

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

FILED

2001 MAY 24 A 11: 57

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Division of Health, Dep't of Health and Human Resources TITLE NUMBER: 64

RULE TYPE: Legislative CITE AUTHORITY: W. V. Code §16-1-7

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 16

TITLE OF RULE BEING PROPOSED: Recreational Water Facilities

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON June 25, 2001 AT 4:30 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

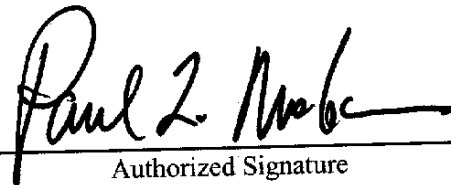
Beth Marquart, Dir. Regulatory Support

Dep't of Health and Human Resources

Capitol Complex - Bldg 3, Room 201

Charleston, WV 25305

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Brief Summary
64 CSR 16
Recreational Water Facilities

The proposed legislative rule will combine and update two existing rules:

- 64 CSR 16 Swimming and Bathing Beach
- 64 CSR 25 Design Standards for Swimming Pools

The proposed rule combines the design and operational requirements for swimming pools and bathing beaches. Also, the proposed rule has been expanded to include spas, hot tubs, theme parks, water slides, lazy rivers and wave pools. New recreational water facility technology and safety issues have been incorporated into the proposed rule.

**Statement of Circumstances
Which Require the Proposed Rule
64 CSR 16
Recreational Water Facilities**

The current Swimming Pool and Bathing Beach Rule(64 CSR 16) and the Design Standards for Swimming Pools(64 CSR 25) have not been updated since they were adopted in 1980, except for a change made in 1992 regarding lifeguard requirements. Since that time the design and technology of recreational water facilities has changed with the advent of new types of facilities, i.e. water theme parks, water slides, lazy rivers. New safety concerns have arisen with all these technological changes. The proposed rule incorporates the latest in water facility design, safety and operational requirements.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Recreational Water Facilities, 64CSR16

Type of Rule: **Legislative** **Interpretive** **Procedural**

Agency: Division of Health
Department of Health and Human Resources

Address: Building 3, Capitol Complex
Charleston, W. Va. 25305

1. Effect of the Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 0.00	\$0.00	\$ 0.00	\$ 0.00	\$ 0.00
Personal Services	0.00	0.00	0.00	0.00	0.00
Current Expense	0.00	0.00	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00	0.00	0.00
Equipment	0.00	0.00	0.00	0.00	0.00
Other	0.00	0.00	0.00	0.00	0.00
Revenue	0.00	0.00	0.00	0.00	0.00

2. Explanation of above estimates.

This proposed rule does not require additional funds.

3. Objectives of this rule:

To repeal and replace outdated legislative rule 64CSR16, "Swimming Pool and Bathing Beach," and to replace 64CSR25, "Design Standards fo Swimming Pools."

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens.

None

C. Economic Impact on Citizens/Public at Large.

None

Date: 5/23/01

Signature of Agency Head or Authorized Representative

A handwritten signature in black ink that reads "Paul L. Nusbaum" with a horizontal line extending to the right.

Paul L. Nusbaum, Secretary
Department of Health and Human Resources

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: May 24, 2001

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency name, Address & Phone No.) Division of Health
Department of Health and Human Resources
State Capitol Complex, Building 3, Room 201, Charleston, WV 25305
Telephone: (304) 558-5598

LEGISLATIVE RULE TITLE: Recreational Water Facilities, 64CSR16

1. Authorizing statute(s) citation: WV Code Section 16-1-7

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
May 24, 2001

b. What other notice, including advertising, did you give of the hearing?
Notice of the proposed rule was sent to Local Health Departments,
WV Recreation and Park Association, Kanawha County Parks,
City of Bridgeport Parks and Recreation, and Harpers Ferry KOA

c. Date of Public Hearing(s) or Public Comment Period ended:
June 25, 2001

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____

No comments received _____

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing (be exact):

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule (please type):

Beth Marquart, Director

Regulatory Development/Department of Health and Human Resources

Building 3, Room 201, Capitol Complex

Charleston, West Virginia 25305

- g. IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule (please type):

Ron Forren, Director

Public Health Sanitation Division

Office of Environmental Health Services

815 Quarrier Street, Suite 418

Charleston, West Virginia 25301-2616

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefore?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

**TITLE 64
LEGISLATIVE RULE
DIVISION OF HEALTH
DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

**SERIES 16
RECREATIONAL WATER FACILITIES**

**TITLE 64
LEGISLATIVE RULE
DIVISION OF HEALTH
DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

**SERIES 16
RECREATIONAL WATER FACILITIES**

TABLE OF CONTENTS

§64-16-1. General	1
§64-16-2. Definitions	2
§64-16-3. Construction Permit	3
§64-16-4. Operating Permit	4
§64-16-5. Inspections	5
§64-16-6. Design, Construction	6
§64-16-7. Water Quality	6
§64-16-8. Control Tests and Operation Records	9
§64-16-9. Supervision of Patrons	9
§64-16-10. Safety Requirements	10
§64-16-11. Routine Maintenance and Operation	13
§64-16-12. Bathhouses, Concessions, and Other Appurtenant Facilities	13
§64-16-13. Compliance.	14
§64-16-14. Penalties	14
§64-16-15. Administrative Due Process	15
Table 64-16 A - Closure Requirements	16
Table 64-16 B - Lifeguard Requirements	17
Table 64-16 C - Water Quality Guidelines	18

**TITLE 64
LEGISLATIVE RULE
DIVISION OF HEALTH
DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

FILED

2001 MAY 24 A 11:57

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**SERIES 16
RECREATIONAL WATER FACILITIES**

§64-16-1. General.

