Proposed Pool Code Changes in ATCP76

**76.03 Comparable compliance** (chapter removed)

76.02 #2 Added paragraph on variances:

**(2)** VARIANCE. (a) 1. The department may approve a variance to a method, practice, material, equipment or design required under this chapter that will not be contrary to public health, safety or welfare if the department is provided with satisfactory proof that the variance will achieve results that are closely equivalent to the results of literal application of the requirement under this chapter.

2. To apply for a variance, the operator shall apply on a form provided by the department. An application for a variance from the requirements of this chapter shall be made in writing to the department, specifying all of the following. The department may require additional information from the operator before acting on the request:

a. The rule from which the variance is requested.

b. The specific alternative action which the operator proposes.

c. The reason for the request.

d. Justification that the variance will not adversely affect the public health, safety, or welfare

76.03 Is now Definitions: (below is a list of changes)

* + 1. “Active Managerial Control” means that the risks at the pool are being managed so that the pool is in compliance with provisions in ATCP 76 or conditions are monitored so that corrections necessary for compliance are in progress.

**(3m)** “AED” means automated external defibrillator.

**(4m)** “Analyte” means a substance that a test is used to detect.

**(6g)** “Barrier” mean a fence, wall or similar structure meeting the requirements under SPS 390.18 (4)

**(6r)** “Basin” means any vessel constructed of manmade materials designed to hold water to be used as a public swimming pool or water attraction, the splash zone of an interactive play attraction, or a stand-alone run-out slide.

* + 1. **“**Core item**”** means a provision in this Code that is not designated as a priority item or a priority foundation item. **“**Core item**” i**ncludes an item that usually relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance.

**11m)** “Death, injury or illness report” means the written record of all facts regarding an incident resulting in bodily harm that requires assistance from emergency medical personnel, associated with a pool or associated building and structures.

**(15m)** “Enclosure” means the area with the barrier that separates the pool and/or water attraction area from other areas of the building or premises.

**(22r)** “Imminent health hazard” means a condition that presents a substantial likelihood to cause severe adverse health consequences or death.

**(23)** “Instructional Program” means an activity occurring in the water that is led by a person teaching a participant how to do an exercise, movement, skill or similar activity. (Examples include: swimming and exercise classes and water aerobics).

**(26)** “Lifeguard” means a person holding a certificate from a course or courses that meet(s) the criteria for lifeguarding, first aid and CPR/AED training and certification set forth in the 2018 Model Aquatic Health Code or as approved by the department (updated)

**(32m)** “Pathogen” means a microbial organism capable of causing disease.

**(35m)** “Play feature” means appurtenances (such as tethered floatables, spray pad features, floatable cars and trucks and basketball hoops) used for play as described in SPS 390.30

**(37)** “Pool” means a structure, basin, chamber, or tank, and appurtenant buildings and equipment, used for wading, swimming, diving, water recreation, or therapy. Types of pools include pools used for swimming, diving pools, exercise pools, mobile pools, therapy pools, wading pools, whirlpools, and cold soak pools and water attractions. “Pool” does not include an inflated mobile structure, basin, chamber, or tank; a swim pond; an individual therapeutic pod, tub, or bath; or a fixed or mobile structure, basin, chamber, or tank that serves fewer than 3 individual residences. (updated)

**(39g)** “Priority item” means a provision in this Code directly related to health and safety that if not met or is missing could significantly contribute to an increased risk for injury or illness. “Priority item”is an item that is denoted in this Code with a superscript P−P.

**(39r)** “Priority foundation item” means a provision in this Code whose application supports, facilitates, or enables one or more priority items. Includes an item that requires the purposeful incorporation of specific actions, equipment or procedures by the operator such as personnel training, infrastructure, documentation or record keeping. “Priority foundation item”is an item that is denoted in this Code with a superscript Pf−Pf.

**(41m)** “Safety data sheet” means written information that details the hazards associated with a chemical and gives information related to its safe use. (used to be Material Safety Data Sheet)

**ATCP 76.04 (NEW) Plans and specifications for pools.** (1) APPROVAL REQUIRED. An operator shall submit initial pool plans and obtain approval from the department of safety and professional services (DSPS) as required under s. SPS 390. After the [effective date of the rule], the following documents shall be kept onsite and made available to the department or its agent upon request.

