

# DHS 172 Issues List

## Subchapter I - Administration

Add definition - “Play feature” means a physical object installed in a pool or water attraction or within the deck area that is intended for recreational use. Examples of play features include, but are not limited to, basketball hoops, volleyball nets, floating boats and trucks, floatable walks, and floatables.

Change 172.04(27) to read “Lifeguard” - means a person holding current lifeguard, first aid, and CPR-AED certifications from courses that have been approved by the department.

“Note: For the list of approved courses, write or phone: Bureau of Environmental and Occupational Health, P.O. Box 2659, Madison, Wisconsin 53701-2659 (608-266-2835). It is also available at <http://dhs.wisconsin.gov/fsrl/index.htm>

Change 172.04(23) to read “Free Chlorine Residual” means the available chlorine disinfectant in the water. It is the portion of total chlorine that is not combined chlorine and is available as disinfectant. The sum of HOCl (hypochlorous acid) and OCl<sup>-</sup> (hypochlorite ion) is referred to as “free chlorine residual” in pool water.

Add definition - “Combined chlorine” The term refers to numerous chemical compounds that form when chlorine bonds to other compounds containing nitrogen. Combined chlorine may be associated with eye and skin irritation and a characteristic odor. It is far less effective as a disinfectant than free chlorine.

Add definition - “Bromine” is a disinfectant in the same chemical family as chlorine. When bromine is added to water, hypobromous acid (HOBr) is produced. The HOBr is referred to as “bromine residual” in pool water.

Change 172.04(9) to read “Cold soak pool” means a public swimming pool containing water colder than 65°F that is commonly used in conjunction with therapy or training.

172.04 - Add the word “organization” to the definition of “person” as in the other codes.

172.04 - Definition of a pool states “experiential”... should be “experimental”

Add definition - “Open swim activities” are activities offered to the public including but not limited to swimming, water recreation, swimming lessons, water aerobics and birthday parties.

- Write in the rules for clarification of Comm 90 requirements a section that says

Add to 172.33(2) and give this it’s own section under it - “A pool or water attraction in conjunction with sleeping or dwelling units that have plumbing, (i.e., lodging facilities, apartments, condos, and mobile home parks) that are not equipped with restroom and shower facilities as required by Comm 90.19 are prohibited from offering or allowing open swim activities to members of the public who are not either registered guests and occupants or residents and their guests.”

Add definition - “Periodic inspection” means to assess the safe operation and compliance with the rules and regulations of the pool or water attraction at intervals approved in the lifeguard and attendant staffing plan.

Remove the section of 172.22(1)(d) that reads “A plan required under par. (a) for a whirlpool that is located in a water attraction complex shall specify that at least one attendant shall provide periodic supervision.” Keep the rest. The same language appears in the chart under 172.23 Table-B in the whirlpool section, remove it there as well but keep the rest.

In 172.23 Table-B under Interactive Play Attraction, change the sentence to read, “The attendant shall perform periodic inspections of the water attraction as specified in the staffing plan.”

In 172.36(2)(a), change the sentence to read, “(a) If access to the interactive play attraction is not restricted by an enclosure, an attendant shall perform periodic inspections of the water attraction as specified in the staffing plan.”

Add definition - “Shallow portion” - means a portion of a pool having a design water depth less than or equal to 5 feet.”

Replace DHS 172.04(25) with this definition from Comm 90 - “Interactive play attraction” means a water attraction, including but not limited to manufactured devices using sprayed, jetted or other water sources with a flow rate of more than 50,000 gallons per day or a circulation system with water contacting the users and not incorporating standing or captured water as part of the user activity area.

Change 172.05(4)(a)4. to read, “A statement from the supervising construction contractor, architect or engineer who worked on the pool indicating that it was completed in accordance with the pool’s construction plan under s. Comm 90.05 (1) (c).”

Take “zero-depth entry pools” out of the definition of Water attraction.

Change 172.04(58) to read, ““Zero–depth entry pool” means a pool having a sloped entrance to where the water depth is zero inches at the shallowest point.”

172.06 - Take “plunge” out of the subscript under 172.06(1) under water attraction with no slides. All plunge pools are by design RWTs.

