

1 **TITLE 7 HEALTH**
2 **CHAPTER 18 AQUATIC VENUES**
3 **PART 1 PUBLIC AQUATIC VENUES: GENERAL PROVISIONS**
4

5 **7.18.1.1 ISSUING AGENCY:** New Mexico Environmental Improvement Board.
6 [7.18.1.1 NMAC - Rp, 7.18.1.1 NMAC, xx/xx/16]
7

8 **7.18.1.2 SCOPE:** Owners and operators of public aquatic venues or other public bathing attractions.
9 [7.18.1.2 NMAC - Rp, 7.18.1.2 NMAC, xx/xx/16]
10

11 **7.18.1.3 STATUTORY AUTHORITY:** NMSA 1978, Sections 74-1-1 through 74-1-16.
12 [7.18.1.3 NMAC - Rp, 7.18.1.3 NMAC, xx/xx/16]
13

14 **7.18.1.4 DURATION:** Permanent.
15 [7.18.1.4 NMAC - Rp, 7.18.1.4 NMAC, xx/xx/16]
16

17 **7.18.1.5 EFFECTIVE DATE:** xx/xx/16, unless a later date is cited at the end of a section.
18 [7.18.1.5 NMAC - Rp, 7.18.1.5 NMAC, xx/xx/16]
19

20 **7.18.1.6 OBJECTIVE:** To protect public health and safety by establishing standards and provisions for the
21 regulation of public aquatic venues and other public bathing attractions.
22 [7.18.1.6 NMAC - Rp, 7.18.1.6 NMAC, xx/xx/16]
23

24 **7.18.1.7 DEFINITIONS:** [Reserved]
25 [7.18.1.7 NMAC - Rp, 7.18.1.7 NMAC, xx/xx/16]
26

27 **7.18.1.8 ENFORCEMENT AUTHORITY:**

28 **A.** Private aquatic venues shall not be subject to the provisions of this regulation or 7.18.2 NMAC,
29 Aquatic Venues: Fees.

30 **B.** Authorized department representatives shall be responsible for the enforcement of this rule.
31 [7.18.1.8 NMAC - Rp, 7.18.1.8 NMAC, xx/xx/16]
32

33 **7.18.1.9 ADOPTION OF MODEL AQUATIC HEALTH CODE:** Except as otherwise provided, the
34 United States department of health and human services center for disease control and prevention Model Aquatic
35 Health Code, 1st Edition is hereby incorporated by reference.
36 [7.18.1.9 NMAC - Rp, 7.18.1.9 NMAC, xx/xx/16]
37

38 **7.18.1.10 ADOPTION BY REFERENCE:** Outside standards, listings, and publications referenced in this
39 rule are part of this rule.
40 [7.18.1.10 NMAC - Rp, 7.18.1.10 NMAC, xx/xx/16]
41

42 **7.18.1.11 MODIFICATIONS, ADDITIONS, AND OMISSIONS:** Except as otherwise provided, the
43 following modifications, exceptions and omissions are made to the Model Aquatic Health Code, 1st Edition.

44 **A. Modifications to Aquatic Code Definitions.** The following terms defined in the Model Aquatic
45 Health Code, 1st Edition have the meanings set forth herein, in lieu of the meanings set forth in the Model Aquatic
46 Health Code, 1st Edition:

47 **(1)** "Aquatic Venue" means any artificially constructed structure that is expressly designated or used
48 with the knowledge or consent of the owner or operator for swimming, water recreation, or bathing for the use of
49 any segment of the public. Such structures do not necessarily contain standing water, so water exposure may occur
50 via contact, ingestion, or aerosolization. The term "aquatic venue" includes all class A, class B, class C, and class D
51 aquatic venues and spas. This term does not include residential housing or lodging facilities having five or less
52 living units. Plumbing fixtures associated with a specific living unit, hot springs, and fill-and-draw tubs are also
53 excluded. The term "aquatic venue" includes, but is not limited to, public pools and spas owned or operated by:

