 07hr\_CRule\_08-056\_SC-CUR\_pt01



Details:

(FORM UPDATED: 07/12/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2007-08

(session year)

### Senate

(Assembly, Senate or Joint)

### Committee on ... Commerce, Utilities and Rail (SC-CUR)

#### COMMITTEE NOTICES ...

- Committee Reports ... CR
- Executive Sessions ... ES
- Public Hearings ... PH
- Record of Comm. Proceedings ... RCP

#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... Appt
- Clearinghouse Rules ... CRule
- Hearing Records ... bills and resolutions  
(ab = Assembly Bill)                      (ar = Assembly Resolution)                      (ajr = Assembly Joint Resolution)  
(sb = Senate Bill)                      (sr = Senate Resolution)                      (sjr = Senate Joint Resolution)
- Miscellaneous ... Misc



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September 9, 2008

To: Senate Commerce, Utilities, and Rail Committee  
Senator Jeff Plale, Chairman  
From: Trisha Pugal, CAE  
President, CEO  
RE: Clearinghouse Rule 08-056 (Comm 90 Pool Codes)

On behalf of over 1,000 lodging properties throughout the state of Wisconsin, many with public swimming pools and/or water attractions, we would like to submit two concerns with the new rules proposed for Comm 90 Design and Construction of Public Swimming Pools and Water Attractions.

*definition of inflatable*  
*Trisha to send examples*

First, on Page 43, Subchapter IV – Play Features and Slides 90.30 (2)(b) 3 it states “Inflatable play features may not be installed in public swimming pools and water attractions”. Our pool experts have noted that tethered inflatable play features, such as pad walk features, have worked well in water attractions, and are in place in many locations already. We respectfully ask that this unnecessary restriction be eliminated, unless of course there is directly-related evidence that this would be unsafe for guests, which we are currently unaware of.

*Permanence modifications*

Second, in the same Subchapter on Page 44 90.30 (2) (e) it states “The width or length of an in-water play feature may not exceed 42 inches”. Our pool experts ~~again note that tethered soft play features~~ such as “snakes” or “logs” that appear in many water attractions are narrow and long, easily exceeding 42 inches and not known or projected to provide a safety challenge to guests. We respectfully request that this also unnecessary restriction be eliminated, again unless there is directly-related evidence that this would be unsafe for guests which we again are unaware of.

We appreciate your assistance in eliminating restrictions that are not necessary for the safety of guests, and that have a negative financial impact on businesses. Thank-you for your consideration.

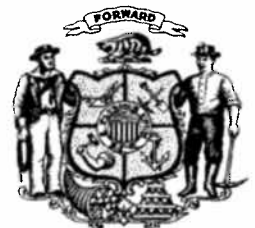
Cc: WIA Executive Committee  
Kathi Kilgore

1025 S. Moorland Road,  
Suite 200  
Brookfield, WI 53005  
Phone: 262/782-2851  
Fax: 262/782-0550  
wia@wisconsinlodging.info  
www.wisconsinlodging.info





# WISCONSIN STATE LEGISLATURE





# WISCONSIN LEGISLATURE

P. O. Box 7882 Madison, WI 53707-7882

September 14, 2008

Aaron Olver  
Deputy Secretary  
Wisconsin Department of Commerce  
201 West Washington Avenue  
Madison, WI 53701


Dear Deputy Secretary Olver:

We are writing to request a meeting with you and/or your staff regarding a recent clearinghouse rule your department submitted to the Legislature for review. As the Chairmen of the Senate and Assembly Tourism Committees, we would like to meet with the Department of Commerce regarding Clearinghouse Rule 08-056, relating to the design and construction of public swimming pools and water attractions. This request extends the legislative review period for this rule to October 20, 2008.

We would like to add this rule to the agenda for the meeting scheduled on September 17<sup>th</sup> in Senator Plale's office. Please contact Kevin in Senator Plale's office at 608-266-7505 or Becky in Rep. Kauffert's office at 608-266-5719 to confirm the addition of this rule or if you have any questions or concerns regarding this matter.

Thank you and we look forward to meeting with you.