Change 172.07(2) to read, “GENERAL ORDERS TO CORRECT VIOLATIONS. (a) If upon inspection of a pool, the department or agent finds that the pool is not designed, constructed, equipped, maintained or operated as required under ch. Comm 90 and this chapter, the department or agent shall issue a written order to correct the violation.

### **Subchapter II - Water Treatment Systems and Water Quality**

Change 172.11(4) to read, “PUMPS. The pump manufacturer’s maintenance and operating instructions shall be followed. Recirculation pumps shall continuously achieve the designed pool water recirculation rate except during maintenance operations. The turnover time for pools shall be determined by the design code it was built under.” Delete the rest of the section.

Change 172.11(6) to read, “FILTERS. (a) *General*. The manufacturer’s data plate shall be visible on all filters. Filter shells and appurtenances shall be maintained in operating condition. The backwash procedure shall follow the filter manufacturer’s written directions which shall be conspicuously posted in the filter area on an easily read chart.”

Delete the following from 172.11(6)(b)3. “The backwash procedure shall follow the filter manufacturer’s written directions which shall be conspicuously posted in the filter area on an easily read chart.”

Delete second sentence in 172.11(5m) “Labels, tags or color coding shall correspond to a conspicuously posted, easily– read chart that explains the system.”

Remove the clause “whichever is less” from 172.11(6)(b)1., 172.11(6)(b)2., and 172.11(6)(c)1.

Modify language to 172.33(1)(e) “Pool equipment, including equipment on the deck, shall be properly located and installed. Equipment shall be operated, repaired and maintained according to the manufacturer’s recommendations. If the equipment manufacturer requires testing at regular intervals, records must be kept.”

Modify language:

**DHS 172.12 Labeling, storing, mixing, and handling chemicals.** (1) LABELING. Except for erosion feeders, which require only the name of the chemical, all chemicals used in the operation and maintenance of pools, and bulk storage tanks containing the chemicals, shall be conspicuously labeled. (a) All antimicrobial pesticides or disinfection chemicals used for pool disinfection must be in compliance with ATCP 29.06 and 40 CFR 156.10 labeling requirements. (b) All other chemicals used in the operation and maintenance of the pool must be labeled with the following information:

- (i) The common name of the product.
- (ii) Active ingredients.
- (iii) Any manufacturer’s hazard classification.

Modify DHS 172.13 as follows:

Disinfectant feeders and filter aid equipment. (1) GENERAL. All disinfectant feeders shall be installed according to the manufacturer’s directions and used only with the disinfectant recommended by the manufacturer and meet all of the following requirements:

Note: Chapter Comm 90 was repealed and recreated effective 3–1–09. See the current chapter Comm 90.

- (a) Feeders shall be automatic, easily adjustable, capable of providing the required chemical residuals, equipped with flow control valves upstream and downstream from the feeder, easily disassembled for cleaning and maintenance, durable, and capable of accurate feeding.
- (b) Feeders shall be properly vented and incorporate antisiphon safeguards to prevent disinfectant feeding in the event of the failure of recirculation equipment.
- (c) Feeder pumps shall be electrically connected to the recirculation pump control circuit and have a separate disconnect switch.
- (d) Feeder pumps shall be equipped with a flow sensor to prevent disinfectant feeding if water flow through the piping were to cease.

Modify 172.14(5)(a) to read, “ELECTRONIC MONITORING DEVICES. (a) When oxidation potential controllers are used the water potential shall be kept above 650 mV. The oxidation potential

controller must display the oxidation reduction potential with a maximum resolution of 10 mV. When the water potential reads below 650 mV the operator shall manually test the pool water with an approved test kit.”

Add definition - “Cyanuric acid” - means a chemical, often referred to as “stabilizer” and abbreviated as “cya,” that is commonly used in outdoor pools to reduce the loss of chlorine which is accelerated by the ultraviolet rays of the sun.