1. Approved pool plans.
2. Engineering statements and reports, when applicable.
3. Compliance declaration, if applicable.
4. Conditional DSPS approvals, if applicable.
5. Final DSPS inspection approval.
6. DSPS or department variances, if applicable.
7. MODIFICATIONS. An operator shall submit pool modification plans to the department of safety and professional services as required under SPS 390. Documentation shall be made available to the department upon request as required under sub, (1).

**ATCP 76.045** (New) **License holder qualifications**. To qualify for a license, an applicant shall do all of the following:

**(1)** Be an owner of the pool or an officer of the legal entity owning the pool.

**(2)** Comply with the requirements of this chapter.

**(3)** Allow authorized representatives of the department or its agent access to the pool and provide required information to those authorized representatives.

**(4)** Pay the applicable license fees at the time the application is submitted.

**ATCP 76.046 License holder responsibilities.** Upon acceptance of the license issued by the department or its agent, the license holder shall do all of the following in order to retain the license:

**(1)** Comply with the provisions of this chapter and ch. ATCP 76.

**(2)** Follow reporting requirements to the department or agents, as applicable, as outlined in this chapter.

**(3)** Immediately discontinue operations and notify the department or its agent if an imminent health hazard may exist.

**(4)** Replace existing facilities and equipment that no longer comply with the criteria set forth in ch. ATCP 76.

**(5)** Comply with directives of the department or its agent including deadlines for taking corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the department or its agent for the license holder’s pool or in response to community emergencies.

**(6)** Accept notices issued and served by the department or its agent according to law.

**(7)** Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with ch. ATCP 76, and any other directive of the department or its agent, including deadlines for corrective actions specified in inspection reports, notices, orders, warnings, and other directives.

**ATCP 76.05 License to operate a pool.**

**(1)** LICENSE REQUIRED.

(a)  *Conditions requiring a license.* No person may operate a pool or water attraction without a license from the department or its agent. Except as provided under sub (c) 2., a separate license is required for each pool basin.

(b) *Pool modification.*

A pool for which a license has been issued is later modified into a different pool type shall require a new license and for any additional features the operator shall pay all applicable fees.

(c) *Transfer of ownership.* 1. If a license holder sells or otherwise transfers ownership or operation of a pool to another person, a new license is required under s. 97.67 (2) (a), Stats., and the pool may not be opened to the public until the department or its agent has issued a new license.

2. As provided in s. 97.67 (2) (b) and (c), Stats., an individual may transfer a license to an immediate family member, if the individual is transferring operation of the pool. A sole proprietorship that reorganizes as a business entity, as defined in s. 179.70 (1), Stats., or a business entity that reorganizes as a sole proprietorship or a different type of business entity may transfer a license to the newly formed business entity or sole proprietorship if the pool remains at the location for which the license was issued and at least one individual who had an ownership interest in the sole proprietorship or business entity to which the license was issued has an ownership interest in the newly formed sole proprietorship or business entity.

3. Except as provided in this paragraph, no license issued under this chapter is transferable from one premise to another or from one person or entity to another.

4. A person who wishes to transfer a license under subd. (c) shall notify the department or its agent prior to operation of the pool.

**Note:** Under s. 97.605 (4) (a) 2., Stats., “Immediate family member” means a spouse, grandparent, parent, sibling, child, stepchild, or grandchild or the spouse of a grandparent, parent, sibling, child, stepchild, or grandchild. Under ss. 97.605 (4) (a) 1. and 179.70 (1), Stats., “business entity” means: a corporation, as defined in s. 180.0103 (5), Stats., a limited liability company, as defined in s. 183.0102 (10), Stats., a limited partnership, or a corporation, as defined in s. 181.0103 (5), Stats., a foreign limited liability company, as defined in s. 183.0102 (8), Stats., a foreign limited partnership, a foreign corporation, as defined in s. 180.0103 (9), Stats., or a foreign corporation, as defined in s. 181.0103 (13), Stats.

**Note:** To notify the department of a transfer of ownership, call (608) 224−4923 or send an e-mail to datcpdfslicensing@wi.gov.

(d) Preinspection required. Before the department or its agent may issue a license to operate a pool under par. (1), the department or agent shall conduct a preinspection. A preinspection is not required for a transfer of a license under par. (c) 2.