Sincerely,

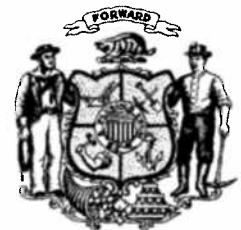
  
JEFF PLALE  
State Senator  
7<sup>th</sup> Senate District

DEAN KAUFERT  
State Representative  
55<sup>th</sup> Assembly District

cc: Jeff Renk, Assistant Chief Clerk, Wisconsin Senate  
Assembly Chief Clerk  
Sen. Neal J. Kedzie



# WISCONSIN STATE LEGISLATURE



DEPARTMENT OF COMMERCE

EMERGENCY RULE  
RELATING TO  
PUBLIC SWIMMING POOL AND WATER ATTRACTION  
PLAN REVIEW AND INSPECTION FEES


Basis for Issuance of Emergency Rules

The Department of Commerce finds that an emergency exists within the state of Wisconsin and that adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows.

1. Implementation of the federal Virginia Graeme Baker Pool and Spa Safety Act necessitates most existing public swimming pools and water attractions to undergo physical modifications to reduce the risk of entrapment at suction outlets.
2. The Virginia Graeme Baker Pool and Spa Safety Act has a compliance date of December 19, 2008.
3. The department estimates that 3,700 existing pools and water attractions will need to be modified in order to comply with the federal act.
4. The current department plan review fees and inspection fees under s. Comm 2.68 reflect an estimated average time and cost to provide those services. For the types of pool and water attraction modifications necessary to comply with the Virginia Graeme Baker Pool and Spa Safety Act, the department believes that the time and cost to provide the service will be below the averages reflected under the current fee structure of section Comm 2.68.
5. The department believes that a temporary fee reduction to facilitate plan review and inspection relative to the Virginia Graeme Baker Pool and Spa Safety Act is in alignment with the direction provided under s. 101.19, Stats., of keeping fees consistent with the costs of providing service.

Pursuant to section 227.24, Stats., this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper.

Dated at Madison this 8TH  
day of DECEMBER, 2008,  
by the Department of Commerce.

  
\_\_\_\_\_  
, Secretary

The Wisconsin Department of Commerce adopts an order to amend Comm 2.68 Tables 2.68-1 and 2.68-2 relating to fees for plan review and inspection of modifications for public swimming pools and water attractions and affecting small business.

\*\*\*\*\*

**Analysis of Rule**

**1. Statutes Interpreted**

Statutes Interpreted: ss. 101.19 and 145.26, Stats.

**2. Statutory Authority**

Statutory Authority: ss. 101.19 and 145.26, Stats.

**3. Related Statute or Rule**

Statutes: none  
Administrative Rules: Chapter Comm 90

**4. Explanation of Agency Authority**

Chapters 101 and 145, Stats., grant the department general authority for the purpose of protecting public health, safety and welfare by establishing standards and regulatory oversight programs for the construction and maintenance of buildings, structures and dwellings, public swimming pools and water attractions. These programs are administered by the Safety and Buildings Division. Sections 101.19 and 145.26, Stats., grant the department authority to promulgate rules to fix and collect fees that reflect the cost of administering the public swimming pool and water attraction program.

**5. Summary of Proposed Rules**

The rules temporarily roll back the fees for plan review and inspection of modifications to public swimming pools and water attractions to those amounts charged prior to December 1, 2008. The temporary reduction is occurring in light of the implementation of the federal Virginia Graeme Baker Pool and Spa Safety Act which necessitates most existing public swimming pools and water attractions to undergo physical modifications to reduce the risk of entrapment at suction outlets. The reduction in fees reflects the department’s expected costs to review and inspect modifications.

## **6. Summary of, and Comparison with, Existing or Proposed Federal Regulations**

An internet-based search of the code of federal regulations and the federal register did not identify any federal requirements relating to public swimming pool and water attraction plan review or inspection fees. The federal Consumer Product Safety Commission's implementation of the Virginia Graeme Baker Pool and Spa Safety Act necessitates the modification of existing pools to address entrapment at suction outlets.