54 **(a)** travelers' accommodations including hotels, motels, inns, lodging and bed and breakfast
55 facilities, hostels and recreational vehicle parks;

56 **(b)** residential housing or lodging facilities having six or more living units;

- (c) apartments or apartment complexes, condominiums and mobile home parks;
- (d) recreation parks;
- (e) colleges or universities;
- (f) schools and group homes;
- (g) organizational camps;
- (h) clubs;
- (i) associations;
- (j) business establishments for their patrons or employees;
- (k) private persons with pools that are open to the public;
- (l) recreation districts; or
- (m) cities, municipalities, counties, the state of New Mexico or other political subdivisions.

(2) "Interactive Water Play Aquatic Venue" means any indoor or outdoor installation that includes sprayed, jetted or other water sources contacting bathers and not incorporating standing or captured water as part of the bather activity area. Only those intended for public use and recreation shall be regulated. These aquatic venues are also known as splash pads, spray pads, wet decks.

B. Additions to the Aquatic Code Definitions. The following terms not defined in the Model Aquatic Health Code 1st Edition have the meanings set forth herein:

(1) Abbreviations.

- (a) "CC" means combined chlorine.
- (b) "DPD" means diethyl-p-phenylene diamine.

(2) "Approved" means accepted in writing by the department.

(3) "Class A aquatic venue" means any public aquatic venue including, but not limited to, general admission pools, aquatic centers, recreation parks, schools, colleges and universities, organizational camps, daycare facilities, clubs, recreation districts, city, municipal, county and state pools and pools operated by other political subdivisions as defined by law. Class A aquatic venues shall not include pools located at boarding schools, colleges and universities exclusively associated with specific living units but would not be open to the entire boarding school, college or university population or the general public.

(4) "Class B aquatic venue" means any public aquatic venue, located at, and operated to serve a facility having six or more living or guest units at:

- (a) travelers' accommodations, including hotels, motels, inns, lodging, campgrounds, bed and breakfast facilities;
- (b) apartments, condominiums, retirement homes, assisted-living facilities, mobile home parks;
- (c) class A exclusions for boarding schools, colleges, and universities, and group homes;
- (d) businesses that employ ten or more people and own a swimming pool or spa that is for the exclusive use of employees and their guests; or
- (e) homeowners associations, if the pool is for the exclusive use of the association members and their guests only and no memberships are sold to outside persons.

(5) "Class C aquatic venue" means a public aquatic venue that is designed specifically as a bathing attraction or for sporting or recreational purposes and may include, but is not limited to, special features such as:

- (a) wave pools;
- (b) diving pools;
- (c) splash pools;
- (d) zero depth pools;
- (e) waterslides;
- (f) vortex pools;
- (g) interactive play attractions;
- (h) watercourse rides;
- (i) activity pools;
- (j) portable pools;
- (k) spray pads;
- (l) lazy rivers; or
- (m) wading pools.

(6) "Class D aquatic venue" means any public aquatic venue used for physical therapy or rehabilitation including but not limited to post-operative strength training, assistance of buoyancy of water, and other one-on-one training.

1 (7) "Club" means a facility constructed to provide entertainment, athletic or physical conditioning for
2 its members, guests, invitees, occasional users, patrons, or clientele. It includes, but is not limited to, racquetball
3 clubs, country clubs, golf clubs, health spas, fitness, sports and wellness facilities or aerobics instruction facilities.

4 (8) "Combined chlorine (CC)" means that portion of the total residual chlorine that is combined with
5 ammonia or nitrogen compounds and will not react chemically with undesirable or pathogenic organisms.

6 (9) "Department" means the New Mexico environment department.

7 (10) "Department representative" means the secretary of the environment department or his/her
8 designees.

9 (11) "Engineer" means any individual currently registered and in good standing under the "New
10 Mexico Engineering and Surveying Practice Act."

11 (12) "New construction" means the activity of building or installing a public aquatic venue, and its
12 component parts, where no such structure has previously existed or where previously existing aquatic venue
13 structures have been removed.