* 1. LICENSE DURATION AND RENEWAL. (a) *Expiration.* Each license issued under this chapter expires on June 30, except that a license initially issued during the period beginning on April 1 and ending on June 30 expires on June 30 of the following year.

(b) Each license shall be renewed annually as provided in sub. [(4) (b)](https://docs.legis.wisconsin.gov/document/administrativecode/ATCP%2076.05(4)(b)).

* 1. NEW LICENSE. (a) *Application.* To apply for a new license, the applicant shall apply on an application form provided by the department or its agent. The completed application shall be accompanied by all of the following:

1. The applicable fees specified under s. [ATCP 76.06](https://docs.legis.wisconsin.gov/document/administrativecode/ATCP%2076.06) and any fees previously due to the department or its agent.
2. Proof that the department of safety and professional services under s. [SPS 390.04 (1)](https://docs.legis.wisconsin.gov/document/administrativecode/SPS%20390.04(1)) has approved plans and specifications for the pool, including modifications.
3. The completed final inspection report and approval from the department of safety and professional services authorized inspector.
4. A statement from a 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. [SPS 390.05 (1) (c)](https://docs.legis.wisconsin.gov/document/administrativecode/SPS%20390.05(1)(c)).
5. Information, as determined by the department or its agent, indicating that the pool will be maintained and operated in compliance with applicable federal and state laws and that rules have been implemented for the operation of the pool that will protect the health, safety, and welfare of the public.

**Note:** To obtain a copy of the pool operator license application form, or to deter- mine which agent to contact for an application form, call (608) 224−4923 or send an e−mail to [datcpdfslicensing@wi.gov](mailto:datcpdfslicensing@wi.gov).

(b) *.*

*Requests for preinspection.* The operator shall contact the department or its agent and arrange a time for the preinspection required under s. ATCP 76.05 (1) (c), before operating a pool or water attraction to the general public.

**Note:** To obtain a copy a copy of the pool license application form, or to arrange for a preinspection, call (608) 224−4923 or send an e−mail to datcpdfslicensing@wi.gov.

**(4)** LICENSE RENEWAL. (a) To renew a license, the operator shall pay the department the applicable license fee specified under s. ATCP 76.06 before the license expires. If payment to renew a license fee is not received by the department before the expiration date of the license, the late fee specified under s. ATCP 76.06 (2) (c) shall be paid in addition to the license fee. An application for a renewal license is not required.

(b) 1. The department may refuse to renew a license as provided under sub. (5) (a) 1.

2. The department shall refuse to renew a license as provided under sub. (5) (b).

**(5)** DEPARTMENT OR AGENT ACTION ON LICENSE APPLICATION. (a) *Department decision on a license.* 1. The department or its agent may not issue a new license or renew an existing license for a pool unless all of the following conditions are met:

a. The operator has corrected a condition for which the department or agent has issued a written health or safety−related order.

b. The operator, applicant, or license holder has provided the department or its agent with the information required under sub. (3) (a) 2., or documentation indicating that the pool is designed and constructed in accordance with the state law and regulations stated in this chapter.

c. The department or its agent has determined that the operator, applicant or license holder is not in violation of ch. 97, Stats., or has only a minor violation as defined in s. 227.04 (1) (a).

1. *License prohibited.*

The department or its agent shall refuse to issue a new license or renew an existing license to operate a pool under any of the following circumstances:

1. A fully and accurately completed, signed and dated application has not been received by the department or its agent.
2. The department or its agent has not conducted the preinspection required under s. ATCP 76.05 (1) (d).
3. The department or its agent has not received pool documentation as requested under s. ATCP 76.04.
4. .The operator has not paid all of the applicable fees under s. ATCP 76.06.

The operator has modified, repaired, or maintained the pool in a manner that is not in accordance with what the department recognizes as safe practice as outlined in this chapter.

*(c) Conditional license.* Except as provided in s. 93.135, Stats., the initial issuance, renewal, or continued validity of a license may be conditioned upon the requirement that the license holder correct a violation of this chapter, s. 97.67, Stats., or ordinances adopted under s. 97.615 (2) (g), Stats., within a specified period of time. If the condition is not satisfied within the specified time or after an extension of time approved by the department, the license is void. No person may operate a pool or water attraction after a license has been voided. Any person who does so shall be subject to the penalties under ss. 97.72 and 97.73, Stats., and fees under s. ATCP 76.06 (2) (e). An operator whose license is voided under this paragraph may appeal the decision under s. ATCP 76.09.