Modify 172.14(4)(e) to read, “*Combined chlorine*. When combined chlorine exceeds 0.5 ppm over the source water concentration in an outdoor pool or 0.8 ppm over the source water concentration in an indoor pool, the water shall be treated to breakpoint chlorination using a chlorine product or a nonchlorinated oxidizer such as potassium peroxymonosulfate. Isocyanurates may not be used to reach breakpoint chlorination. The pool shall be closed to the public during periods of breakpoint chlorination when a chlorine product is used.”

Modify 172.14(4) to read, “CHEMICAL CONCENTRATIONS AND RESIDUALS. (a) Minimum disinfectant residuals. Except as provided in par. (b), feeding shall result in the minimum disinfectant residuals in Table DHS 172.14. If more than one pool type exists in the same basin then the strictest residual requirement applies.”

Modify 172.14(5)(b) to read, “When a pool or water attraction is equipped with approved and properly functioning electronic monitoring devices to control the chlorine residual and pH level, the free available chlorine residual may be a minimum of 1.0 ppm.”

Remove from 172.15(1) the words “to superchlorinate”

Modify DHS 172.17 to read, “Water test kits. (1) A test kit shall be maintained at each permitted facility for testing the pool water pH; the disinfectant residual; the combined chlorine level, when chlorine is used; the total alkalinity; and the cyanuric acid concentration, when used. The kit must be stored, used, and maintained according to manufacturer’s specifications.”

Modify DHS 172.19(4)(b) to read, “Except as provided in par. (d), the water temperature of an indoor pool shall be between 72\_F. (22\_C.) and 93\_F. (34\_C.) (93 marks the change to whirlpool turnover rates in Comm 90). The minimum water temperature for an outdoor pool shall be 65\_F. (18\_C.)”

### **Subchapter III - Staffing Pools**

Re-write 172.22 to read, “DHS 172.22 Lifeguards and attendants. (1) LIFEGUARD AND ATTENDANT STAFFING PLANS. (a) The owner or operator of a pool required under 172.23 to have a lifeguard or attendant shall submit a written, proposed lifeguard and attendant staffing plan to the department or the department’s agent for approval. The owner or operator shall keep a copy of the plan at the pool. The plan shall include all of the following:

1. The square footage of the pool, water attraction, and water attraction complex as applicable.
2. The maximum patron load.
3. The hours of operation.
4. The number of lifeguards or attendants on duty pursuant to s. DHS 172.23.

5. A diagram or diagrams of the facility that indicates the placement or coverage zones of attendants, lifeguards, and first aid stations during all activities and feature operations. The diagram shall include each obstruction.

6. A method of communication when 2 or more attendants or lifeguards are required for a water attraction.”

Remove all of 172.22(2)(b).

Modify DHS 172.23(1) to read, “GENERAL. (a) 1. Each pool and water attraction shall be staffed pursuant to Table DHS 172.23–A and Table DHS 172.23–B when the pool is in use or is open to the public. If the requirements in Table DHS 172.23–A and Table DHS 172.32(NOTE this typo!!! It should be .23)–B conflict, the pool shall comply with the strictest requirements of Table DHS 172.23–A or Table DHS 172.23–B.

Add the following in it’s own section to 172.23(1)(a):

The number of lifeguards or attendants required for an area with multiple features under Table DHS 172.23-B can be reduced with approval by the department or its agent provided that the features reside within the same area as a lifeguard or attendant and can be scanned effectively. For example, on the top of a slide platform with 4 slides leaving from it, it may be ok to only have two attendants there.

In 172.23 Table-B under “Activity Pool” modify it to read, “At least one lifeguard is required if the pool contains one of the following:

1. A pad walk.
  2. A tethered in-water floatable play feature more than 18 inches long in 2 directions or 18 inches in diameter. Appendages such as alligator feet should not be included in determining the length.
  3. A non–tethered floatable such as inflatable obstacle courses, kayaks, and logs used for rolling.
- Non–tethered floatables do not include tire inner tubes used in leisure rivers or waterslides.

Modify 172.04 to read, (6) “Attendant” means a person trained to monitor a pool, including slides and other appurtenances, and control patrons in a safe and orderly manner.

In 172.23 Table-B under “Leisure River” modify it to read, “At least one lifeguard is required at the entrance of the leisure river. The lifeguard shall have a clear line of sight for all areas of the river, or additional lifeguard are required so that all areas of the river are in view of at least one lifeguard.”