14 (13) "Non-substantial alteration" means the alteration, modification, or renovation of an aquatic (for
15 outdoor aquatic facilities) or indoor aquatic facility (for indoor aquatic facilities) where the total cost of the work
16 does not exceed 50% of the replacement cost of the aquatic venue (for outdoor aquatic facilities) or indoor aquatic
17 facility (for indoor aquatic facilities).

18 (14) "Person" means:

19 (a) any person, individual, any public or private firm, partnership, corporation, company,
20 society, association, and every managing body, officer, agent or employee thereof; or

21 (b) the state, local government, or any agency, institution or political subdivision thereof,
22 including any governing or managing body.

23 (15) "Private aquatic venue" means:

24 (a) any pool or spa owned by no more than four individuals, either jointly, individually or
25 through association, incorporation or otherwise, for the exclusive use of the occupants thereof and their guests or
26 invitees; or

27 (b) an aquatic venue owned by a business employing fewer than ten persons if the aquatic
28 venue is for the exclusive use of employees and their guests.

29 (16) "Service animal" means a guide dog, signal dog, or other animal trained to do work or perform
30 tasks for the benefit of an individual with a disability, including but not limited to, guiding individuals with impaired
31 vision, alerting individuals with impaired hearing to intruders or sounds, or providing minimal protection or rescue
32 work, such as pulling a wheelchair or fetching dropped items. Dogs whose sole function is to provide comfort or
33 emotional support do not qualify as service animals.

34 (17) "Variance" means written permission from the department to use an alternative measure of
35 compliance with any provision in the aquatic venue rules, except those specifically prohibited in the rule. The
36 alternative measure shall provide public health and safety protection that is equal to or greater than the protections
37 provided in this rule.

38 **C. Omissions to the Aquatic Code.** The following provisions of the Model Aquatic Health Code, 1st
39 Edition are omitted:

40 (1) Subpart 4.1.4: Compliance Certificate;

41 (2) Section 4.1.5.3: Permit Issuance;

42 (3) Subpart 5.2.2: Exemptions;

43 (4) Section 5.6.7.4: Water Replenishment; and

44 (5) Section 6.3.2.1(4) List of aquatic facilities requiring qualified lifeguards.

45 [7.18.1.11 NMAC - Rp, 7.18.1.11 NMAC, xx/xx/16]

46
47 **7.18.1.12 CONSTRUCTION PERMITS:**

48 **A.** No person shall construct or substantially alter a public aquatic venue, or part thereof, or convert a
49 private aquatic venue into a public aquatic venue without first:

50 (1) submitting a construction permit application that shall include plans, specifications, supporting
51 material, and other information required by the department;

52 (2) receiving a construction permit; and

53 (3) paying all applicable fees.

54 **B.** No person shall deviate from the approved plans and specifications during the construction or
55 alteration of public aquatic venues described in this rule without first receiving prior written approval from the
56 department.

1 **C.** Construction permits will be issued only to the owner or authorized agent of the owner.
2 **D.** A construction permit may be issued only when the facility owner or agent has provided sufficient
3 information for the department to determine that the aquatic venue will:

- 4 (1) operate continuously in a clean and sanitary manner;
- 5 (2) not constitute a hazard to public health and safety; and
- 6 (3) provide health and safety protection equal to or greater than that required by the aquatic venue

7 rules.

8 **E.** Persons submitting plans and specifications for a proposed public aquatic venue that demonstrate a
9 new technology or alternative mode of operation not contemplated in these rules shall apply for a variance.

10 **F.** The department shall issue a construction permit, issue a construction permit with conditions, or
11 deny the construction permit application. The department may revoke a construction permit under 7.18.1.19 NMAC
12 or suspend a construction permit if the department determines that the provisions of the aquatic venue rules are not
13 met.

14 **G.** The department shall notify the applicant in writing that the application is complete or incomplete
15 within 30 days of receipt of the application.