(d) *Granting or denial of a license*. 1. The department or its agent shall issue or deny a new license or shall renew a license for a pool within 30 days after the applicant meets all of the requirements under subs. (3) or (4), as applicable.

2. If the department or its agent denies an application for a license, the applicant shall be given reasons, in writing, for the denial and information regarding appeal rights provided under s. ATCP 79.09.

**(6)** VOIDED LICENSE FOR FAILURE TO PAY FEES. (a) *Payment time frame*. If an applicant or operator fails to pay all applicable fees, late fees and processing charges under s. [ATCP 76.06](https://docs.legis.wisconsin.gov/document/administrativecode/ATCP%2076.06) within 45 days after the expiration of the license, whichever occurs first, the license is void.

(b) *Notice of insufficiency.* If the department receives a notice of an insufficiency under s. ATCP 76.06 (3), the applicant or operator shall have 15 days after receipt of notice from the department of the insufficiency to pay all applicable fees and processing charges or the license is void.

(c) *Appeal rights.* An operator whose license is voided under this subsection may appeal the decision as provided under s. [ATCP](https://docs.legis.wisconsin.gov/document/administrativecode/ATCP%2076.09) [76.09](https://docs.legis.wisconsin.gov/document/administrativecode/ATCP%2076.09). The burden is on the license applicant or operator to show that all applicable fees, late fees and processing charges have been paid. During any appeal process concerning a payment dispute, operation of the pool is deemed to be operation without a license and is subject to the fees under s. [ATCP 76.06 (2) (e)](https://docs.legis.wisconsin.gov/document/administrativecode/ATCP%2076.06(1)(e)) in addition to the fees otherwise due, unless the applicant or owner meets its burden of proof under this subsection.

**ATCP 76.06 Department fees. (1).** FEE SCHEDULE. Pursuant to s. 97.67 (5), Stats., no license may be issued until all applicable fees have been paid. Table ATCP 76.06 B applies to pool licenses issued by the department or its agent under this chapter for each basin.

**Note:** As provided in s. 97.615 (2) (d), Stats., a local health department can establish and collect fees for license. If you were issued a license by a local health department, contact the local health department for its license fee schedule.

(2) LICENSE CATEGORY ASSIGNMENT. (a) *Criteria.*  1. The department or its agent shall assign a Pool to a license category by evaluating the complexity of the Pool based on the criteria specified in ATCP 76.06 Table A in this section.

2. The department or its agent shall assign a Pool whose point value is 0 to 2, to the simple license category.

3. The department or its agent shall assign a Pool whose point value is greater than 2, but not more than 3, to the moderate license category.

4. The department or its agent shall assign a Pool whose point value is greater than 3, to the complex license category.

5. If the department or its agent orders a pool closed because of a confirmed waterborne illness outbreak or chemical release incident, associated with the operation of the pool, the department or its agent shall immediately assign the pool to the complex category for the current and following licensing year. If no further outbreaks or closures occur, the department or its agent may reduce the license to the appropriate license category assignment.

(b) *Point values for determining factors for assigning a Pool license category.*

**ATCP 76.06 Table A**

|  |  |
| --- | --- |
| **Determining Factors for Pool License Category (per Basin)** | **Point Value** |
| 1. Pool Basin | 1.0 |
| 1. The pool type is a whirlpool or therapy pool | 1.0 |
| 1. Choose the applicable recirculation system |  |
| 1. Recirculation system is used solely designated to a single pool basin | 1.0 |
| 1. Recirculation system is shared with another pool basin(s) | 0.5 |
| 1. Basin square footage is >1999 square feet in area | 1.0 |
| 1. Pool type is considered a water attraction | 1.0 |

**ATCP 76.06 Table B**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Type of Facility** | **Permit Fee** | **Preinspection Fee** | **1st. Reinspection Fee** | **2nd. and Subsequent**  **Reinspection Fee** |
| Simple Pool | All | To | Be | Determined |
| Moderate Pool |  |  |  |  |
| Complex Pool |  |  |  |  |
|  |  |  |  |  |
| **Additional applicable fees based on pool features and design or use** |  |  |  |  |
| Additional recirculation system(s) |  |  |  |  |
| Pool basin is 10,000 to 19,999 square feet |  |  |  |  |
| Pool basin is 20,000 square feet or more |  |  |  |  |
| Each waterslide > than 6 feet in height |  |  |  |  |
| Each sides |  |  |  |  |