1.1. Scope. -- This legislative rule establishes the minimum requirements for the design, construction, management and operation of recreational water facilities.

1.2. Authority. -- W. Va. Code §16-1-7.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal and Replacement of Former Rules. -- This legislative rule repeals and replaces Division of Health rule 64CSR16, "Swimming Pool and Bathing Beach", effective April 22, 1992, and repeals Division of Health rule 64CSR25, "Design Standards for Swimming Pools", effective May 5, 1980.

1.6. Applicability. -- This rule applies to the owners and operators of recreational water facilities.

1.6.a. A recreational water facility, as defined in this rule, includes, but is not limited to, bathing beaches; swimming, wading, and diving pools; water slides, spray pools, lazy rivers, and wave pools; spas, hot tubs, therapeutic pools, hydrotherapy pools, and whirlpools. The term includes facilities operated by communities, subdivisions, apartment complexes, condominiums, clubs, camps, schools, institutions, parks, mobile home parks, hotels, and similar recreational and public facilities.

1.6.b. A recreational water facility does not include a private residential swimming pool as defined in this rule.

1.7. Enforcement. -- This rule is enforced by the Director of the Division of Health.¹

¹ The Department of Health and Human Resources (DHHR) was created by the Legislature's reorganization of the executive branch of State government in 1989. The Department of Health was renamed the Division of Health and made a part of the DHHR (W. Va. Code § 5F-1-1 et seq.). Administratively within the DHHR the Bureau for Public Health through its Commissioner carries out the public health function of the Division of Health.

64CSR16

§64-16-2. Definitions.

- 2.1. Attendant. -- An employee capable of providing shallow water rescue.
- 2.2. Bathing Beach. -- An organized and controlled bathing place located on a natural stream, pond or lake, or on an artificial pond or lake which is formed by impounding a natural waterway.
- 2.3. Director. -- The Director of the Division of Health or his or her designee.
- 2.4. Fecal Accident. -- The release of visible fecal matter into the water of a recreational water facility.
- 2.5. First Aid Kit. -- A packaged set of materials used for emergency treatment of injured or sick persons before professional medical care is available that includes: adhesive compresses or band-aids of various sizes; adhesive tape; eye dressing pads (4" x 4" and 3" x 3"); gauze pads (4" x 4" and 3" x 3"); roller gauze (2", 3" and 4" widths); scissors; tweezers; triangular bandages; cold packs; personal protective equipment, including latex or other impermeable gloves; and resuscitation masks with one-way valves.
- 2.6. Operator. -- A person responsible for the operation of a recreational water facility.
- 2.7. Patron. -- A customer, client, paying or non-paying guest at a recreational water facility.
- 2.8. Permit. -- A written document issued by the Director giving a designated person permission to establish, construct, renovate, or operate a recreational water facility.
- 2.9. Person. -- An individual, city, town, partnership, association, company, corporation, government agency, institution, apartment, motel, country club, camp, or any other legal entity.
- 2.10. Private Residential Swimming Pool -- An indoor or outdoor structure, chamber, or tank containing a body of water for swimming, diving, or bathing located at a single residential dwelling that houses no more than three families and used exclusively by the residents and their non-paying guests.
- 2.11. Qualified Water Facility Operator. -- An individual who has passed a recognized certified pool operator certification course, such as those offered by the National Spa and Pool Institute, the YMCA, or an equivalent course approved by the Director.

64CSR16

2.12. Recreational Water Facility. -- A body of water, under the control of a person, that has been modified, improved, constructed or installed for the purpose of public swimming or bathing. See section 1.6 of this rule.

2.13. Shallow End. -- The part of a recreational water facility that has a depth of five (5) feet or less.

2.14. Swimming Pool. -- An artificial basin, chamber, or tank intended to be used for swimming, diving, therapy, competition, instruction, or recreational type bathing. The term does not include residential or individual therapeutic tubs or tanks.

2.15. Spa. -- A unit designed for recreational use, including a hot tub, that is not drained, cleaned, or refilled for each user, that may include hydrojet circulation, hot water, or air induction bubbles.

2.16. Wading Pool. -- A small, shallow swimming pool not more than twenty-four (24) inches deep intended to be used for wading.

2.17. Wave Pool. -- A swimming pool designed for the purpose of producing wave action in the water.

§64-16-3. Construction Permit.

3.1. A person shall not establish, construct or renovate a recreational water facility without first obtaining a construction permit from the Director.

3.2. The applicant shall submit four (4) sets of completed applications, plans and specifications to the Director for review and approval at least forty-five (45) days prior to the date on which he or she requests that the construction permit takes effect.