16 **H.** Once the department determines that the application is complete, for class B aquatic venues, the
17 department shall have up to 30 working days to issue the permit, issue the permit with conditions, or deny the permit
18 application. For class A, C, and D aquatic venues, the department shall have up to 90 working days to issue the
19 permit, issue the permit with conditions, or deny the permit application. All construction permit denials shall be in
20 writing stating the reason the permit was denied. The applicant for a permit that has been denied may request an
21 administrative hearing. The request for a hearing shall be made in writing to the department within 15 calendar days
22 after notice of the department's decision has been received by the applicant. Hearings on permit denials shall be held
23 in accordance with 7.18.1.21 NMAC and 20.1.5 NMAC.

24 **I.** Private aquatic venues that are converted into public aquatic venues or public aquatic venues that
25 were previously operating without a permit shall be subject to the aquatic venue rules including, but not limited to,
26 the requirement to obtain a construction permit.

27 **J.** Non-substantial alterations do not require a construction permit; however an aquatic facility owner
28 planning a non-substantial alteration shall contact the department to review proposed changes prior to starting the
29 non-substantial alteration.

30 [7.18.1.12 NMAC - Rp, 7.18.1.12 NMAC, xx/xx/16]

31
32 **7.18.1.13 PLANS AND SPECIFICATIONS:**

33 **A.** Nothing in the swimming pool rules shall prevent the department from requiring the correction of
34 errors in plans and specifications after those plans have been approved or the specifications accepted. The
35 department may also revoke any construction permits or approvals that are issued in error, or obtained based upon
36 material misrepresentations or erroneous information provided by the applicant.

37 **B.** The department may also issue a stop work order whenever construction work deviates from
38 approved plans and specifications without prior written approval from the department, violates any permit condition,
39 or is in violation of this or any other law or regulation. The department shall provide written notice of the stop work
40 order to the person performing the work or causing the work to be performed, and the person receiving such notice
41 shall cease and desist from performing, or causing the performance of, the work until authorized in writing by the
42 department to proceed.

43 [7.18.1.13 NMAC - Rp, 7.18.1.13 NMAC, xx/xx/16]

44
45 **7.18.1.14 OPERATING PERMITS:**

46 **A.** No person shall operate an aquatic venue without an operating permit from the department. Each
47 aquatic venue in an aquatic facility shall be permitted separately.

48 **B.** Operating permits shall be issued for a period of twelve consecutive months and are non-
49 transferrable between facilities or persons.

50 **C.** No person shall operate an aquatic venue without:

- 51 (1) receiving a construction permit from the department, if applicable;
- 52 (2) obtaining an approved final construction inspection, if applicable;
- 53 (3) initially applying for a permit to operate such aquatic venue;
- 54 (4) successful completion of a department inspection;
- 55 (5) receiving a permit from the department; and
- 56 (6) paying all applicable fees.

1 **D.** The permit shall remain the property of the department and shall be removed by the department
2 representative when a permit is suspended or revoked.

3 **E.** Operating permits for all public aquatic venues shall expire on the last day of the anniversary
4 month of the date of original issue.

5 **F.** Any public aquatic venue that has been closed or not operated for a period of thirty days or more
6 shall be granted permission to re-open only after completion of a department re-opening inspection that
7 demonstrates compliance with applicable aquatic venue rules.

8 **G.** The designated qualified operator shall request a re-opening inspection for an aquatic venue that
9 has been closed for a period of thirty days or more, at least two weeks prior to the desired re-opening date. The
10 department may require the qualified operator to be present for this inspection.

11 **I.** Operating permits are non-transferable between facilities or persons.
12 [7.18.1.14 NMAC - Rp, 7.18.1.14 NMAC, xx/xx/16]
13

14 **7.18.1.15 INSPECTION FREQUENCY:** The department shall inspect each public aquatic venue at least
15 annually and shall make as many re-inspections as necessary for enforcement of the aquatic venue rules.
16 [7.18.1.15 NMAC - Rp, 7.18.1.15 NMAC, xx/xx/16]
17

18 **7.18.1.16 SERVICE OF NOTICE:**

19 **A.** Notice shall be deemed to be properly served when the original or a true copy of the inspection
20 report form or other written notice has been delivered personally to the permit holder, the permit holder's agent, or a
21 qualified operator; or when such notice has been sent by registered or certified mail to the last known address of the
22 permit holder or qualified operator on file with the department.