## **7. Comparison with Rules in Adjacent States**

An Internet-based search for the states of Illinois, Iowa, Michigan and Minnesota found the following:

Illinois: No information was found indicating that Illinois regulates public swimming pools and water attractions at the state level.

Iowa: The reconstruction plan review fee charged by the Iowa Department of Public Health is \$250 for each swimming pool, spa or bathhouse altered in the reconstruction.

Michigan: The permit fee established by the Michigan Department of Environmental Quality for a modification of an existing pool is \$298.

Minnesota: The Minnesota Department of Health's plan review and inspection fee is \$400 for pool and spa alterations that do not involve alteration of the shape or size.

## **8. Summary of Factual Data and Analytical Methodologies**

Implementation of the federal Virginia Graeme Baker Pool and Spa Safety Act necessitates most existing public swimming pools and water attractions to undergo physical modifications to reduce the risk of entrapment at suction outlets. The department estimates that 3,700 existing pools and water attractions will need to undergo some type of modifications. The current plan review fees reflect the estimated average time and costs to provide the service. For types of pool and attraction modifications necessary to comply with the Virginia Graeme Baker Pool and Spa Safety Act, the department believes that the time and cost to provide the service will be below the averages reflected under the fee structure of section Comm 2.68.

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

The Virginia Graeme Baker Pool and Spa Safety Act has a compliance date of December 19, 2008. The department estimates approximately 80% of the existing 3,700 public swimming pools and water attractions will be able to take advantage of the reduced plan review fees. The plan review fees for pool and water attraction modifications are reduced by 33%. The reduction will save pool and water attraction owners \$60 to \$325 per plan submittal.

An economic impact report has not been required to be prepared.



**10. Agency Contact.**

Robert DuPont, Bureau Director, robert.dupont@wisconsin.gov, (608) 266-8984

**11. Public Hearing Comments.**

The hearing record on this emergency rule will remain open until January 16, 2009. Written comments on the proposed may be submitted to James Quast, at the Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689, or Email at jim.quast@wisconsin.gov.

\*\*\*\*\*

SECTION 1. Comm 2.68 Tables 2.68-1 and 2.68-2 are amended to read:

**Table 2.68-1**

**Plan Review and Inspection Fees for Public Swimming Pools, Water Attractions and Associated Slides Where Department Staff Perform Construction Inspections**

Type of Pool, Water Attraction or Equipment	Fee Type		
	Initial Construction	Modification	Revision to Previously Approved Plans
1. Pool Slide, Drop Slide or Water Slide, functional requirements <sup>a, b</sup>	\$400.00	<del>\$180.00</del> <u>120.00</u>	\$180.00
2. Pool Slide, Drop Slide or Water Slide, structural requirements <sup>c</sup>	\$450.00	<del>\$180.00</del> <u>120.00</u>	\$180.00
3. Public Swimming Pool, gutter type	\$1,350.00	<del>\$750.00</del> <u>500.00</u>	\$180.00
4. Public Swimming Pool, skimmer type	\$1,125.00	<del>\$750.00</del> <u>500.00</u>	\$180.00
5. Water Attraction (including interactive play attractions)	\$1,350.00	<del>\$750.00</del> <u>500.00</u>	\$180.00
6. Public Whirlpool	\$1,125.00	<del>\$750.00</del> <u>500.00</u>	\$180.00
7. Alternate and Experimental Design	\$1,575.00	<del>\$1,000.00</del> <u>675.00</u>	\$225.00

a No additional fee required if submitted with public swimming pool or water attraction.

b Fee required per submittal of pool slides or drop slides.

c Applies to pool slides over 6 feet (1.8 m) in height measured from the slide entrance to the deck of the pool or water attraction.