**Fee Schedule — SFY 2012**

**For permits issued on or after April 1, 2011**

Recreational or Educational

Campground

$505 $1200 $540 $720

(3) TYPES OF FEES. (a) *Preinspection fee.* The operator shall pay the applicable preinspection fee listed in Table ATCP 76.06 to the department before a new license is issued under s. [ATCP 76.05 (3)](https://docs.legis.wisconsin.gov/document/administrativecode/ATCP%2076.05(1)).

1. *License fee.* The operator shall pay the applicable license fee listed in Table ATCP 76.06 to the department for each pool for which the operator applies for a new or renewal license.
2. *Late fee.* If the license fee for a license renewal is not paid before the expiration date of the license, the operator shall pay to the department a late fee of $85 in addition to the renewal license fee.
   1. *Reinspection fee.* If the department conducts a reinspection or administrative follow-up of a pool under s. [ATCP 76.07 (1) (b) 1.](https://docs.legis.wisconsin.gov/document/administrativecode/ATCP%2076.07(1)(b)1) or 4., the operator shall pay to the department the applicable reinspection fee listed in Table ATCP 76.06. The department shall assess an additional fee as listed in Table ATCP 76.06, for any second or subsequent reinspection or administrative follow-up conducted under s. ATCP 76.06 (1) (b) 4.
   2. *Fees for operating without a license.* If a pool is found to be operating without a license, the operator shall pay to the department a fee of $749.00, in addition to all applicable fees and any processing charges under s. sub (3)..

**Note:** Anyone operating a pool without a license is also subject to the penalties in ss. [97.72](https://docs.legis.wisconsin.gov/document/statutes/97.72) and [97.73](https://docs.legis.wisconsin.gov/document/statutes/97.73), Stats.

* 1. *Duplicate license.* The department may charge the operator of a pool $15 for the request of a duplicate license.

(g) *Fees for special condition inspections*. For inspection or consultation activities that are not directly related to the department’s responsibilities for issuing licenses, the department shall charge the operator or the entity requesting the inspection or consultation $175.00.

**(4)** PENALTIES FOR INSUFFICIENCY OF PAYMENT. If the payment for a new or renewal license is by check or other draft drawn upon an account containing insufficient funds, the applicant or operator shall, within 15 days after receipt of notice from the department of the insufficiency, pay all applicable fees under sub. [(1)](https://docs.legis.wisconsin.gov/document/administrativecode/ATCP%2076.06(1)) and the financial institution’s processing charges by cashier’s check or other certified draft, money order, or cash.

**Subchapter II – Standards for Pools**

**ATCP 76.105 Qualifications of an authorized representative conducting inspections**.An authorized representative of the department or its agent who inspects a pool or conducts a plan review for compliance with ch. ATCP 76 shall meet the staffing qualification requirements set forth in s. ATCP 74.08.

**ATCP 76.106 Inspections** (1)REFUSED INSPECTION; PROCESS. If a person denies access to the department or its agent, the department or its agent shall inform the person of all the following:

(a) The license holder is required to allow access to the department or its agent as specified under s. 97.12, Stats.

(b) Access is a condition of the acceptance and retention of a pool license to operate as specified under s. ATCP 76.045 (3)

(c) If the pool license holder denies access to an authorized representative of the department or its agent, the department or its agent may apply for an inspection warrant to allow access as provided in law under s. 66.0119, Stats.

**(2)** REPORTING OF REFUSED ACCESS. If the person in charge continues to refuse access after the department or its agent presents credentials, provides the explanation in sub. (1), and makes a final request for access, the department or its agent shall document details of the denial of access on an inspection report form.

**(3)** FREQUENCY OF INSPECTION. The department or its agent shall inspect a pool at least once during the licensing period.

**(4)** INSPECTION DOCUMENTATION. The department or its agent shall document all of the following on an inspection report form:

(a) Administrative information about the pool’s legal identity, street and mailing addresses, type of establishment and operation, inspection date, and other information such as type of water supply and sewage disposal, status of the license, and personnel certificates that may be required at the pool.