3.3. The applicant shall submit a written permit application on a form obtained from the Director. The application, plans, and specifications shall include, but not be limited to:

3.3.a. Vicinity and site plans;

3.3.b. Detailed construction drawings;

3.3.c. Water source and treatment detail; and

3.3.d. Specifications for filtration, chlorination, testing equipment and other pertinent factors necessary for a complete operative system.

64CSR16

3.4. A construction permit may be suspended or revoked by the Director for failure to comply with the provisions of the permit or this rule.

3.5. The Director shall deny a construction permit if the information on the application form is incomplete, inaccurate, false or misleading, or indicates that the applicable provisions of this rule cannot be met.

3.6. A person whose application for a construction permit has been denied, or whose permit has been suspended or revoked, may submit a written petition to the Director requesting a hearing on the matter, and the Director shall grant a hearing on the matter within ten (10) days after he or she has received the petition.

3.7. The recreational water facility shall be constructed or renovated in accordance with the plans and specifications approved by the Director, unless the Director grants written approval for a deviation from the approved plans and specifications.

§64-16-4. Operating Permit.

4.1. A person shall not in any manner conduct, control, manage, maintain, or operate a recreational water facility without obtaining an operating permit from the Director.

4.2. The applicant shall submit to the Director a written operating permit application on a form obtained from the Director and signed by the applicant.

4.3. The applicant shall submit to the Director an application for an operating permit at least fifteen (15) days before the operation of the recreational water facility is scheduled to begin.

4.4. The Director shall deny a permit if the information on the application form is incomplete, inaccurate, false, or misleading, or indicates that the applicable provisions of this rule cannot be met.

4.5. Persons shall comply with the applicable provisions of this rule in order to receive and retain an operating permit.

4.6. Recreational water facilities that are in operation on the date this rule becomes effective, and that meet all applicable provisions of this rule, are eligible for a permit to operate. Construction, modification, installation, or renovations proposed for a recreational water facility after the effective date of this rule shall comply with all applicable provisions of this rule.

4.7. Permits are not transferable and become invalid immediately upon a change of ownership, suspension or revocation.

64CSR16

4.8. In the event of a proposed or an actual change in ownership of a recreational water facility, an applicant shall submit an application for an operating permit to the Director at least fifteen (15) days prior to the date of the proposed or actual change.

4.9. The Director may suspend or revoke a permit if he or she finds that the recreational water facility is in violation of this rule.

4.10. The Director shall not reinstate an operating permit until he or she determines by an inspection that the recreational water facility is in compliance with all applicable provisions of this rule.

4.11. The operator shall prominently display the operational permit in a conspicuous place at the recreational water facility.

4.12. A person whose application for an operating permit has been denied, or whose permit has been suspended or revoked, may submit a written petition to the Director requesting a hearing on the matter, and the Director shall grant a hearing on the matter within ten (10) days after he or she has received the petition.

§64-16-5. Inspections, Closure Orders.

5.1. The Director shall inspect each recreational water facility not less than two (2) times per year.

5.2. The owner, operator, or person in charge of a recreational water facility shall provide the Director immediate access to the premises for the purpose of inspection, and shall provide requested information for the inspection.

5.3. When the Director inspects a facility and finds that the recreational water facility is not in compliance with any of the provisions of this rule, he or she shall provide the operator with a written inspection report noting the violations. The operator shall correct the violations within the time frame specified in the inspection report.

5.4. The Director may order the immediate closure of a recreational water facility when he or she finds:

5.4.a. A condition at the recreational water facility that endangers the life, health, or safety of the patrons or employees;

5.4.b. Excessive turbidity as a result of a standard clarity sight disk; or

5.4.c. A disinfectant residual that is less than that permitted under the provisions in

64CSR16

subdivisions 7.1.d and 7.1.e of this rule.

5.5. A closure order issued shall remain in effect until the Director determines that necessary corrections have been made.

§64-16-6. Design, Construction.

6.1. A recreational water facility that is designed, constructed, or renovated after the effective date of this rule shall comply with the National Spa and Pool Institute ANSI/NSPI-1 1991 Standard for Public Swimming Pools and ANSI/NSPI-2 1999 Standard for Public Spas. These standards are available through the internet at: <http://www.nspi.org>.

§64-16-7. Water Quality.

7.1. Disinfection.

7.1.a. A recreational water facility, with the exception of bathing beaches, shall be disinfected continuously by the use of chemical feed equipment,

7.1.b. Hand batch feeding of disinfecting chemicals is prohibited except when performing super-chlorination or shocking.

7.1.c. Disinfecting materials and methods shall:

7.1.c.1. Be used only with the approval of the regulatory agency;

7.1.c.2. Not create an undue safety hazard;

7.1.c.3. Be handled, stored, and used according to directions;

7.1.c.4. Be compatible for use with other chemicals commonly used in pool water treatment, or be clearly identified as having a use limitation;

7.1.c.5. Not impart toxic properties to the water when used according to directions;
and

7.1.c.6. Provide an effective residual which can be easily and accurately measured by a field test procedure.

