

**State of Wisconsin**  
**Department of Agriculture, Trade and Consumer Protection**

**NOTICE OF PUBLIC HEARING AND COMMENT PERIOD**

The Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on a permanent rule to repeal and recreate ATCP 76, relating to Safety, Maintenance, and Operation of Public Pools and Water Attractions and affecting small business\*, at the times and places shown below.

**Hearing Information**

**Date: Tuesday, March 29, 2022**

Time: 11:00 a.m. – 2:00 p.m.

Location: 2984 Shawano Avenue, DNR State Office Building, Lake Michigan Conference Room, Green Bay, WI 54313

**Date: Wednesday, March 30, 2022**

Time: 11:00 a.m. – 2:00 p.m.

Location: DWD – Marathon County Job Center, 731 North 1<sup>st</sup> Street, Oak Conference Room, Ste #4000, Wausau, WI 54403

**Date: Thursday, March 31, 2022**

Time: 11:00 a.m. – 2:00 p.m.

Location: 718 W. Clairemont Avenue, Eau Claire State Office Building, Conference Room 129, Eau Claire, WI 54701

**Date: Friday, April 1, 2022**

Time: 11:00 a.m. – 2:00 p.m.

Location: Virtual

Microsoft Teams meeting

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**Date: Thursday, April 7, 2022**

Time: 11:00 a.m. – 2:00 p.m.

Location: 300 La Crosse Street, Wisconsin Dells Municipal Building, Wisconsin Dells, WI 53965

**Date: Friday, April 8, 2022**

Time: 11:00 a.m. – 2:00 p.m.

Location: 1910 County Road NN, Walworth County Health Department & Human Services Auditorium, Elkhorn, WI 53121

**Accessibility**

Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by March 15, 2022 by writing to Caitlin Jeidy at [caitlin.jeidy@wisconsin.gov](mailto:caitlin.jeidy@wisconsin.gov), or by phone at (608) 977-0565. Alternatively, you may contact the Department of Agriculture, Trade and Consumer Protection TDD at (608) 224-5058.

**Appearances at the Hearing and Submittal of Written Comments**

The proposed rule may be reviewed and comments made at [https://datcp.wi.gov/Pages/About\\_Us/AdministrativeRules.aspx](https://datcp.wi.gov/Pages/About_Us/AdministrativeRules.aspx) no later than April 15, 2022.

**Initial Regulatory Flexibility Analysis**

The proposed rule will have minimal effect on small businesses, as defined under s. 227.114 (1), Stats.

1. Description of the types of small businesses that will be affected by the rule:

The proposed rule modifies the criteria for assigning license fees and uses a clearer and simpler licensing model. Instead of licensing by activity area, the licensing model in the revised rule is based on assigning complexity based on basic basin characteristics, and assigning add-on fees based on what is added to the basin. This greatly clarifies the licensing process, and brings the fee for the pool into alignment with the time it takes to inspect it and manage the program. Three fee models were discussed and one was chosen with input from industry. A proposed licensing structure is included in the rule. Although, the Department has proposed fee increases in the new rule, the Department has also communicated with industry to find alternative methods that will reduce the overall cost to maintain a swimming pool, whirlpool or water attraction.

2. Description of the proposed reporting, bookkeeping and other procedures required for compliance with the rule:

The proposed rule would require additional recordkeeping. The chemical interlock is a critical safety feature to predict chemical accidents. The interlock must be tested monthly or as recommended by manufacturer. In addition, the revised rule requires operators to keep information related to their pumps and drain covers, and new pools to keep pool plans. These documents are all essential for assessing safety. When pool operators do not have these documents, it results in undue hardship and extra work to obtain the documents.

3. Description of the types of professional skills necessary for compliance with the rule:

The proposed rule does not require any new professional skills by small businesses. If there is a lack of active managerial control as documented by two re-inspections within a three year period, the pool operator will be required to provide a certified pool operator. Existing requirements for certified pool operators are only in place for water attractions.

**Agency Small Business Regulatory Coordinator**

The Department's Regulatory Review Coordinator may be contacted by email at [Bradford.Steine1@wisconsin.gov](mailto:Bradford.Steine1@wisconsin.gov) or by phone at (608) 224-5024.