23 **B.** A copy of such notice shall be filed in the department's records.
24 [7.18.1.16 NMAC - Rp, 7.18.1.16 NMAC, xx/xx/16]
25

26 **7.18.1.17 TEMPORARY SUSPENSION OF PERMITS:**

27 **A.** The department may suspend a permit at any time when it determines that there is a violation that
28 may affect public health or safety.

29 **B.** Whenever a permit holder or operator has failed to comply with any of the requirements of this
30 rule, the permit holder or operator shall be notified in writing.

31 **C.** The notice shall:

32 (1) identify and reference the conditions that violate the aquatic venue rules;
33 (2) specify the time period within which such condition shall be brought into compliance, if any;
34 (3) state that failure to comply with any notice issued pursuant to the aquatic venue rules may result
35 in immediate permit suspension; and

36 (4) advise that the permit shall be suspended if the permit holder or operator is still out of compliance
37 at the end of five working days following the deadline for compliance, unless a request for a hearing is delivered to
38 the department by the permit holder within the five-day period.

39 **D.** Immediate suspension: notwithstanding other provisions of this regulation, whenever a department
40 representative finds a condition in a public aquatic venue's operation that constitutes an immediate hazard to public
41 health, welfare, or safety, the department representative may, without prior warning, notice, or hearing, issue a
42 written notice to the permit holder or operator citing such condition. The department's notice shall state that the
43 permit is immediately suspended and all swimming or bathing of any kind is to be immediately discontinued.

44 **E.** All persons receiving a permit suspension notice shall immediately comply with the notice's
45 terms.

46 **F.** For immediate suspensions, suspensions upheld after a hearing, and where no request for a hearing
47 has been received, the department shall post a sign stating that the aquatic venue is closed.

48 **G.** The department may also require a written compliance plan.
49 [7.18.1.17 NMAC - Rp, 7.18.1.17 NMAC, xx/xx/16]
50

51 **7.18.1.18 REINSTATEMENT OF SUSPENDED PERMITS:**

52 **A.** Any person whose permit has been suspended may make application for reinstatement of the
53 permit in writing to the department. Within five working days following receipt of such a request, a department
54 representative shall inspect the aquatic venue or premises or both. If the applicant is in compliance with the
55 requirements of the aquatic venue rules and other applicable laws, regulations, and ordinances, the permit shall be
56 reinstated.

1 **B.** The department may require a qualified operator or aquatic venue employee to attend additional
2 training courses in aquatic venue sanitation and safety.
3 [7.18.1.18 NMAC - Rp, 7.18.1.18 NMAC, xx/xx/16]
4

5 **7.18.1.19 REVOCATION OF PERMIT:**

6 **A.** A permit may be revoked when:

- 7 (1) it appears that a violation may affect public health or safety;
- 8 (2) any conditions of a permit are violated;
- 9 (3) there are willful or repeated violations of any of the requirements in the aquatic venue rules;
- 10 (4) the permit has been obtained through nondisclosure, misrepresentation, or misstatement of a
11 material fact; or
- 12 (5) the owner or the owner’s agent interferes with the department’s performance of its duties.

13 **B.** Prior to such revocation, the department shall provide an opportunity for a hearing. A department
14 representative shall notify the permit holder in writing stating the reason the permit is subject to revocation and
15 advising that the permit shall be revoked at the end of five working days following service of such notice, unless a
16 request for a hearing is delivered to the department by the permit holder within the five-day period.

17 **C.** Owners and operators of public aquatic venues who fail to comply with the provisions of a
18 suspension notice or open their facility to the public without an approved permit will be subject to the penalties
19 described in 7.18.1.56 NMAC.