7.1.d. When chlorine is used as the disinfectant, the recreational water facility shall maintain a free chlorine residual of at least one (1) milligram per liter (mg/l) to a maximum of five (5) milligrams per liter (mg/l) throughout.

64CSR16

7.1.e. When bromine is used as the disinfectant, the recreational water facility shall maintain a residual of at least two (2) milligrams per liter (mg/l) to a maximum of five (5) milligrams per liter (mg/l) throughout.

7.1.f. Disinfecting materials or methods other than chlorine and bromine:

7.1.f.1. Shall be approved by the Director prior to being used;

7.1.f.2. Shall be registered as a bactericidal agent by the U.S. Environmental Protection Agency; and

7.1.f.3. May be used if they provide a satisfactory residual which is easily measured and is as effective under conditions of use as the chlorine concentrations required in this rule.

7.1.g. When cyanuric acid is used as a stabilizer, it must be maintained at a level between thirty (30) and one hundred (100) milligrams per liter (mg/l).

7.2. Chemical Requirements.

7.2.a. The water in a recreational water facility, except for bathing beaches, shall conform to the chemical limits specified in Division of Health rule, 64CSR3, "Public Water Systems."

7.2.b. Bathing beach water shall conform to the standards prescribed for Category A in Appendix E of the Environmental Quality Board's rule, 46CSR01, "Requirements Governing Water Quality Standards."

7.3. Bacteriological Requirements.

7.3.a. The Director shall collect a series of water samples for bacteriological analysis from each recreational water facility. A series shall consist of one (1) water sample each from the deep end, the shallow end, and the wading pool, if applicable, or two (2) water samples from different locations of a bathing beach.

7.3.b. Within thirty (30) days of the opening of seasonal recreational water facilities, the Director shall collect not less than one (1) series of samples, and during the same season of operation, he or she shall collect a second series of samples. For indoor recreational water facilities, the Director shall collect not less than one (1) complete series of samples every six (6) months.

64CSR16

7.3.c. A laboratory approved by the Director shall examine water samples after the residual disinfectant in the samples is deactivated.

7.3.d. The Director shall collect water samples while the recreational water facility is in use.

7.3.e. If laboratory results of a water sample from a recreational water facility, except for bathing beaches, indicate the presence of coliform organisms:

7.3.e.1. The operator shall super-chlorinate the recreational water facility, and the water shall be retested immediately; and

7.3.e.2. The operator shall investigate the cause of the unsatisfactory sample and initiate, or cause to be initiated, corrective action.

7.3.f. If laboratory results of a water sample from a bathing beach indicate that e. coli exceeds two hundred thirty-five (235) per one hundred (100) milliliters in any single sample:

7.3.f.1. The bathing beach shall cease operation and the water shall be retested immediately;

7.3.f.2. The operator shall investigate the cause of the unsatisfactory sample and initiate, or cause to be initiated, corrective action.

7.4. pH and Alkalinity Control.

7.4.a. The recreational water facility, except for bathing beaches, shall maintain the pH of the water in an alkaline condition of not less than seven point two (7.2) nor greater than seven point eight (7.8) at any time the facility is in use.

7.4.b. A recreational water facility that is equipped with gaseous chlorination feeders shall provide a mechanical chemical feeder to continuously control the pH. Hand batch feeding of chemicals to control pH is prohibited.

7.4.c. When the pH of the water at a bathing beach is less than six point five (6.5) or greater than eight point five (8.5), the beach shall not be used for bathing.

7.4.d. A recreational water facility shall maintain the total alkalinity at a level between sixty (60) and one hundred eighty (180) milligrams per liter (mg/l) as calcium carbonate.

7.5. A recreational water facility shall maintain sufficient water clarity to allow the main drain or a six (6) inch black disk on the bottom of the deepest part of the recreational water

64CSR16

facility to be readily visible when viewed from the recreational water facility sidewall.

7.6. Table 64-15 C at the end of this rule provides guidelines to assist the operator in maintaining optimum water quality.

§64-16-8. Control Tests and Operation Records.

8.1. Recreational water facilities shall have available at all times approved testing equipment for determining pH, free chlorine, total chlorine, total alkalinity, and other tests required by the Director.

8.2. Equipment used for testing free or total chlorine shall use the DPD (N, N-Diethyl-P-Phenylenediamine) method. Test strips or Oxidation Reduction Potential (ORP) may be used as a measuring parameter, but shall not be used when registering required readings on daily operational reports required by the Director.

8.3. The operator shall maintain for a minimum of one (1) year written results of required tests, attendance data, number of hours of equipment operation, and other information required by the Director.

8.4. The operator shall submit on forms obtained from the Director a weekly summary of operation and tests to the Director.

8.5. The operator shall conduct tests to determine the pH and free chlorine residual of the water not less than twice daily, and record the results on the weekly summary required under subsection 8.4 of this rule.

8.6. The operator shall properly maintain test kits and shall renew reagents semi-annually for indoor facilities and prior to the annual opening for seasonal use facilities. Only those reagents manufactured for the test kit in use shall be used.

8.7. When a control test indicates that the free chlorine residual is less than or equal to zero point five (0.5) milligrams per liter (mg/l), the recreational water facility shall cease operations until the free chlorine level is one (1) milligram per liter (mg/l) or above.