**Table 2.68-2**

**Plan Review Fees For Public Swimming Pools, Water Attractions and Associated Slides Where Department Staff Do Not Perform Construction Inspections**

Type of Pool, Water Attraction or Equipment	Fee Type		
	Initial Construction	Modification	Revision to Previously Approved Plans
1. Pool Slide, Drop Slide or Water Slide, functional requirements <sup>a, b</sup>	\$400.00	<del>\$180.00</del> <u>120.00</u>	\$180.00
2. Pool Slide, Drop Slide or Water Slide, structural requirements <sup>c</sup>	\$450.00	<del>\$180.00</del> <u>120.00</u>	\$180.00
3. Public Swimming Pool, gutter type	\$900.00	<del>\$300.00</del> <u>200.00</u>	\$180.00
4. Public Swimming Pool, skimmer type	\$675.00	<del>\$300.00</del> <u>200.00</u>	\$180.00
5. Water Attraction	\$900.00	<del>\$300.00</del> <u>200.00</u>	\$180.00
6. Public Whirlpool	\$675.00	<del>\$300.00</del> <u>200.00</u>	\$180.00
7. Alternate and Experimental Design	\$1,125.00	<del>\$560.00</del> <u>375.00</u>	\$225.00

a No additional fee required if submitted with public swimming pool or water attraction.

b Fee required per submittal of pool slides or drop slides.

c Applies to pool slides over 6 feet (1.8 m) in height measured from the slide entrance to the deck of the pool or water attraction.

END

\*\*\*\*\*

**EFFECTIVE DATE**

Pursuant to s. 227.24, Stats., this rule shall take effect as an emergency rule upon publication in the official state newspaper.

\*\*\*\*\*

**(Note: Publication Date, December 15, 2008)**

FISCAL ESTIMATE  
DOA-2048 (R06/99)

ORIGINAL  
 CORRECTED

UPDATED  
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
Comm 2.68  
Amendment No. if Applicable

**Subject**  
Public Swimming Pool and Water Attraction Plan Review and Inspection Fees

**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**

The rules temporarily roll back the fees for plan review and inspection of modifications to public swimming pools and water attractions to those amounts charged prior to December 1, 2008. The department estimates approximately 80% of the existing 3,700 public swimming pools and water attractions will be able to take advantage of the reduced plan review fees. The plan review fees for pool and water attraction modifications are reduced by 33%. The reduction will save pool and water attraction owners \$60 to \$325 per plan submittal. The department estimates that 20% of the plan submittals, 592, will fall under the category involving department inspections and 80% of the plan submittals, 2,368, will fall under the category where the department does not conduct the inspections. Under this assumption the department will not realize \$384,000 in plan review fees during the time period of the emergency rules.

**Long-Range Fiscal Implications**  
No long range fiscal implications are anticipated.

Agency/Prepared by: (Name & Phone No.)  
Commerce/James Quast, 266-9292

Authorized Signature/Telephone No.  
*Mark R. Quast* 608/266-7088

Date  
12/8/08

**FISCAL ESTIMATE WORKSHEET**  
 Detailed Estimate of Annual Fiscal Effect  
 DOA-2047(R06/99)

ORIGINAL  
 CORRECTED

UPDATED  
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
 Comm 2.68

Amendment No.

**Subject**

Public Swimming Pool and Water Attraction Plan Review and Inspection Fees

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

\$384,000 less revenue generated.

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
<b>A. State Costs By Category</b>		
State Operations - Salaries and Fringes	\$ 0	\$ -
(FTE Position Changes)	( 0 FTE)	( - FTE)
State Operations - Other Costs	0	-
Local Assistance	0	-
Aids to Individuals or Organizations	0	-
<b>TOTAL State Costs By Category</b>	<b>\$</b>	<b>\$ -</b>
<b>B. State Costs By Source of Funds</b>		
GPR	\$ 0	\$ -
FED	0	-
PRO/PRS	0	-
SEG/SEG-S	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.)		
GPR Taxes	\$ 0	\$ -
GPR Earned	0	-
FED	0	-
PRO/PRS	0	-
SEG/SEG-S	0	-
<b>TOTAL State Revenues</b>	<b>\$ 0</b>	<b>\$ -</b>

**NET ANNUALIZED FISCAL IMPACT**

STATE

LOCAL

NET CHANGE IN COSTS

\$ 0

\$ 0

NET CHANGE IN REVENUES

\$ 0

\$ 0

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

Commerce/James Quast, 266-9292

Authorized Signature/Telephone No.

*Paul J. Family* 266-7088

Date

12/8/08