(b) The conditions or other violations from this chapter that require corrective action by the license holder. An accompanying narrative shall contain all of the following:

1. A factual description of the violation observed, including location of the observed violation.

2. Citation and a brief description of the statute, administrative rule, or local ordinance for the observed violation.

3. A statement indicating what corrective action the license holder has taken, or shall take, to regain compliance with the administrative rule, statute, or local ordinance.

4. Unless otherwise indicated on the inspection report, each violation shall have a corrective action deadline. The corrective action deadline shall be based on the following criteria:

a. The nature of the potential hazard involved and the complexity of the corrective action needed. The department or its agent may agree to or specify additional time, not to exceed 72 hours after the inspection, for the license holder to correct violations of a priority item as defined in ATCP 76.

b. The license holder has a maximum time of 10 calendar days after the inspection for the license holder to correct violations of a priority foundation item.

c. The license holder shall correct core items, as defined in ch. ATCP 76, by a deadline agreed to or specified by the department or its agent, but no later than 90 calendar days after the inspection. The department or its agent may approve a written compliance schedule that extends beyond 90 calendar days, if the license holder submits a written schedule of compliance and no health hazard exists, or will result, from allowing an extended schedule for compliance.

**(5)** ISSUING A REPORT AND OBTAINING ACKNOWLEDGMENT OF RECEIPT. At the conclusion of the inspection, an authorized representative of the department shall sign the completed inspection report. The department or its agent shall then perform an exit interview and obtain a signature on the inspection report from the license holder’s designated person in charge. A copy of the inspection report shall be left with the person in charge at the completion of the inspection or emailed or otherwise presented within 2 business days after completion of the inspection.

**(6)** REFUSAL TO SIGN INSPECTION REPORT. If the license holder’s designated person in charge refuses to sign the inspection report, the department or its agent shall do all of the following:

(a) Inform the person who declines to sign the inspection report that a written acknowledgment of receipt is not an agreement with findings.

(b) Inform the person that refusal to sign the inspection report will not affect the license holder’s obligation to correct the violations noted in the inspection report by the deadlines specified.

(c) Document the refusal to sign in the inspection report.

# (7) POSTING OF INSPECTION REPORTS. The department and its agents shall make inspection reports available to the public on the internet.

**Subchapter II — Water Treatment Systems and Water Quality**

**ATCP 76.11 Recirculation system (re-written for clarity but only minor changes)**

## Table ATCP 76.11 A Maximum Turnover Time By Pool Type

|  |  |
| --- | --- |
| **Pool Type** | **Turnover Time (in hours)** |
| Swimming  Diving  Lap Lanes  Activity a  Interactive play attraction  Leisure river  Plunge  Runout slide  Vortex  Wading pool  Whirlpool  Therapy and Exercise pools  Cold soak | 6  6  6  2  0.5  2  1  1  1  1  0.5  See Table ATCP 76.11 B  4 |

**ATCP 76.12 Labeling, storing, mixing, and handling**

**chemicals.**

c.Oxidizers shall be stored separately from acids. P

i. Doors shall be locked and marked to indicate entry is for authorized personnel only. Pf

j. A list of emergency telephone numbers must be readily accessible, and conspicuously posted outside of any chemical storage area. Pf

k. For new pools constructed after the effective date of the rule, secondary containment is required for liquid disinfectant and acid. Pf

Note: A separate room is not required under this rule, unless required by the department of safety and professional services.

**ATCP 76.13 Chemical feeders and filter aid equipment.**

2. All chemical feed pumps shall be electrically connected to the recirculation pump control circuit so that when power to the recirculation pump is interrupted power to the chemical feed pumps is also interrupted and chemical feed stops. P

a. Electrical interlock shall be tested monthly. Pf

b. A log of the test results shall be kept.

3. All chemical feed pumps shall be subject to system flow interlock so that when the flow of water through recirculation stops, chemical feed stops. P

a. The system flow interlock shall be tested monthly. Pf

1. b. A log of test results shall be kept.

## **ATCP 76.14 Disinfectant/Sanitizer feeding and residuals.**

5 (c) *Cyanuric acid.* Cyanuric acid-containing Disinfectant/Sanitizers may not be used at an indoor pool, therapy pool or whirlpool, beginning 2 years after the effective date of the new rule.