8.8. When a control test indicates that the free bromine residual is less than or equal to one (1) milligram per liter (mg/l), the recreational water facility shall cease operations until the free bromine level is two (2) milligrams per liter (mg/l) or above.

§64-16-9. Supervision of Patrons.

9.1. Except for bathing beaches, a qualified water facility operator shall be available at all

64CSR16

times the recreational water facility is open for use.

9.2. The operator shall have the authority to:

9.2.a. Exclude from the premises any patron who does not follow the safety and sanitation rules; and

9.2.b. Evacuate the facility as needed to protect the health and safety of the employees.

9.3. The operator shall supervise the patrons and enforce the following rules:

9.3.a. Individuals shall not urinate, defecate, spit, spout water, or blow his or her nose in the water.

9.3.b. Patrons who have open sores, or an infectious disease that is transmissible by water may not use the recreational water facility.

9.3.c. Patrons and the apparel they wear in the water shall be visibly clean.

9.3.d. Children who are not toilet trained shall wear tight fitting plastic underwear that will prevent leakage, or use other appropriate apparel approved by the Director.

9.3.e. Patrons under the influence of drugs or alcohol, or exhibiting disruptive behavior, are not permitted in the recreational water facility.

9.3.f. Except for service animals, animals shall not be allowed in the recreational water facility.

9.3.g. Food, drink, gum, and tobacco may be used only in designated and controlled areas.

9.3.h. Glass containers or other materials that might create hazardous conditions or interfere with the efficient operation of the facility are not allowed.

9.3.i. Diving from the deck shall be permitted only in designated areas where the water is more than five (5) feet in depth.

9.4. The recreational water facility shall post the rules applicable to patron behavior in a prominent place so as to be readily visible to the patrons.

§64-16-10. Safety Requirements.

64CSR16

- 10.1. A recreational water facility shall have a Shepherd's crook and reach pole available for use.
- 10.2. At recreational water facilities with lifeguards, the facility shall provide one (1) rescue tube for each lifeguard on duty, and that is readily accessible for emergency use.
- 10.3. At recreational water facilities without lifeguards, the facility shall provide a minimum of one (1) unit of life saving equipment available for patron use as approved by the Director.
- 10.4. A recreational water facility shall maintain all equipment in good repair.
- 10.5. A recreational water facility shall be equipped with a readily available, fully stocked first aid kit according to the provisions in subsection 2.5 of this rule.
- 10.6. Employees who have open sores or an infectious disease that is transmissible by water shall not be permitted in the water or allowed to serve as lifeguards.
- 10.7. Each lifeguard on duty shall have immediate access to personal protective equipment including, but not limited to, a resuscitation mask and latex or other impermeable gloves.
- 10.8. If a recreational water facility requires an admission fee such as a gate receipt, annual pass, or membership dues, or is utilized by an organized camp or a child care center, the facility shall provide certified lifeguards on duty at all times the facility is open according to the following:
- 10.8.a. The number of lifeguards required shall be determined by the size of the recreational water facility and the number of patrons as described in Table 64-15 B at the end of this rule.
- 10.8.b. A lifeguard shall have a current lifeguarding certificate from the American Red Cross, Ellis and Associates, YMCA, or an equivalent organization approved by the Director.
- 10.8.c. A lifeguard shall have a current cardiopulmonary resuscitation (CPR) certificate from the American Red Cross, American Heart Association, National Safety Council, or an equivalent organization approved by the Director.
- 10.8.d. A lifeguard shall have a current first aid certificate, equal to or better than the American Red Cross Standard First Aid or National Safety Council First Aid Certification or an equivalent organization approved by the Director.
- 10.8.e. A lifeguard or an attendant approved by the recreational water facility management shall be provided to supervise the wading pool.

64CSR16

10.8.f. The employment of lifeguards is recommended, but not mandatory at:

10.8.f.1. Mobile home parks, travel trailer camps, hotels, motels, apartment complexes, or condominiums that have recreational water facilities that are available for use only to the residents; and

10.8.f.2. Hotels, motels, apartment complexes, or condominiums that have recreational water facilities with a depth of five (5) feet or less.

10.8.g. If the facility employs no lifeguards, the management shall post a sign in a prominent location near the recreational water facility stating "Warning: No lifeguard on duty – All persons under the age of fourteen (14) must be accompanied by an adult."

10.9. Each recreational water facility shall have a blood-borne pathogen plan based on the Occupational Safety and Health Administration's standards.

10.10. Telephone service shall be available within one hundred (100) feet of the recreational water facility, and emergency phone numbers for rescue agencies shall be posted.

10.11. Each recreational water facility shall have a written emergency action plan that includes all life-threatening emergencies, non-life-threatening emergencies, chemical spills, and environmental emergencies.

10.12. The recreational water facility shall take appropriate measures to avoid entrapment of patrons on drains.

10.12.a. Recreational water facilities constructed, installed, or modified after the effective date of this rule shall follow the National Spa and Pool Institute ANSI/NSPI-1 1991 Standard for Public Swimming Pools and ANSI/NSPI-2 1999 Standard for Public Spas. These standards are available through the internet at: <http://www.nspi.org>.