20 [7.18.1.19 NMAC - Rp, 7.18.1.19 NMAC, xx/xx/16]
21

22 **7.18.1.20 OTHER REMEDIES: [RESERVED]**

23 [7.18.1.20 NMAC - Rp, 7.18.1.20 NMAC, xx/xx/16]
24

25 **7.18.1.21 HEARINGS:**

26 **A.** Hearings provided for in the aquatic venue rules shall be held within 15 working days of a
27 petitioner’s delivery of a hearing request to the department.

28 **B.** Hearings provided for in this regulation shall be conducted in accordance with 20.1.5 NMAC.
29 [7.18.1.21 NMAC - Rp, 7.18.1.21 NMAC, xx/xx/16]
30

31 **7.18.1.22 VARIANCE:**

32 **A.** The department may grant a variance from the design and construction or operation and
33 maintenance provisions of the aquatic venue rules through written permission for the use of alternative measures
34 that will provide public health and safety protection that is equal to or greater than the protections provided in the
35 aquatic venue rules. No variances shall be granted for procedural requirements, such as submitting construction or
36 operating permit applications, including paying fees, obtaining construction or operating permits, operator
37 certifications, or requesting a hearing.

38 **B.** Specific variance requests shall be made by the owner or the owner’s designated agent.
39 Designated agents shall provide written documentation signed by the owner that they are representing the owner
40 regarding the specific variance application. All variance applications shall be signed by the owner and upon change
41 of ownership or transfer of property, the new owner or their designated agent must re-apply for the variance.

42 **C.** It is the applicant’s responsibility to provide all necessary information to support the request for a
43 variance.

44 **D.** Any person applying for a variance from any provision of the aquatic venue rules shall do so by
45 filing a written application with the department. Applications shall:

- 46 (1) be made on forms obtained from the department;
- 47 (2) remit applicable fee by check or money order made payable to the “water recreation facilities
48 fund;”
- 49 (3) state the applicant’s name and mailing address;
- 50 (4) state the date of the application;
- 51 (5) state the provision or provisions of this regulation for which the variance is sought;
- 52 (6) state in detail the extent to which the applicant wishes to vary from the provision or provisions;
- 53 (7) state the period of time for which the variance is sought;
- 54 (8) state why the applicant believes the variance is justified;
- 55 (9) be accompanied by any relevant documents or material which the applicant believes would
56 support the application for a variance; and

1 (10) contain other relevant information the department may request.

2 E. Within twenty working days following receipt of a completed variance application, the department
3 shall grant the variance, grant the variance subject to conditions, or deny the variance. The action taken by the
4 department shall be by written order, a copy of which shall be sent to the applicant. The order shall:

- 5 (1) state the applicant's name and address;
6 (2) state the date the order is made;
7 (3) describe the location of the public aquatic venue; and
8 (4) state the department's decision and its reasons.

9 F. If a variance is granted, the order will state the effective period of time and any conditions that
10 apply.

11 G. All variances shall be reviewed at the time of the annual operating permit inspection to determine
12 whether all variance conditions have been met. If conditions of the variance have not been met, an operating permit
13 shall not be issued.

14 H. Petitioners who are dissatisfied with the department's decision may request a hearing from the
15 department secretary.

16 (1) The request shall be made in writing to the department secretary within 15 calendar days after
17 notice of the department's decision has been received by the petitioner.

18 (2) Unless a request has been received within the 15 calendar day period, the department's decision
19 shall be final.

20 (3) If a request has been received within the 15 calendar day period, the department secretary or
21 his/her designated representative shall hold a hearing within 15 working days after the receipt of the request.

22 I. The department shall notify the petitioner by certified mail of the date, time and place of the
23 hearing.

24 J. In the hearing, the burden of proof shall be upon the petitioner.
25 [7.18.1.22 NMAC - Rp, 7.18.1.22 NMAC, xx/xx/16]

26
27 **7.18.1.23 VOIDING OF VARIANCES:**

28 A. An approved variance shall be void one year after the date of approval if the permitted activities
29 granted thereby have not been utilized. If the department voids a variance for any reason, the department will serve
30 written notice on the permit holder.