In 172.23 Table-B under “Pools with a Visual Obstruction” modify it to read, “At least one attendant is required if the side view of the obstruction, as viewed from any point, shall be less than 50 square feet or if the visual obstruction covers more than 20 percent of the pool’s basin.

**Note:** In pools less than 2,000 square feet with play features in less than 24 inches of water installed before February 1, 2008 and have obstructions of public health concern may apply to the department for a variance.

In 172.23 Table-B, add a new category “Pools with a Common Wall”

At least one lifeguard. If the pool is existing before the effective date of this code, an approved alternative such as a 42-inch high barrier as measured from the shallow side of the wall may be considered.

Add definition to 172.04 - “Common wall” - A wall or divider not to exceed 18 inches in width in a basin, with water on both sides with a depth change exceeding 6 inches.

In 172.23 Table-B, add a new category “Pools with Climbing Walls”  
At least one lifeguard is required whenever the feature is open to the public.

In 172.23 Table-B, take out the “Exercise Pool” section.

Modify 172.23 Table-B “Pools with Slides” as follows:

1. Children’s Slide: No attendant is required.

2. Poolslide:

Greater than 6 feet: Attendant on top of the slide, lifeguard on bottom and means of 2-way communication between attendants and lifeguards.

Greater than 4 feet but no more than 6 feet in height, which drops into water greater than 4 feet deep:

At least one lifeguard.

Less than or equal to 6 feet in height, with an obstructed view of slide terminus at a height of 43 inches at entry point: At least one lifeguard.

3. Drop slide: At least one lifeguard.

4. Run-out slide:

Greater than 6 feet in height clear view of the terminus: At least one attendant on top platform.

Greater than 6 feet obstructed view of the terminus: At least one attendant on top and bottom of run-out.

Less than or equal to 6 feet clear view of terminus: No attendant or lifeguard required.

5. Waterslide:

Greater than 6 feet: Attendant on top of the slide, lifeguard on bottom and means of 2-way communication between attendants and lifeguards.

Greater than 4 feet but no more than 6 feet in height, which drops into water greater than 4 feet deep:

At least one lifeguard.

Less than or equal to 6 feet in height, with an obstructed view of slide terminus at a height of 43 inches at entry point: At least one lifeguard.

Less than 6 feet with a clear view of terminus end and no obstructions around slide: At least one lifeguard. (Remove)

**Note:** All slide heights are measured vertically from the top of the flume to the bottom of the flume where the rider exits.

Modify 172.23 Table-B “Pools with Diving Boards and Platforms” to read, “At least one lifeguard for every 2 or more diving boards or platforms in the same pool.”

Remove the definition of slide terminus from the definitions section

Add a new section number to the code in Operation and Management stating, “Aquatic employees that have been diagnosed with cryptosporidiosis or giardiasis or have diarrhea as a symptom shall inform the pool operator.”

Add definition - “Aquatic employee” means an employee who works within the pool enclosure or water attraction area or whose job activities regularly involve contact with the pool water.

Add to 172.20 - “(a) *General requirement.* Each pool shall be under the control of at least one certified operator.

(b) *Certified operator responsibilities.* Each certified operator shall be responsible for the overseeing of pool operation and maintenance including staff training, documentation review, equipment

shutdown, backwashing, facility maintenance, vacuuming, and maintenance of water quality pursuant to s. DHS 172.14. Overseeing must include onsite evaluations.

(c) *Certified operator required.* 1. Each pool shall be staffed by or contracted with at least one certified operator by January 1, 2013. An owner of a pool that first applies for a permit under s. DHS 172.05 after January 1, 2013 shall be staffed by or contracted with at least one certified operator within 180 days after receiving a permit to operate the pool. The individual that will become the certified operator must be scheduled to take the course within 90 days.

2. The owner of a pool shall replace a certified operator within 180 days after a certified operator's departure. The individual that will become the certified operator must be scheduled to take the course within 90 days.

(b) *Documentation of certification.* Current certifications of certified operator staff shall be maintained at the facility. If the pool is overseen under contract, the contract must be provided upon request."