## Table ATCP 76.14

**Minimum Disinfectant/Sanitizer Residuals**

|  |  |  |
| --- | --- | --- |
| **Swimming and Activity Pools** | **Minimum Free**  **Chlorine Residual** | **Total Bromine** |
| Swimming and Activity Pool | 1.0 ppm | 3.0 ppm |
| Swimming and Activity Pool With Stabilizer | 2.0 ppm | N/A |
| Swimming and Activity Pool With Electronic Monitoring Devices Present And Properly Functioning | 1.0 ppm (with or without stabilizer) | 3.0 ppm |
|  |  |  |
| **Wading Pools** |  |  |
| Wading Pool | 2.0 ppm | 4.0 ppm |
| Wading Pool With Stabilizer | 4.0 ppm | N/A |
| Wading Pool With Electronic Monitoring Devices Present and Properly Functioning | 1.0 ppm (with or without stabilizer) | 3.0 ppm |
|  |  |  |
| **Whirlpool, Exercise, Therapy Pools** |  |  |
| Whirlpool, Exercise, or Therapy Pool | 3.0 ppm | 4.0 ppm |
| Whirlpool With Stabilizer | 6.0 ppm | N/A |
| Whirlpool Pool With Electronic Monitoring Devices Present and Properly Functioning | 3.0 ppm (with or without stabilizer) | 4.0 ppm |
| **Water Attractions Other Than Those Specified** |  |  |
|  |  |  |
| Water Attraction Other Than Those Specified | 1.0 ppm | 3.0 ppm |
| Water Attraction Other Than Those Specified With Stabilizer | 2.0 ppm | N/A |
| Water Attraction With Electronic Monitoring Devices Present and Properly Functioning | 1.0 ppm (with or without stabilizer) | 3.0 ppm |
|  |  |  |
| **Plunge Pools and Wave Pools** |  |  |
| Plunge and Wave Pool | 2.0 ppm | 3.0ppm |
| Plunge and Wave Pool With Stabilizer | 4.0 ppm | N/A |
| Plunge and Wave Pool With Electronic Monitoring Devices Present and Properly Functioning | 1.0 ppm (with or without stabilizer) | 3.0 ppm |
|  |  |  |
| **Interactive Play Attractions** |  |  |
| Interactive Play Attraction | 2.0 ppm | 3.0 ppm |
| Interactive Play Attraction With Stabilizer | 4.0 ppm | N/A |
| Interactive Play Attraction With Electronic Monitoring Devices Present and Properly Functioning | 1.0 ppm (with or without stabilizer) | 3.0 ppm |
|  |  |  |
| **Waterslides and Pool Slides** |  |  |
| Waterslides and Pool Slides | 2.0 ppm | 3.0 ppm |
| Waterslides and Pool slides With Stabilizer | 4.0 ppm | N/A |
| Waterslides and Pool Slides With Electronic Monitoring Devices Present and Properly Functioning | 1.0 ppm (with or without stabilizer) | 3.0 ppm |

1. 76.14 (6) ELECTRONIC MONITORING DEVICES. (a) When oxidation potential controllers are used the water potential shall be kept between 650−900 mV. In addition, to the requirements specified under ATCP 76.18 (3), if the water potential reads below 650 mV or above 900 mV, the operator shall manually test the pool water with an approved test kit. Pf

**ATCP 76.15 Alternative disinfection systems.**

**(4)** OTHER TECHNOLOGIES**.** Other technologies that inactivate or kill pathogens shall be certified to NSF 50 and installed according to NSF 50, manufacturer instructions and have an EPA registration number, if applicable. P

**ATCP 76.17 Water test kits. (1)** APPROVED. A test kit of a type approved by the department shall be maintained for testing the pool water pH; the disinfectant/sanitizer residual; the combined chlorine level, when chlorine is used; the total alkalinity; and the cyanuric acid concentration. The test kits shall meet the following specifications, as described in ATCP 76.17 Table A. Required Test Kit Accuracy and Increment. Pf

**ATCP 76.17. Table A Required Test Kit Accuracy and Increment**

|  |  |  |
| --- | --- | --- |
|  | **Minimum Accuracy** Pf | **Maximum Increment** Pf |
| **Chlorine and combined chlorine** | +/- 0.2 ppm | 0.2 ppm |
| **pH** | +/- 0.2 pH unit\* | 0.2 units |
| **Alkalinity** | +/- 25% | 10 ppm |
| **Cyanuric** | +/- 20% | 20 ppm |
| **Bromine** | +/- 10 % | 0.5 ppm |

1. TEST REAGENTS USE AND STORAGE. Test kit reagents shall be: (a) Stored in the original container. Pf

(b) Replaced as recommended by the manufacturer. Pf

(c) Stored within the temperature range specified by the manufacturer for storage. Pf

(d) Used and properly disposed of before the expiration date.