31 B. The department may void a variance if conditions of the variance have not been met, or if
32 subsequent events show that the variance has created or may create conditions hazardous to the public health, safety,
33 or welfare.

34 C. An approved variance shall be void if it is utilized in a way that violates the terms and conditions
35 of the variance. Voiding a variance is in addition to, and not instead of, other remedies available to the department at
36 any time for violation of the aquatic venue rules.

37 D. All variances shall become void upon change of ownership. Upon change of ownership, the new
38 owner shall re-apply for a variance.

39 E. Any person who has been granted a variance shall sign a department approved indemnification
40 and release of liability statement form. Variances shall not be valid unless and until the department receives a
41 completed and signed indemnification and release of liability statement form back from the applicant.

42 [7.18.1.23 NMAC - Rp, 7.18.1.23 NMAC, xx/xx/16]

43
44 **7.18.1.24 RIGHT OF ENTRY:**

45 A. Upon presentation of credentials, department representatives may enter any premises where a
46 public aquatic venue is located or where records required by the aquatic venue rules are located during the aquatic
47 venue's operating hours.

48 B. When entry is denied by the property owner, the department may seek a district court order to:

- 49 (1) have a right of entry to, upon, or through any premises where an aquatic venue is located;
50 (2) have a right of entry on any premises where any records required by the aquatic venue rules or by
51 permit condition are kept;
52 (3) have access to and copy any records that the aquatic venue rules or a permit requires the facility to
53 maintain;
54 (4) inspect any premises or equipment to determine compliance with the aquatic venue rules or any
55 permit or variance condition; and

1 (5) obtain any sample(s) required to determine compliance with the aquatic venue rules or
2 any permit or variance condition.
3 [7.18.1.24 NMAC - Rp, 7.18.1.24 NMAC, xx/xx/16]
4

5 **7.18.1.25 LIFEGUARDS:** When swim teams and swimming exercise classes are the only users of an
6 aquatic facility, in lieu of a qualified lifeguard the owner or designated agent may allow substitution of a swim
7 coach attendant, who is certified by the American Red Cross or an equivalent organization in first aid and
8 cardiopulmonary resuscitation (CPR) and is trained to deal with safety hazards. Both the owner of the public aquatic
9 venue and the sponsoring organization furnishing the swim coach shall be responsible for assuring proper
10 credentials, training and bather controls are maintained in accordance with these requirements.
11 [7.18.1.25 NMAC - Rp, 7.18.1.25 NMAC, xx/xx/16]
12

13 **7.18.1.26 POOL WATER QUALITY:**

14 **A.** Testing equipment:

15 (1) All public aquatic venues shall have fully functional water quality testing devices for measuring
16 the pH, free and combined chlorine concentration, or bromine, (or concentration of other approved disinfectant), and
17 cyanuric acid if stabilized chlorine is used.

18 (2) Water quality testing devices shall use EPA approved methods.

19 (3) Water quality testing devices for measuring free and total chlorine or bromine shall use *diethyl-P-*
20 *phenylene diamine* (DPD) as the reagent.

21 **B.** The total available bromine in aquatic venues shall not exceed 8ppm.

22 **C.** Cyanuric acid shall not be used in indoor aquatic facilities.

23 **D.** Swim-up bars are considered an increased risk aquatic venue and shall install a secondary
24 disinfection system.

25 [7.18.1.26 NMAC - Rp, 7.18.1.26 NMAC, xx/xx/16]
26

27 **7.18.1.27 TEMPORARY SPECIAL USE AQUATIC VENUES:** Owners of aquatic venues that are used
28 for public events at sports fields, county fairs, portable pools and similar special uses shall be reviewed by the
29 department on an individual case basis. The department may require special conditions as part of approval of such
30 pools to assure health and safety.

31 [7.18.1.27 NMAC - Rp, 7.18.1.27 NMAC, xx/xx/16]
32

33 **7.18.1.28 to 7.18.1.50 [RESERVED]**

34
35 **7.18.1.51 CONSTRUCTION:** This part shall be liberally construed to carry out its purpose.