Modify 172.24 to read, "DHS 172.24 Instructional programs. A pool that is used for instructional purposes shall be staffed by a lifeguard when the instructional program is in session. If the coach or instructor that provides instruction during the program is a lifeguard, the requirement of this subsection is met provided the coach or instructor can guard the entire group. A pool that normally requires a lifeguard and that is open to the public during an instructional program session shall be supervised by an additional lifeguard or attendant pursuant to s. DHS 172.23.

#### **Subchapter IV - Operation and Management**

Remove from 172.25(2)(a) the following phrase, "Three hundred square feet of pool water surface around each diving board and platform may be excluded in computing the permissible patron load. An additional 10 patrons for each diving board shall be included in the computation."

Modify 172.26(1) to read, "(d) A spine board with straps and head immobilizer in place and in good condition shall be available at a pool where a lifeguard is required."

Change DHS 172.26(1) to read, "**Rescue equipment. (1) REQUIRED EQUIPMENT.** (a) All rescue equipment shall be maintained in good repair. Rescue equipment shall be mounted in a conspicuous place and shall be readily accessible.

(b) Except for a spa pool, wading pool, or a therapy pool with less than 100 square feet of water surface area, not less than one unit of lifesaving equipment as described in sub. (c), must be at every public pool. One unit must be provided for each 2,000 square feet of water surface or fraction thereof.

(c) One unit of lifesaving equipment includes any of the following:

1. A ring buoy having a minimum outside diameter of 20 inches. Each ring buoy shall be attached to a 1/4 inch rope having a length not less than 1 1/2 times the maximum width of the pool or 50 feet, whichever is less; or

2. A non-telescoping shepherd's crook-type pole capable of reaching the middle of the pool from a location on the deck; or

3. Where a lifeguard is provided, a rescue tube may be used instead of a ring buoy.

Modify DHS 172.04(48) to read - "Therapy pool" means a public swimming pool used exclusively for medically administered therapy.

Modify DHS 172.27 as follows:



DHS 172.27 First aid supplies. (1) A first aid kit of a sort approved by the department and 2 durable blankets in good condition shall be available at each pool area. The first aid kit shall contain at least all of the following items:

- (a) Gauze pads.
- (b) Adhesive bandages.
- (c) Gauze roller bandage.
- (d) Disposable surgical gloves.
- (e) Instant cold packs.

(2) Biohazard safety equipment, including a blood and biohazard disposal kit shall be located at the first aid station or another location on the premises approved by the department. The biohazard disposal kit shall contain at least all of the following items:

- (a) 1 package of absorbent spill clean-up powder.
- (b) 1 pair of disposable gloves.
- (c) 1 clean-up scoop and scraper.
- (d) 1 anti-microbial handwipe.
- (e) 1 biohazard bag.

Modify 172.29(1)(b) to read, “(b) Legible signage showing pool use rules shall be posted in a conspicuous place or places in the pool area. The signage shall include at least all of the rules in this paragraph in at least a one inch font. Pool rules in connection with water attractions, therapy pools or other specialized pools defined in ch. Comm 90 or this chapter may not be eliminated or modified without approval by the department.”

Modify 172.29(3) to read, “(3) WHIRLPOOLS. For whirlpools, the signage required under sub. (1) shall also be conspicuously posted in the whirlpool area and include all of the following rules preceded by the word WARNING conspicuously printed in at least a one inch font:

- (a) ~~(Delete “Elderly persons and)~~ Persons suffering from heart disease, diabetes, or high or low blood pressure should not enter the whirlpool.
- (b) Minors under the age of 12 who are unsupervised may not use the whirlpool.
- (c) Persons under the influence of alcohol or drugs may not use the whirlpool.
- (d) Pregnant women should consult their physician regarding whirlpool usage.
- (e) Lengthy exposure may be hazardous to your health and may result in nausea, dizziness or fainting.
- (f) Minors under the age of 6 are not permitted in the whirlpool.