(4) INCREASED TESTING FRECENCY. The department or its agent may require more frequent testing, if water quality violations are continually noted on inspection reports for free chlorine residual, combine chlorine, bromine, pH, or cyanuric acid, indicating a lack of active managerial control. Pf

**ATCP 76.20 Operator. (1)** POOLS. (a) *General requirement.* Each pool shall be under the supervision of at least one operator, except that contiguous multiple pools operated under the same owner may be supervised by one operator. Pf

**Subchapter IV — Staffing Pools**

1. Each water attraction shall be staffed by at least one certified operator

2. An owner of a pool that demonstrates a lack of managerial control over the pool operation by having two or more reinspections in a 3-year period may be required to have a Certified Pool operator.

**ATCP 76.21 Responsible supervisor ( re written for clarity)**

**ATCP 76.23 Lifeguard and attendant placement and staffing requirements.**

**Table ATCP 76.23 B. Required Number of Lifeguards \Attendants based on Pool Type (re done) more verbiage on pools with slides.**

|  |  |  |
| --- | --- | --- |
| Swim-up bars | When open | Shall have an attendant and follow a written plan that addresses patrons:  1. Who are ill,  2. Adversely affecting sanitation,  3. Engaging in dangerous behavior, or  4. Who are injured. |
|  |  |  |

**ATCP 76.26 Rescue equipment.**

**(2)** TELEPHONE. (a) C*onnection to emergency services.* A telephone capable of connecting with 911 or emergency dispatch services is accessible at all times during pool operation. P

(b) *Other technologies.* Other technology may be used that has permanent continuous power backup and reliable service connection at the phone in the pool area. P

(c) *Location*. The installation and location of the telephone shall be within 25 feet of the pool area. P

**ATCP 76.27 First aid supplies. Simplified and some items removed**

**ATCP 76.29 Posting pool rules.**

h. Children under the age of 12 shall be supervised by an adult.

2. If applicable, the operator shall ensure that the patron is instructed (verbal, pictures, or symbols) on how to position themselves and safely ride or otherwise participate.

**ATCP 76.30 Pool closing criteria.**

**(7) Nonfunctional emergency phone. P**

(8) The pool is undergoing maintenance or repair. P

**(9)** The pool gate or door is not equipped with a self-closing and latching mechanism

**ATCP 76.31 Fecal accident response.**

**2 (a)**The date and time of the event and the free available chlorine, cyanuric acid concentration and pH of the pool water at the time of the event and after the event, before reopening the pool to the public.

**ATCP 76.315 Waterborne outbreak investigations. (1)** HEALTH DEPARTMENT NOTIFICATION. The operator shall contact the department or its agent for operational and testing guidance when notified by a patron that they have a confirmed waterborne illness. P

**(2)** CONFIRMED WATERBORNE ILLNESS OUTBREAK. In the event of a confirmed waterborne illness outbreak, the operator shall close the pool to use and contact the department or its agent for instructions regarding sampling, corrective actions and reopening procedures. P

**(3)** FILTER MEDIA. When pseudomonas aeruginosa, staphylococcus aureus or legionella pneumophila is detected in any sample from a pool, the pool must be cleaned and sanitized and filter media must be changed. P

**ATCP 76.33 Facility maintenance, repair and sanitation.**

b. Outdoor pool decks shall be cleaned as needed. (used to be rinsed daily)

(4) WATER HEATERS, VENTILATION, ELECTRICAL

(d)*Carbon monoxide alarms.* The operator shall install functioning CO alarms, as applicable. 1. A pool equipment room that has a fuel burning appliance shall install and maintain a CO alarm. P

2. For indoor pools, a CO alarm shall be installed and maintained in the pool area, if there is a fuel burning appliance in the equipment room that is also located within the pool area. P

**76.335 Dog swims. (Entire new section)**

**76.38 Virginia Graeme Baker Act (VGBA) New section, all material we already have.**