10.12.b. Recreational water facilities in operation at the time this rule becomes effective must upgrade single drains to meet National Spa and Pool Institute ANSI/NSPI-1 1991 Standard for Public Swimming Pools and ANSI/NSPI-2 1999 Standard for Public Spas within three years of the effective date of this rule. These standards are available through the internet at: <http://www.nspi.org>.

10.12.c. Spas constructed, installed, or modified after the effective date of this rule shall provide an emergency shut-off switch and audible alarm placed within 20 feet of the spa.

10.13. Recreational water facilities shall comply with applicable provisions of the State Fire

64CSR16

Commission's rule 87CSR01, "Fire Code."

10.14. The patron load shall be determined by the National Spa and Pool Institute ANSI/NSPI-1 1991 Standard for Public Swimming Pools.

§64-16-11. Routine Maintenance and Operation.

11.1. Except for bathing beaches, the operator shall remove visible debris from the bottom of the recreational water facility every twelve (12) hours or as often as necessary to maintain visibility and maximize safety.

11.2. Except for bathing beaches, the water surface of a recreational water facility shall be maintained free of visible scum and floating matter.

11.3. A recreational water facility shall keep deck areas, sidewalks and other areas around the recreational water facility and bath house clean.

11.4. Except for bathing beaches, recreational water facilities shall be drained as necessary for inspection, cleaning, or repair.

11.5. A recreational water facility shall operate water treatment equipment twenty-four (24) hours per day.

11.6. A recreational water facility shall ensure that ventilation for indoor recreational water facilities meets ANSI/ASHRAE Standard 62-1999 Ventilation for Acceptable Indoor Air. This standard is available through the internet at: <http://www.ashrae.org>.

§64-16-12. Bathhouses, Concessions, and Other Appurtenant Facilities.

12.1. A recreational water facility shall provide toilets, lavatories, showers and drinking fountains as required by the State Fire Commission rule 87CSR04, "State Building Code."

12.2. A recreational water facility shall keep bathhouses, clothing storage facilities, toilet facilities, shower facilities and other appurtenant facilities in good repair and in a clean, sanitary condition.

12.3. A recreational water facility shall ensure that a supply of toilet tissue is available at each toilet.

12.4. A recreational water facility shall provide hand cleanser and an approved hand drying device at each lavatory or group of adjacent lavatories.

64CSR16

12.5. A recreational water facility shall ensure that hot and cold running water is supplied from mixing faucets for showers and lavatories, or that tempered water is provided in lieu of hot and cold running water supplied from mixing faucets.

12.6. A recreational water facility shall provide concession stands that operate in accordance with Division of Health rule 64CSR17, "Food Establishments."

12.7. A recreational water facility shall provide a placard in the filter room that lists the water volume and gallons per minute of water needed for the pool's turnover rate.

§64-16-13. Compliance.

13.1. If any of the events described in subdivisions 13.1.a through 13.1.j of this rule occur while a recreational water facility is in use, the operator shall close the recreational water facility and take the corrective action specified in Table 64-15 A at the end of this rule before reopening the facility. The operator shall maintain a written record of each event, including the date the event occurred, a description of the event, and the corrective action taken.

13.1.a. The free chlorine residual of water is less than or equal to zero point five (0.5) milligrams per liter (mg/l).

13.1.b. The free chlorine residual of water is greater than or equal to five (5) milligrams per liter (mg/l).

13.1.c. The pH of water is greater than seven point eight (7.8).

13.1.d. The pH of water is less than seven point two (7.2).

13.1.e. An inadequate number of lifeguards or lifesaving equipment is provided as required under this rule.

13.1.f. An accident occurs that causes a lifeguard to leave his or her station or results in the discharge of body fluids into the water.

13.1.g. The water clarity is not in compliance with subsection 7.5 of this rule.

13.1.h. The free bromine residual is less than or equal to one (1) milligram per liter (mg/l).

13.1.i. A failure of the main pump or disinfectant pump occurs.

13.1.j. A fecal accident occurs or blood or vomitus is released into the water.

64CSR16

§64-16-14. Penalties.

14.1. Any person who violates any provision of this rule or orders issued pursuant thereto shall be punishable by a fine of not more than two hundred dollars (\$200) or imprisonment for not more than thirty (30) days, or both, as provided under W.Va. Code 16-1-18.

§64-16-15. Administrative Due Process.

15.1. Those persons adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in a manner prescribed in the Division of Health's rule, "Rules of Procedure for Contested Case Hearings and Declaratory Rulings, 64CSR1."