Modify 172.29(6) to read, “INTERACTIVE PLAY ATTRACTIONS. Signage shall be conspicuously posted on the periphery of the interactive play water attraction and shall clearly state all of the following in at least a one inch font:”

172.29(1)(e) move out of the signage section and give it its own section titled “non-toilet-trained children” under operations and management just like the “food and drink” section. The text is as follows: “If non-toilet-trained children are permitted in the pool, the children shall be required to wear swim diapers.”

172.22(c) and 172.23(2) say the same thing. Remove both sections because this is a signage requirement which should be located in 172.29. Add a new section letter under 172.29(1) stating, “A pool that is not required under s. DHS 172.23 to have a lifeguard shall post a sign that states, in letters that are a minimum of 4 inches high, “No Lifeguard on Duty”.”



Add another new section letter under DHS 172.29(1) stating, “A pool that is not required under s. DHS 172.23 to have a lifeguard or attendant shall post a sign prohibiting children under 12 from entering the enclosure without adult supervision. A pool that is required under s. DHS 172.23 to have a lifeguard or attendant shall post a sign prohibiting children under 6 from entering the enclosure without adult supervision.”

Modify DHS 172.30 to read, “Pool closing criteria. Any of the following conditions or situations shall require the operator or responsible supervisor to close a pool or for the department or its agent under s. DHS 172.07 (3) to order that the pool be closed:”

Modify 172.30(1) to read, “The presence of a hazardous substance or object in the pool or the existence of any condition creating an immediate danger to health or safety, including fecal accident events and broken or damaged main drain grates.”

Remove the note under 172.31 because the website has changed twice since this code was enacted.

Modify 172.32(3) to read as follows:

(3) FILES. (a) The operator shall maintain on the premises a file containing a copy of each of the following:

1. The monthly operating reports required under sub. (1).
2. Each laboratory bacteriological report.
3. Each fecal accident report made under s. DHS 172.31.
4. In addition to the reports listed under subds. 1., 2., and 3. any other report submitted to the department or agent for the preceding 2 year period.
5. A copy of the most current version of ch. DHS 172.
6. Pool construction plans.
7. The manufacturer’s pump performance curve, manual of instruction on filter operation, recommendations for operation and maintenance of all equipment, and instructions and other pertinent information on pool operation and maintenance.
8. The most recent Federal centers for disease control recommendations for fecal accidents or other plan in response to fecal accidents.
9. Any variances or waivers issued by the department or the department of safety and professional services.
10. The make, model, and installation date of any submerged suction outlet covers installed under the Virginia Graeme Baker Pool and Spa Safety Act.
11. A copy of the engineer’s inspection report for any inspection performed under s. 172.37(2)(c).
12. Daily inspections and operational tests as specified in s. DHS 172.37.

(b) All records shall be kept at the facility, except that monthly reports, fecal accident reports, daily inspection results, operational tests, and any other report submitted to the department or its agent shall be kept for at least 2 years.

Modify 172.33(1)(g) to read, “(g) *Drinking fountain.* Each drinking fountain required under the construction code the pool was approved under shall be maintained in clean, sanitary and operational condition.”

Modify 172.33(2) to read, “SHOWER, TOILET AND DRESSING FACILITIES. (a) The walls, partitions and floors of showers, toilet rooms and dressing areas shall be maintained in good repair and shall be cleaned and disinfected daily and more often if necessary to provide clean and sanitary

conditions. A facility cannot charge additional costs for the use of the showers, toilet, and dressing facilities.

**Subchapter V - Pool, Slide, and Water Attraction Construction and Design**

Modify 172.34(4) to read, “(4) All outdoor pool areas shall be enclosed and have self-closing and latching gates or doors that are lockable. All indoor pool areas with a separate enclosure shall have self-closing gates or doors that are lockable.”

Modify 172.37(2)(c) to read, “(c) *Waterslide inspection*. Every five years all waterslides and pool slides over six feet in height shall be evaluated by an engineer for the structural stability and integrity of the slide and platform. The first inspection must be performed by February 1<sup>st</sup>, 2013. A copy of a report signed by the engineer shall be kept on site as pursuant to s. DHS 172.32.”

Take out 172.37(1)(c)2 which reads, “2. All work shall be performed by a competent qualified mechanic capable of understanding the function of the parts and the proper installation.”