

RULE REPORT

Department of Commerce

Clearinghouse Rule No.: 08-056

Rule No.: Chapter Comm 90

Relating to: Design and Construction of Public Swimming Pools and Water Attractions

Contact person for substantive questions:

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Contact person for internal processing:

Name Norma Sampson

Title Communications Specialist

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1. Basis and purpose of the proposed rule.

The basis of the proposed rule is ss. 101.02 and 145.26, Stats. The purpose of the proposed rule is to update chapter Comm 90 to reflect the most current editions of the American National Standards Institute/International Aquatics Foundation (ANSI/IAF) requirements for public swimming pools and aquatic recreation facilities.

2. How the proposed rule advances relevant statutory goals or purposes.

Sections 101.02 and 145.26, Stats., grants the Department of Commerce general authority for protecting the health, safety and welfare of the public by establishing reasonable and effective standards for the design, construction, alteration or reconstruction of public swimming pools, water attractions and associated equipment. To fulfill this responsibility, the Department has promulgated chapter Comm 90 that consists of minimum requirements for the design and construction of public swimming pools and water attractions.

3. Changes to the rule analysis or fiscal estimate that was prepared for public hearing.

No changes were made to the rule analysis or fiscal estimate that was prepared for public hearing.

COM-10550 (R.02/04)

FINAL REGULATORY FLEXIBILITY ANALYSIS

Department of Commerce

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

Pursuant to s. 227.19 (3m), Stats., the Department of Commerce has determined that the proposed rules to update chapter Comm 90 by referencing the latest edition of the American National Standards Institute/International Aquatics Foundation (ANSI/IAF) and modifying these standards, where necessary, to reflect any Wisconsin statutes or to improve clarity will not have a significant impact on a substantial number of small businesses.

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.
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.

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

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

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.

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

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

Department of Commerce

CLEARINGHOUSE RULE NO.: 08-056

RULE NO.: Ch Comm 90

RELATING TO: Design and Construction of Public Swimming Pools and Water Attractions

Agency contact person for substantive questions.

Name: Lynita Docken

Title: Project 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

COMMENTS ON LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT

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2. Form, Style and Placement in Administrative Code

a. After removing the words “new” and “existing” from s. Comm 90.02 (1) and changing “any” to “all,” the statement becomes strong and is applicable to the construction, reconstruction and alternation of facilities. The Department prefers not to have ch. Comm 90 tied to an effective date.

f. The national organizations being referenced in ch. Comm 90, routinely refer to themselves with slashes, for example ANSI/NSF. Also, the official name of the standards referenced is ANSI/NSF. Therefore, the Department prefers to allow the use of ANSI/NSF throughout ch. Comm 90.

3. Conflict With or Duplication of Existing Rules

The Department is in contact with the department of health services as it updates ch.HFS 172. Also, both departments serve together on code councils when revising chs. Comm 90 and HFS 172.

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

a. The department is repealing and recreating the appendix to ch. Comm 90.

b. The department prefers to keep s. Comm 90.02 (2) for retroactive clarification purposes because the rule does not apply to pre-existing public swimming pools and water attractions that are not altered.

d. The correct term is “assertions.”