TABLE 64-16 A - CLOSURE REQUIREMENTS

CLOSURE EVENT	CORRECTIVE ACTION REQUIRED
A. Free Chlorine = 0.5 ppm or less	Close the facility. Determine the cause. Make repairs or corrections.
B. Free Chlorine = 5 ppm or higher	Close the facility. Determine the cause. Make repairs or corrections.
C. pH of water = greater than 7.8	Close the facility. Determine the cause. Make repairs or corrections.
D. pH of water = less than 7.2	Close the facility. Determine the cause. Make repairs or corrections.
E. Inadequate lifeguards or lifesaving equipment	Close the facility until the required number of lifeguards and lifesaving equipment are provided.
F. Accident Resulting In: Lifeguard leaving station OR Body fluids discharged into water	Close facility until lifeguard returns to station. Follow fecal accident cleanup procedures outlined below in item J if blood or feces are discharged into the water.
G. Water Clarity Unsatisfactory (Main drain or 6 inch black disk on bottom of deepest part not visible from sidewall.)	Close the facility until the main drain or a six (6) inch black disk on bottom of deepest part is visible from the sidewall. Determine cause. Make repairs or corrections.
H. Free bromine = 1.0 ppm or less	Close the facility. Determine the cause. Make repairs or corrections.
I. Equipment Failure - Main pump or Disinfectant pumps	Close the facility immediately upon main pump failure. Close the facility when disinfectant pumps fail and free chlorine nears 0.5 ppm. Repair equipment. Test and balance chemical parameters prior to re-opening the recreational water facility.
<p data-bbox="186 968 563 1031">J. Fecal Accident or Release of Blood or Vomitus into Water</p> <p data-bbox="186 1094 538 1125"><u>Follow Cleanup Procedure A if:</u></p> <ul data-bbox="186 1125 612 1220" style="list-style-type: none"> • Stool may be easily picked up; or • Person is not ill, but vomited due to gulping water or overexertion. <p data-bbox="186 1251 538 1283"><u>Follow Cleanup Procedure B if:</u></p> <ul data-bbox="186 1283 621 1566" style="list-style-type: none"> • Visible blood is discharged into the water; or • Stool is loose and spread in large area; or • Person who contaminated water is ill (stomach cramps, fever, flu-like symptoms); or • You cannot determine if person who contaminated water is ill. 	<p data-bbox="645 968 1001 1031">Evacuate patrons from the water. Evaluate situation.</p> <p data-bbox="645 1062 877 1094"><u>Cleanup Procedure A</u></p> <ol data-bbox="645 1094 1405 1503" style="list-style-type: none"> 1. Remove as much of the feces or vomitus as possible. Leaf catchers/rakes are helpful. 2. Vacuum remaining visible material or push remaining small material towards overflow or skimmers until all visible material is removed. 3. Spot disinfect area of contamination: <ol data-bbox="678 1283 1405 1409" style="list-style-type: none"> a. Add 1 oz. of calcium hypochlorite (or 4 to 5 oz. of sodium hypochlorite) which has been mixed in small bucket of water to the affected area; and b. Brush the walls and bottom of pool in contaminated area. 4. Wait 30 minutes to assure chlorine and pH levels meet minimum requirements, especially in area where chemicals were added. 5. Backwash the filter. <p data-bbox="645 1503 877 1535"><u>Cleanup Procedure B</u></p> <ol data-bbox="645 1535 1405 1776" style="list-style-type: none"> 1. First complete all steps of Cleanup Procedure A. 2. Swimming Pools: <ol data-bbox="678 1587 1405 1661" style="list-style-type: none"> a. Raise chlorine to maintain free chlorine residual of 5 ppm; and b. Recirculate water for at least 24 hours. 3. Wading Pools and Spas: <ol data-bbox="678 1692 1405 1776" style="list-style-type: none"> a. Drain wading pool or spa; b. Brush sides and bottom with 100 ppm chlorine; and c. Refill. Balance chemicals.

TABLE 64-16 B - LIFEGUARD REQUIREMENTS

NUMBER OF PATRONS	SURFACE AREA IN SQUARE FEET (INCLUDES DECK AREA)					
	Up to 2000	2001-4000	4001-6000	6001-8000	8001- 10,000	10,000 +
1-30	1	2	2	3	3	3
31-60	2	2	3	3	3	4
61-90	2	3	3	3	4	4
91-120	3	3	3	4	4	4
121-150	3	3	4	4	4	4
151 +	3	4	4	4	4	5

TABLE 64-16 C - WATER QUALITY GUIDELINES

A. DISINFECTANT LEVELS	MINIMUM	IDEAL	MAXIMUM	COMMENTS
1. Free chlorine mg/l (ppm)	1.0	2.0 - 3.0	5.0	Chlorine should be maintained at this level continuously. Super-chlorinate regularly. See B-1 below.
2. Combined chlorine mg/l (ppm)	None	None	0.5	Eliminated by super-chlorination. If too high, you may have: <ul style="list-style-type: none"> • Sharp chlorinous odors • Eye burn • Algae growth • Bacteria growth
3. Bromine mg/l (ppm)	2.0	2.0-3.0	5.0	Consult health dept. officials before use.
B. CHEMICAL VALUES	MINIMUM	IDEAL	MAXIMUM	COMMENTS
1. pH	7.2	7.5	7.8	<p align="center">TOO HIGH</p> <p>Low chlorine efficiency Scale formation Increased chemical demand Cloudy water Eye discomfort</p> <p align="center">TOO LOW</p> <p>Rapid dissipation of chlorine Eye discomfort Plaster/concrete etching Corrosion of metals</p>
2. Total alkalinity as CaCO ³ mg/l (ppm)	60	80-100 or 120	180	<p align="center">TOO HIGH</p> <p>Increased scaling potential Cloudy water pH maintained too high</p> <p align="center">TOO LOW</p> <p>Corrosion tendency pH bounce</p>
3. Undissolved solids mg/l (ppm) (Turbidity)	None	None	None	<p align="center">TOO HIGH</p> <p>Chlorine level may be too low Filtration system may be inoperative May lead to drowning due to decreased visibility</p>
4. Dissolved solids mg/l (ppm)	300	...	2000	<p align="center">TOO HIGH</p> <p>Chlorine may be less effective Salty taste Add fresh water to reduce solids Dull water Chemical balance difficult to maintain Scaling may occur</p> <p align="center">TOO LOW</p> <p>Total alkalinity may be too low Aggressive water</p>