36 [7.18.1.51 NMAC - Rp, 7.18.1.51 NMAC, xx/xx/16]
37

38 **7.18.1.52 SEVERABILITY:** If any provision or application of this part is held invalid, the remainder of
39 this part, or its application to other situations or persons, shall not be affected.

40 [7.18.1.52 NMAC - Rp, 7.18.1.52 NMAC, xx/xx/16]
41

42 **7.18.2.53 REFERENCES IN OTHER REGULATIONS:** Any reference to the aquatic venue regulations
43 or to any prior version of the aquatic venue regulations in any other rule shall be construed as a reference to this rule.
44 References to the "aquatic venue rules" in this part refer to all provisions contained in 7.18.1 through 7.18.2 NMAC.

45 [7.18.1.53 NMAC - Rp, 7.18.1.53 NMAC, xx/xx/16]
46

47 **7.18.1.54 SAVINGS CLAUSE:** Repeal or supersession of prior versions of this part or the public
48 swimming pool rules shall not affect any administrative or judicial action initiated under those prior versions.

49 [7.18.1.54 NMAC - Rp, 7.18.1.54 NMAC, xx/xx/16]
50

51 **7.18.1.55 COMPLIANCE WITH OTHER REGULATIONS:** Compliance with the aquatic venue rules or
52 this part does not relieve a person from the responsibility to comply with any other applicable federal, state, or local
53 regulations.

54 [7.18.1.55 NMAC - Rp, 7.18.1.55 NMAC, xx/xx/16]
55

1 **7.18.1.56 PENALTY:** Any person who violates any provision of this rule shall be subject to the penalty
2 provisions in NMSA 1978, Section 74-1-10 of the Environmental Improvement Act, in addition to any other
3 penalties provided for in the aquatic venue rules.

4 [7.18.1.56 NMAC - Rp, 7.18.1.56 NMAC, xx/xx/16]
5

6 **7.18.1.57 LIMITATION OF DEFENSE:** The existence of a valid permit for the installation, modification
7 or operation of an aquatic venue shall not constitute a defense to a violation of any section of this rule, except the
8 requirement for obtaining a permit.

9 [7.18.1.57 NMAC - Rp, 7.18.1.57 NMAC, xx/xx/16]
10

11 **HISTORY OF 7.18.2 NMAC:**

12 **Pre-NMAC History:** The material in this part was derived from that previously filed with the state records center
13 and archives:

14 HSSD 72-2, Swimming Pool Regulations Governing the Sanitary Design, Equipment, Construction and Operation,
15 filed 9/27/72.

16 EIB 74-2, Regulations Governing Public Baths and Public and Semi-Public Swimming Pools, filed 7/15/74.

17 EIB 76-1, Regulations Governing Public Swimming Pools And Public Baths, filed 3/25/76.
18

19 **History of Repealed Material:**

20 7 NMAC 18.1, Public Swimming Pools and Public Baths (filed 10/27/1995) repealed 03/30/05.

21 7.18.2 NMAC, Public Swimming Pools, Spas and Baths: General Provisions (filed 2/09/05), repealed 07/30/08.

22 **Other History:**

23 EIB 76-1, Regulations Governing Public Swimming Pools And Public Baths (filed 3/25/76) was reformatted,
24 renumbered and replaced by 7 NMAC 18.1, Public Swimming Pools and Public Baths, effective 11/30/1995.

25 Portions of 7 NMAC 18.1, Public Swimming Pools and Public Baths (filed 10/27/1995), was replaced by 7.18.2
26 NMAC, Public Swimming Pools, Spas and Baths: General Provisions, effective 03/30/05.

27 7.18.2 NMAC, Public Swimming Pools, Spas and Baths: General Provisions (filed 2/09/05), was replaced by 7.18.2
28 NMAC, Public Swimming Pools, Spas and Baths: General Provisions effective 07/30/08.