TABLE 64-16 C - WATER QUALITY GUIDELINES

B. CHEMICAL VALUES (CONT'D)	MINIMUM	IDEAL	MAXIMUM	COMMENTS
5. Hardness, as CaCO ₃ mg/l	50	125	800	<p align="center">TOO HIGH</p> Scaling may occur Water has bad "feel" Short filter runs <p align="center">TOO LOW</p> Plaster or concrete etching Corrosion may occur
6. Copper mg/l (ppm)	None	None	0.3	<p align="center">TOO HIGH</p> Staining may occur Water may discolor Chlorine dissipates rapidly Filter may plug May indicate pH too low Corrosion may occur
7. Iron mg/l (ppm)	None	None	0.2	<p align="center">TOO HIGH</p> Staining may occur Waste may discolor Chlorine dissipates rapidly Filter may plug
8. Manganese mg/l (ppm)	None	None	0.05	<p align="center">TOO HIGH</p> Staining may occur
C. BIOLOGICAL VALUES	MINIMUM	IDEAL	MAXIMUM	COMMENTS
1. Algae	None	None	None	Super-chlorinate or shock treat facility Supplement with brushing and vacuuming Maintain adequate free chlorine residual Use approved algaecide according to label direction
2. Bacteria	None	None	Refer to 64CSR3	If bacteria count exceeds health dept. requirements: Super-chlorinate recreational water facility Follow proper maintenance procedures Maintain proper free chlorine residual
D. STABILIZER	MINIMUM	IDEAL	MAXIMUM	COMMENTS
1. Cyanuric acid mg/l (ppm)	30	...	100	<p align="center">TOO HIGH</p> May exceed health department regulations <p align="center">TOO LOW</p> Chlorine residual rapidly destroyed by sunlight <p align="center">NOTE</p> Stabilizer is not needed for indoor facilities and should not be used in hot water facilities. Cyanuric acid may titrate as Alkalinity.
E. ALGAEICIDES	MINIMUM	IDEAL	MAXIMUM	COMMENTS
1. Quaternary mg/l (ppm)	Not permitted in public recreational water facilities.

TABLE 64-16 C - WATER QUALITY GUIDELINES

E. ALGAEICIDES (CONT'D)	MINIMUM	IDEAL	MAXIMUM	COMMENTS
2. Copper based (nonchelated) mg/l (ppm)	0.1	0.2	0.3	Ineffective against some algae. Consult health dept. officials before using. May contribute to staining.
3. Copper based (chelated) mg/l (ppm)	0.1	1.0	3.0	Ineffective against some algae. Consult health dept. officials before using. May contribute to staining.
4. Silver based mg/l (ppm)	0.5	1.5	3.0	Precipitates with cyanuric acid. Ineffective against some algae. Consult health dept. officials before use.
F. REMEDIAL PRACTICES	MINIMUM	IDEAL	MAXIMUM	COMMENTS
1. Super- Chlorination	When Combined Chlorine is 0.2 mg/l (ppm) or more			* As needed
2. Required super- chlorination /shock chlorine	10*			*10 times combined chlorine reading. Must be done when the facility is not in use. May reopen when free chlorine is below 5.0 ppm.
3. Floccing	Not Recommended			Consult health dept. officials before using.
4. Water Replacement - Hot water facility	Change water and clean monthly as a minimum, more frequently when heavy use and chemical treatment difficulties are experienced.
G. TEMPERATURE	MINIMUM	IDEAL	MAXIMUM	COMMENTS
1. Water temperature - Hot water facility	Patron preference	...	105°F	TOO HIGH Excessive fuel requirement Increased chlorine use Increased scaling potential Patron discomfort Health threat to those with high blood pressure TOO LOW - Patron discomfort
2. Water temp. - Artificially heated	75 °F	...	90 °F	
3. Air temperature Indoor facilities	Water temp. minus 2°F	...	Water temp. plus 8 °F	Excluding hot water facilities.
H. WATER CLARITY	MINIMUM	IDEAL	MAXIMUM	COMMENTS
1. Turbidity	Must be able to see main drain or six inch black disk on bottom of deepest part from the sidewall.			TOO HIGH Chlorine level may be too low Filtration level may be inoperative May lead to drowning due to decreased visibility

May 22, 2001

**64 CSR 16 Recreational Water Facilities
Public Comment - Distribution List**

1. Local Health Departments
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